State of Iowa

2008

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted at the

2008 REGULAR SESSION

of the

Eighty-Second General Assembly

of the

State of Iowa

HELD AT DES MOINES, THE CAPITAL OF THE STATE
IN THE ONE HUNDRED SIXTY-SECOND YEAR OF THE STATE

REGULAR SESSION CONVENED ON THE FOURTEENTH DAY OF JANUARY
AND ADJOURNED ON THE TWENTY-SIXTH DAY OF APRIL, A.D. 2008

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

PREFACE

CERTIFICATION

We, Richard L. Johnson, Legislative Services Agency, Legal Services Division Director, Leslie E. W. Hickey, Iowa Code Editor, and Joanne R. Page, Deputy Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolutions in this volume have been prepared from the original enrolled Acts and Resolutions on file in the office of the Secretary of State; are correct copies of those Acts and Resolutions; are published under the authority of the statutes of this state; and constitute the Acts and Resolutions of the 2008 Regular Session of the Eighty-second 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 2009 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 2009 Iowa Code.

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

Effective and enactment dates. The Acts of the 2008 Regular Session took effect on July 1, 2008, unless otherwise provided. The date of enactment generally is the date an Act is approved by the Governor, which is shown at the end of each Act. See Iowa Code section 3.7.

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 Iowa Acts with the text of the bill or resolution. A dagger is placed at the beginning of the enacting clause and a footnote is included for each enrolled Act or Resolution for which a mandate notation is required.

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 Services Agency, 1112 E. Grand Avenue, Miller Building, Des Moines, Iowa 50319. Telephone (515) 281-6766

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PATTY JUDGE	Monroe
Matt Unger, Senior Advisor to Lieutenant Governor	Polk
Cindy Dilliner, Executive Assistant to Lieutenant Governor	Wayne
SECRETARY OF STATE	
MICHAEL A. MAURO	Polk
Linda Langenberg, Deputy of Elections	Linn
Harry Davis, Deputy of Business Services	Polk
Frank Chiodo, Deputy of Administration/Legislative Liaison	Polk
Pam Conner, Deputy of Administration/Capitol Manager	Polk
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DAVID A. VAUDT	Polk
Warren G. Jenkins, Chief Deputy Auditor of State	Polk
Tamera S. Kusian, Deputy, Performance Investigation Division	Polk
Andrew E. Nielsen, Deputy, Financial Audit Division	Polk
TREASURER OF STATE	
MICHAEL L. FITZGERALD	Polk
Stefanie G. Devin, Deputy Treasurer	Polk
Karen Austin, Deputy Treasurer	Polk
Steve Larson, Deputy Treasurer	Polk
SECRETARY OF AGRICULTURE	
WILLIAM NORTHEY	Dickinson
Karey Claghorn, Deputy Secretary	Warren
Chuck Gipp, Director, Soil Conservation Division	Winneshiek
John Whipple, Director, Consumer Protection and Industry Services	Warren
ATTORNEY GENERAL	
THOMAS J. MILLER	Polk
Tam Ormiston, Deputy Attorney General	Polk
Julie Pottorff, Deputy Attorney General	Polk
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GENERAL ASSEMBLY

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

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Kettering, Steve Lake View	Community Banker	26th—Buena Vista, Carroll, Crawford, *Sac*	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
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Quirmbach, Herman C. Ames	Associate Professor of Economics—Iowa State University	23rd—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
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Deyoe, Dave ..... Nevada	Farmer	10th—Hamilton, ... *Story*	82(1st)
Dolecheck, Cecil ..... Mount Ayr	Farmer	96th—Adams, ... Montgomery, *Ringgold*, Taylor, Union	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Drake, Jack ..... Lewis	Farmer	57th—Cass, ... *Pottawattamie*, Shelby	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Foege, Ro ..... Mount Vernon	Licensed Independent Social Worker	29th—Johnson, *Linn* ...	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Ford, Wayne ..... Des Moines	Executive Director— ... Urban Dreams	65th—*Polk*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Forristall, Greg ..... Macedonia	Farmer	98th—Mills, ... *Pottawattamie*	82(1st)
Frevert, Marcella R. .... Emmetsburg	Retired/Teacher	7th—Emmet, Kossuth, *Palo Alto*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Gaskill, Mary ..... Ottumwa	Retired/County Auditor	93rd—*Wapello*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Gayman, Elesha ..... Davenport	Consultant	84th—*Scott*	82(1st)
Gipp, Chuck ..... Decorah	Farmer	16th—Allamakee, ... *Winneshiek*	74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Granzow, Polly A. ..... Eldora	Farmer	44th—*Hardin,* Marshall	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Grassley, Pat ..... New Hartford	Farmer	17th—Bremer, *Butler* ...	82(1st)
Greiner, Sandra H. .... Keota	Farmer	89th—Jefferson, ... Johnson, *Washington*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Heaton, David ..... Mount Pleasant	Restaurant Owner	91st—*Henry*, Lee	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Heddens, Lisa K. ..... Ames	Family Support ..... Coordinator	46th—Boone, *Story*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Hoffman, Clarence C. Denison	Insurance	55th—*Crawford*, Ida, ... Monona, Woodbury	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Horbach, Lance J. ..... Tama	Insurance Agent	40th—Grundy, *Tama* ..	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Hunter, Bruce ..... Des Moines	Loan Counselor—Iowa Student Loan	62nd—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Huseman, Daniel A. ... Aurelia	Farmer	53rd—*Cherokee*, ... Plymouth, Woodbury	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Huser, Geri D. ..... Altoona	Lawyer	42nd—Jasper, *Polk*	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Jacobs, Elizabeth ..... (Libby) S. West Des Moines	Community Relations .. Director	60th—*Polk*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Jacoby, David (Dave) .. Coralville	Self-employed/Small ... Business	30th—*Johnson*	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Jochum, M. Pam ..... Dubuque	Adjunct—Northeast .... Iowa Community College	27th—*Dubuque*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Kaufmann, Jeff ..... Wilton	Teacher/Livestock ..... Operator	79th—*Cedar*, Johnson, Muscatine	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Kelley, Doris ..... Waterloo	Telecommunications ... Consultant	20th—*Black Hawk*	82(1st)
Kressig, Bob ..... Cedar Falls	Retired/John Deere	19th—*Black Hawk*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Kuhn, Mark A. ..... Charles City	Family Farmer	14th—Cerro Gordo, ... *Floyd*, Mitchell	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Lensing, Vicki ..... Iowa City	Business Owner— ..... Funeral Home	78th—*Johnson*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Lukan, Steven F. ..... New Vienna	Tire Technician	32nd—Delaware, ... *Dubuque*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Lykam, Jim ..... Davenport	.....	85th—*Scott*	73, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Mascher, Mary ..... Iowa City	Teacher	77th—*Johnson*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
May, Mike ..... Spirit Lake	Retired/Teacher/Resort Owner	6th—Clay, *Dickinson*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
McCarthy, Kevin M. ... Des Moines	Attorney/Majority Leader	67th—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Mertz, Dolores M. ..... Ottosen	Farmer/Legislator	8th—Humboldt, *Kossuth*, Pocahontas, Webster	73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Miller, Helen ..... Fort Dodge	Attorney/Arts Educator	49th—*Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Miller, Linda J. ..... Bettendorf	Registered Nurse/Clinic Administrator/ Consultant	82nd—*Scott*	82(1st)
Murphy, Pat ..... Dubuque	Speaker of the House ...	28th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Oldson, Jo ..... Des Moines	.....	61st—*Polk*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Olson, Donovan ..... Boone	Distance Education .... Coordinator	48th—*Boone,* Dallas ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Olson, Rick ..... Des Moines	Attorney	68th—*Polk*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Olson, Steven N. ..... DeWitt	Farmer	83rd—*Clinton*, Scott ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Olson, Tyler ..... Cedar Rapids	Attorney	38th—*Linn*	82(1st)
Palmer, Eric J. ..... Oskaloosa	Lawyer	75th—*Mahaska*, ... Poweshiek	82(1st)
Paulsen, Kraig ..... Hiawatha	Attorney	35th—*Linn*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Petersen, Janet ..... Des Moines	Marketing ..... Communications Consultant	64th—*Polk*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Pettengill, Dawn E. .... Mount Auburn	Retirement and Investor Services	39th—*Benton*, Iowa	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Quirk, Brian J. ..... New Hampton	Electrical Contractor ...	15th—*Chickasaw*, ... Howard, Winneshiek	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Raecker, J. Scott ..... Urbandale	Executive Director— ... Institute for Character Development	63rd—*Polk*	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Rants, Christopher C. Sioux City	Minority Leader/ ..... Self-employed	54th—*Woodbury*	75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Rasmussen, Daniel J. Independence	Executive Director— ... Land Improvement Contractor Association	23rd—Black Hawk, ... *Buchanan*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Rayhons, Henry V. ..... Garner	Semiretired/Farmer	11th—*Hancock*, ... Winnebago, Worth	77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Reasoner, Michael J. ... Creston	Legislator	95th—Clarke, Decatur, *Union*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Reichert, Nathan ..... Muscatine	Loan Officer	80th—*Muscatine*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Roberts, Rod ..... Carroll	Development Director— Christian Churches/ Churches of Christ	51st—*Carroll*, Crawford, Sac	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Sands, Thomas R. ..... Columbus Junction	Banker/Real Estate .... Appraiser/Farmer	87th—Des Moines, ... *Louisa*, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Schickel, Bill ..... Mason City	Christian Radio Station Manager	13th—*Cerro Gordo*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Schueller, Thomas J. Maquoketa	Owner/Contractor ..... Schueller & Sons	25th—Clinton, Dubuque, *Jackson*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Shomshor, Paul C., Jr. Council Bluffs	Certified Public ..... Accountant	100th—*Pottawattamie*	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Smith, Mark ..... Marshalltown	Licensed Independent Social Worker	43rd—*Marshall*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Soderberg, Chuck ..... Le Mars	Vice President, Planning and Legislative Services—Northwest Iowa Power Cooperative	3rd—*Plymouth*, Sioux	81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Staed, Art ..... Cedar Rapids	Educator	37th—*Linn*	82(1st)
Struyk, Douglas L. ..... Council Bluffs	Small Business Owner/ Attorney	99th—*Pottawattamie* ..	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Swaim, R. Kurt ..... Bloomfield	Attorney	94th—Appanoose, *Davis*, Wayne	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Taylor, Dick ..... Cedar Rapids	Retired/Real Estate and Insurance Agent	33rd—*Linn*	78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Taylor, Todd ..... Cedar Rapids	Union Representative ..	34th—*Linn*	76(2nd), 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Thomas, Roger ..... Elkader	Economic ..... Development/Main Street Director	24th—*Clayton*, ... Delaware, Fayette	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Tjepkes, David A. ..... Gowrie	Retired/State Trooper ..	50th—Calhoun, Greene, *Webster*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Tomenga, Walt ..... Johnston	Consultant	69th—*Polk*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Tymeson, Jodi S. ..... Winterset	National Guard ..... Brigadier General/ Retired Licensed Teacher	73rd—Dallas, *Madison*, Warren	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Upmeyer, Linda L. ..... Garner	Nurse Practitioner	12th—Cerro Gordo, ... Franklin, *Hancock*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Van Engelenhoven, Jim Pella	Farmer	71st—Jasper, *Marion* ..	78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Van Fossen, Jamie ..... Davenport	Economic Development Analyst— MidAmerican Energy	81st—*Scott*	76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Watts, Ralph C. ..... Adel	Retired/Engineer	47th—Boone, *Dallas* ...	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Wendt, Roger F. ..... Sioux City	Retired/Educator	2nd—*Woodbury*	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Wenthe, Andrew ..... Hawkeye	Director of External ... Affairs/e-center	18th—Black Hawk, ... Bremer, *Fayette*	82(1st)
Wessel-Kroeschell, Beth Ames	Legislator	45th—*Story*	81(1st), 81(2nd), 81(2nd)X, 82(1st)
Whitaker, John R. ..... Hillsboro	Family Farmer	90th—Jefferson, ... *Van Buren*, Wapello	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Whitead, Wes ..... Sioux City	Retired	1st—*Woodbury*	77, 78, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Wiencek, Tami Jo ..... Waterloo	Public Relations ..... Specialist	21st—*Black Hawk*	82(1st)
Winckler, Cindy Lou ... Davenport	Education—Quality .... Learning Consultant	86th—*Scott*	79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Windschitl, Matt W. ... Missouri Valley	Conductor—Union ..... Pacific	56th—*Harrison*, ... Monona, Pottawattamie	82(1st)
Wise, Philip ..... Keokuk	Consultant/Legislator/ Retired Educator	92nd—*Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75, 76, 77, 78, 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st)
Worthan, Gary ..... Storm Lake	Farmer	52nd—*Buena Vista*, ... Sac	82(1st)
Zirkelbach, Raymond .. Monticello	Correctional Counselor/ Soldier	31st—Dubuque, *Jones*	81(1st), 81(2nd), 81(2nd)X, 82(1st)

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
Marsha K. Ternus, C.J.	Des Moines	December 31, 2010
Mark S. Cady	Fort Dodge	December 31, 2008
Michael J. Streit	Des Moines	December 31, 2010
David S. Wiggins	Des Moines	December 31, 2012
Daryl L. Hecht	Sioux City	December 31, 2008
Brent R. Appel	Des Moines	December 31, 2008
David L. Baker	Cedar Rapids	December 31, 2010

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Rosemary Shaw Sackett, C.J.	Spencer	December 31, 2008
Terry L. Huitink	Ireton	December 31, 2008
Gayle Nelson Vogel	Spirit Lake	December 31, 2010
Robert E. Mahan	Ames	December 31, 2010
John C. Miller	Burlington	December 31, 2012
Anu Vaitheswaran	Des Moines	December 31, 2012
Larry J. Eisenhauer	Des Moines	December 31, 2008
Amanda P. Potterfield	Cedar Rapids	December 31, 2010
Richard H. Doyle	Des Moines	December 31, 2010

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101 First Street, SE
Cedar Rapids, Iowa 52401
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120 Federal Building
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Sioux City, Iowa 51101
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CONDITION OF STATE TREASURY

June 30, 2007

	Balance July 1, 2006	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2007
General Fund	$ 732,350,523	$10,010,202,601	$10,742,553,124	$ 9,844,783,109	$ 897,770,015
Special Revenue Fund	934,187,252	3,573,241,536	4,507,428,788	3,559,701,518	947,727,270
Capitol Projects Fund	1,790,762	25,725,960	27,516,722	24,587,990	2,928,732
Debt Service Fund	6,238,081	12,277,806	18,515,887	12,277,778	6,238,109
Enterprise Fund	44,280,165	489,417,904	533,698,069	487,964,639	45,733,430
Internal Service Fund	53,471,236	401,503,996	454,975,232	398,785,536	56,189,696
Expendable Trust Fund	150,685,707	434,785,504	585,471,211	407,898,079	177,573,132
Nonexpendable Trust Fund	10,903,710	5,778,538	16,682,248	200,389	16,481,859
Pension Fund	16,775,596,688	3,005,780,481	19,781,377,169	1,116,755,739	18,664,621,430
Trust and Agency Fund	196,977,952	4,382,581,312	4,579,559,264	4,348,253,480	231,305,784
Totals	$18,906,482,076	$22,341,295,638	$41,247,777,714	$20,201,208,257	$21,046,569,457

Balance July 1, 2006	$18,906,482,076
Receipts and Transfers	22,341,295,638
Total Available	41,247,777,714
Disbursements and Transfers	20,201,208,257
Balance June 30, 2007	$21,046,569,457

DEPARTMENT OF ADMINISTRATIVE SERVICES
STATE ACCOUNTING ENTERPRISE

April 28, 2008

ANALYSIS BY CHAPTERS

2008 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2008 Acts, Regular Session, see page 1048

1085	SF	2036	Division of criminal and juvenile justice planning — miscellaneous changes
1086	SF	2129	Interpreters for Asian and Pacific Islander persons
1087	SF	2281	Employment discrimination — participation in domestic abuse proceedings
1088	SF	2338	Administration and regulation of health-related professions
1089	HF	2390	Licensing and regulation of plumbers and mechanical professionals
1090	HF	2392	City utilities or enterprises — rates and services
1091	HF	2542	Out-of-state work-related injuries
1092	HF	2547	Alarm system installer or contractor certification and electrician licensure — miscellaneous additional revisions
1093	HF	2591	Dependent adult abuse — caretaker facilities and programs
1094	HF	2646	Regulation and licensure of fire protection system installation and maintenance
1095	HF	2393	Impact of legislation and state grants on minorities — statements
1096	SF	2133	Iowa crop improvement association
1097	SF	2136	Iowa finance authority housing programs and real estate broker trust accounts
1098	SF	2212	Child in need of assistance proceedings — terminations of parental rights
1099	SF	2250	Licensure of real estate brokers and salespersons
1100	SF	2251	Student eye care
1101	SF	2307	State research, development, demonstration, and dissemination school — planning
1102	SF	2325	Grow Iowa values fund programs and requirements
1103	SF	2349	Preneed sale of cemetery and funeral merchandise and funeral services
1104	SF	2361	State purchase of biobased products
1105	SF	2367	Air pollution from small business stationary sources — regulation and technical assistance
1106	SF	2379	Regulation of practice of certified public accounting
1107	HF	2103	College student aid commission membership
1108	HF	2145	Human papilloma virus vaccinations — insurance coverage
1109	HF	2570	Solid waste disposal, environmental management systems, and recycling
1110	SF	2246	Real estate transaction disclosure requirements
1111	SF	2269	Family investment program — limited benefit plan ineligibility period
1112	SF	2340	Children under out-of-home placement orders — identity documents
1113	SF	2420	Transportation fees, funds, and revenue sources — TIME-21
1114	HF	2338	Child in need of assistance proceedings — attendance of child
1115	HF	2620	Elections, voting, and voter registration — miscellaneous provisions
1116	SF	2427	Lobbying by state agencies — restrictions
1117	SF	2161	Council on homelessness
1118	SF	2276	Solid waste disposal — miscellaneous changes
1119	SF	2350	Trusts, estates, and conservatorships — interests, rights, fiduciaries, and taxation
1120	SF	2354	Home ownership assistance for military personnel
1121	HF	2310	Substance abuse and child abuse — study
1122	HF	2450	Economic development programs — miscellaneous changes
1123	HF	2555	Insurance and other matters regulated by insurance division
1124	HF	2651	Transportation regulation, fire fighter applicants, and petroleum underground storage tank fund bonds
1125	HF	2653	Foreclosure consultants and reconveyances
1126	SF	517	Energy and water resource management and conservation — buildings and vehicles
1127	SF	2216	Educational standards — core curriculum content and career information
1128	SF	2405	Renewable energy production — financing and incentives
1129	SF	2124	Veterans trust fund expenditures and income tax checkoffs

2008 Regular Session

of the

Eighty-Second General Assembly

of the

State of Iowa

CHAPTER 1001

COUNTY MENTAL HEALTH, MENTAL RETARDATION,
AND DEVELOPMENTAL DISABILITIES SERVICES EXPENDITURES
— STATE PAYMENT

S.F. 2054

AN ACT providing for county eligibility for state payment of certain mental health, mental retardation, and developmental disabilities services funding and providing effective and retroactive applicability dates.

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

Section 1. STATE PAYMENT TO ELIGIBLE COUNTIES. Notwithstanding section 331.439, subsection 1, paragraphs "a" and "b", a county that accurately reported the county's expenditures for mental health, mental retardation, and developmental disabilities services for the previous fiscal year on the forms prescribed by the department of human services, and the annual management plan review and the report and review were received after December 1, 2007, and on or before March 15, 2008, shall be eligible for state payment, as defined in section 331.438, in accordance with section 331.439 and other law providing for the state payment in the fiscal year beginning July 1, 2007.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to December 1, 2007.

Approved February 4, 2008

CHAPTER 1002

SCHOOL FINANCE — ALLOWABLE GROWTH

H.F. 2140

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 2007, is amended to read as follows:

1. STATE PERCENT OF GROWTH. ~~The state percent of growth for the budget year beginning July 1, 2007, is four percent.~~ The state percent of growth for the budget year beginning July 1, 2008, is four percent. The state percent of growth for the budget year beginning July 1, 2009, is four percent. The state percent of growth for each subsequent budget year shall be established by statute which shall be enacted within thirty days of the submission in the year preceding the base year of the governor's budget under section 8.21. The establishment of the state percent of growth for a budget year shall be the only subject matter of the bill which enacts the state percent of growth for a budget year.

Sec. 2. APPLICABILITY. This Act is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 2009.

Approved February 12, 2008

CHAPTER 1003

EMPLOYMENT AND LEAVES OF ABSENCE — MILITARY SERVICE

H.F. 2065

AN ACT relating to military leaves of absence and reemployment and providing an effective date.

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

Section 1. Section 29A.8A, Code 2007, is amended to read as follows:

29A.8A STATE MILITARY SERVICE.

If federal funding and authorization exist for this purpose, the governor may order to state military 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 in accordance with section 29A.28 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. 2. Section 29A.28, subsection 1, Code Supplement 2007, is amended to read as follows:

1. a. All officers and employees of the state, a subdivision thereof, or a municipality, other than employees employed temporarily for six months or less, who are members of the national guard, organized reserves or any component part of the military, naval, or air forces or nurse corps of this state or nation, or who are or may be otherwise inducted into the military service of this state or of the United States, or who are members of the civil air patrol, shall, when ordered by proper authority to state active duty, state military service, or federal service, or when performing a civil air patrol mission pursuant to section 29A.3A, be entitled to a leave of absence from such civil employment for the period of state active duty, state military service, federal service, or civil air patrol duty without loss of status or efficiency rating, and without loss of pay during the first thirty days of such leave of absence.

b. Where state active duty, state military service, federal service, or civil air patrol duty is for a period of less than thirty days, a leave of absence under this section shall only be required for those days that the civil employee would normally perform services for the state, subdivision of the state, or a municipality. The provisions of this section shall also apply to a leave of absence by a member of the national disaster medical system of the United States when activated for federal service with the system. If the workday for a civil employee encompasses more than one calendar day, the civil employee shall only be required to take a leave of absence for one day for that workday if a leave of absence is required under this paragraph.

Sec. 3. Section 29A.43, subsection 1, Code 2007, is amended to read as follows:

1. 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 or any member of the civil air patrol 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 member of the civil air patrol, or hinder or prevent the officer or enlisted person or member of the civil air patrol from performing any military service or civil air patrol duty 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, subsection 3, 11, or 12, or a member of the civil air patrol performing duty pursuant to section 29A.3A, 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~~ unless the employment is of a temporary nature~~, and upon~~. 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 of like seniority, status, and pay. However, the person shall give evidence to the employer of satisfactory completion of the ~~training or~~ duty or service, 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. 4. Section 29A.43, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person violating a provision of this section is guilty of a simple misdemeanor. Violations of this section shall be prosecuted by the attorney general or the county attorney of the county in which the violation occurs.

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

Approved February 14, 2008

CHAPTER 1004

TAXATION OF ELECTRIC UTILITIES —
EXTENSION OF SOY-BASED TRANSFORMER FLUID CREDIT

S.F. 572

AN ACT extending state tax benefits for use of soy-based transformer fluid by electric utilities and including effective and applicability date provisions.

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

Section 1. Section 422.11R, Code Supplement 2007, is amended to read as follows:

422.11R SOY-BASED TRANSFORMER FLUID TAX CREDIT.

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This section is repealed December 31, ~~2008~~ 2009.

Sec. 2. Section 422.33, subsection 22, Code Supplement 2007, is amended to read as follows:

22. The taxes imposed under this division shall be reduced by a soy-based transformer fluid tax credit allowed under chapter 476D.

This subsection is repealed December 31, ~~2008~~ 2009.

Sec. 3. Section 423.4, subsection 7, paragraph c, Code Supplement 2007, is amended to read as follows:

c. This subsection is repealed December 31, ~~2008~~ 2009.

Sec. 4. Section 437A.17C, Code 2007, is amended to read as follows:

437A.17C REIMBURSEMENT FOR SOY-BASED TRANSFORMER FLUID.

A person in possession of a soy-based transformer fluid tax credit certificate issued pursuant to chapter 476D may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to this chapter in an amount not more than the person received in soy-based transformer fluid tax credit certificates pursuant to chapter 476D. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the soy-based transformer fluid tax credit certificates issued to the person pursuant to chapter 476D and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to this chapter but for not more than the amount of the soy-based transformer fluid tax credit certificates attached to the return.

This section is repealed December 31, ~~2008~~ 2009.

Sec. 5. Section 476D.2, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The costs were incurred after June 30, 2006, and before January 1, ~~2008~~ 2009.

Sec. 6. Section 476D.5, Code 2007, is amended to read as follows:

476D.5 APPLICABILITY — REPEAL.

1. This chapter applies to tax years ending after June 30, 2006, and beginning before January 1, ~~2008~~ 2009.

2. This chapter is repealed December 31, ~~2008~~ 2009.

Sec. 7. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate

importance, takes effect upon enactment and applies to applications made on or after the effective date of this Act.

Approved February 20, 2008

CHAPTER 1005

CULTURAL AFFAIRS —
DUTIES AND SERVICES OF DEPARTMENT

S.F. 2059

AN ACT relating to the administration of the department of cultural affairs.

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

Section 1. Section 303.2, subsection 3, paragraph b, Code 2007, is amended by striking the paragraph.

Sec. 2. Section 303.9A, subsection 1, Code 2007, is amended to read as follows:

1. An Iowa heritage fund is created in the state treasury to be administered by the state historical society ~~board of trustees~~. The fund shall consist of all moneys allocated to the fund by the treasurer of state.

Sec. 3. Sections 304A.21, 304A.22, 304A.23, 304A.24, 304A.25, 304A.26, 304A.27, 304A.28, 304A.29, and 304A.30, Code 2007, are repealed.

Approved February 28, 2008

CHAPTER 1006

SALES, USE, AND PROPERTY TAX EXEMPTIONS
FOR WEB SEARCH PORTAL BUSINESSES

H.F. 2233

AN ACT relating to providing sales, use, and property tax exemptions for certain web search portal businesses.

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

Section 1. Section 423.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 93. a. (1) The sales price from the sale or rental of computers and equipment that are necessary for the maintenance and operation of a web search portal busi-

ness and property whether directly or indirectly connected to the computers, including but not limited to cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of the web search portal business, including but not limited to exterior dedicated business-owned substations, back-up power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays, which are necessary for the maintenance and operation of the web search portal business.

(2) The sales price of back-up power generation fuel, that is purchased by a web search portal business for use in the items listed in subparagraph (1).

(3) The sales price of electricity purchased for use by a web search portal business.

b. For the purpose of claiming this exemption, all of the following requirements shall be met:

(1) The purchaser or renter shall be a web search portal business.

(2) The web search portal business shall have a physical location in the state that is used for the operations and maintenance of the web search portal business.

(3) The web search portal business shall make a minimum investment in an Iowa physical location of two hundred million dollars within the first six years of operation in Iowa beginning with the date the web search portal business initiates site preparation activities. The minimum investment includes the initial investment, including land and subsequent acquisition of additional adjacent land and subsequent investment at the Iowa location.

(4) The web search portal business shall purchase, option, or lease Iowa land not later than December 31, 2008, for any initial investment. However, the December 31, 2008, date shall not affect the future purchases of adjacent land and additional investment in the initial or adjacent land to qualify as part of the minimum investment for purposes of this exemption.

c. This exemption applies from the date of the initial investment in or the initiation of site preparation activities for the web search portal facility as described in paragraph "b". For purposes of claiming this exemption, the requirements may be met by aggregating the various Iowa investments and other requirements of the web search portal business's affiliates. This exemption applies to affiliates of the web search portal business.

d. Failure to meet eighty percent of the minimum investment amount requirement specified in paragraph "b" within the first six years of operation from the date the web search portal business initiates site preparation activities will result in the web search portal business losing the right to claim this web search portal business exemption and the web search portal business shall pay all sales or use tax that would have been due on the purchase or rental or use of the items listed in this exemption, plus any applicable penalty and interest imposed by statute.

e. For purposes of this subsection:

(1) "Affiliate" means an entity that directly or indirectly controls, is controlled with or by, or is under common control with another entity.

(2) "Control" means any of the following:

(a) In the case of a United States corporation, the ownership, directly or indirectly, of fifty percent or more of the voting power to elect directors.

(b) In the case of a foreign corporation, if the voting power to elect the directors is less than fifty percent, the maximum amount allowed by applicable law.

(c) In the case of an entity other than a corporation, fifty percent or more ownership interest in the entity, or the power to direct the management of the entity.

(3) "Web search portal business" means an entity whose business among other businesses is to provide a search portal to organize information; to access, search, and navigate the internet, including research and development to support capabilities to organize information; or to provide internet access, navigation, or search functionalities.

Sec. 2. Section 427.1, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 36. WEB SEARCH PROPERTY.

a. Property, other than land and buildings and other improvements, that is utilized by a web

search portal business as defined in and meeting the requirements of section 423.3, subsection 93, including computers and equipment that are necessary for the maintenance and operation of a web search portal business and other property whether directly or indirectly connected to the computers, including but not limited to cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity, including but not limited to exterior dedicated business-owned substations, and power distribution systems which are not subject to assessment under chapter 437A; racking systems, cabling, and trays; and back-up power generation systems, battery systems, and related infrastructure all of which are necessary for the maintenance and operation of the web search portal business.

b. This web search portal business exemption applies beginning with the assessment year the investment in or construction of the facility utilizing the materials, equipment, and systems set forth in paragraph "a" are first assessed. For purposes of claiming this web search portal business exemption, the requirements may be met by aggregating the various Iowa investments and other requirements of the web search portal business's affiliates as allowed under section 423.3, subsection 93. This exemption applies to affiliates of the web search portal business.

Sec. 3. IMPLEMENTATION. Section 25B.7 does not apply to the property tax exemption enacted in this Act.

Approved February 28, 2008

CHAPTER 1007

ENTREPRENEURS WITH DISABILITIES PROGRAM — ADMINISTRATION

S.F. 2101

AN ACT transferring administration of the entrepreneurs with disabilities program to the department of education.

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

Section 1. Section 259.4, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Administer the entrepreneurs with disabilities program.

Sec. 2. ENTREPRENEURS WITH DISABILITIES PROGRAM — TRANSFER OF ADMINISTRATION. The Iowa finance authority shall transfer the administrative duties of the entrepreneurs with disabilities program to the division of vocational rehabilitation services of the department of education. The department of education shall adopt rules pursuant to chapter 17A for purposes of administering the program. Any contract entered into under the program by the Iowa finance authority remains valid. The transfer of administrative duties to the division of vocational rehabilitation services shall not constitute grounds for recision or modification of a contract under the program entered into with the authority.

Approved March 5, 2008

CHAPTER 1008

BOARD OF EDUCATIONAL EXAMINERS
— MEMBERSHIP AND AUTHORITY

H.F. 2137

AN ACT relating to the membership requirements and oversight responsibilities of the board of educational examiners.

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

Section 1. Section 272.1, subsection 7, Code 2007, is amended to read as follows:

7. "Practitioner" means an administrator, teacher, or other licensed professional ~~who does not hold or receive a license from a professional licensing board other than the board of educational examiners and~~, including an individual who holds a statement of professional recognition, who provides educational assistance to students.

Sec. 2. Section 272.2, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. License practitioners ~~who do not hold or receive a license from another professional licensing board. Licensing authority~~, which includes the authority to establish criteria for the licenses; establish issuance and renewal requirements; create application and renewal forms; create licenses that authorize different instructional functions or specialties; develop a code of professional rights and responsibilities, practices, and ethics, which shall, among other things, address the failure of a practitioner to fulfill contractual obligations under section 279.13; and develop any other classifications, distinctions, and procedures which may be necessary to exercise licensing duties. In addressing the failure of a practitioner to fulfill contractual obligations, the board shall consider factors beyond the practitioner's control.

Sec. 3. Section 272.3, subsection 2, Code Supplement 2007, is amended to read as follows:

2. A majority of the licensed practitioner members shall be nonadministrative practitioners. Four of the members shall be administrators. Membership of the board shall comply with the requirements of sections 69.16 and 69.16A. A quorum of the board shall consist of six members. Members shall elect a chairperson of the board. Members, except for the director of the department of education or the director's designee, shall be appointed by the governor subject to confirmation by the senate.

Sec. 4. Section 272.4, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Members, except for the director of the department of education or the director's designee, shall be appointed to serve staggered terms of four years. A member shall not serve more than two consecutive terms, except for the director of the department of education or the director's designee, who shall serve until the director's term of office expires. A member of the board, except for the two public members and the director of the department of education or the director's designee, shall hold a valid practitioner's license during the member's term of office. A vacancy exists when any of the following occur:

Sec. 5. Section 272.9, unnumbered paragraph 3, Code 2007, is amended by striking the unnumbered paragraph.

Approved March 5, 2008

CHAPTER 1009

ADVANCED PRACTICE REGISTERED NURSE
LICENSURE COMPACT

H.F. 2151

AN ACT relating to the advanced practice registered nurse licensure compact and providing an effective date.

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

Section 1. Section 147.2, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing ~~from the department~~.

Sec. 2. 2005 Iowa Acts, chapter 53, section 11, is repealed.

Sec. 3. 2006 Iowa Acts, chapter 1010, section 176, is repealed.

Sec. 4. 2006 Iowa Acts, chapter 1030, section 88, is repealed.

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

Approved March 5, 2008

CHAPTER 1010

CONTROLLED SUBSTANCES —
SCHEDULES AND REPORTING REQUIREMENTS

H.F. 2167

AN ACT relating to controlled substance schedules and the reporting requirements to the board of pharmacy and making penalties applicable.

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

Section 1. Section 124.206, subsection 2, paragraph a, Code Supplement 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (18) Oripavine.

Sec. 2. Section 124.206, subsection 4, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Lisdexamfetamine, its salts, isomers, and salts of its isomers.

Sec. 3. Section 124.208, subsection 3, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Embutramide.

Sec. 4. Section 124.208, subsection 9, Code Supplement 2007, is amended to read as follows:

9. HALLUCINOGENIC SUBSTANCES.

a. Dronabinol ~~(synthetic)~~ in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved for marketing by the United States food and drug administration ~~approved product~~.

b. Any drug product in tablet or capsule form containing natural dronabinol (derived from the cannabis plant) or synthetic dronabinol (produced from synthetic materials) for which an abbreviated new drug application (ANDA) has been approved by the United States food and drug administration under section 505(j) of the Federal Food, Drug, and Cosmetic Act and which references as its listed drug the drug product identified in paragraph "a".

c. Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

Sec. 5. Section 124B.2, subsection 1, paragraphs j and l, Code 2007, are amended by striking the paragraphs.

Approved March 5, 2008

CHAPTER 1011

INTERNAL REVENUE CODE REFERENCES
AND INCOME TAX PROVISIONS

S.F. 2123

AN ACT updating the Code references to the Internal Revenue Code and including effective date and retroactive applicability date provisions.

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

Section 1. Section 15.335, subsection 4, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

Sec. 2. Section 15A.9, subsection 8, paragraph e, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

Sec. 3. Section 422.3, subsection 5, Code Supplement 2007, 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, ~~2007~~ 2008.

Sec. 4. Section 422.7, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 53. A taxpayer is allowed to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 110-185, in computing state tax purposes.

Sec. 5. Section 422.10, subsection 3, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

For purposes of this section, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

Sec. 6. Section 422.32, subsection 7, Code Supplement 2007, is amended to read as follows:

7. "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, ~~2007~~ 2008.

Sec. 7. Section 422.33, subsection 5, paragraph d, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2007~~ 2008.

Sec. 8. Section 422.35, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 24. A taxpayer is allowed to take the increased expensing allowance under section 179 of the Internal Revenue Code, as amended by Pub. L. No. 110-185, in computing state tax purposes.

Sec. 9. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. Except as provided in subsection 2, this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2007, for tax years beginning on or after that date.

2. The sections of this Act amending sections 422.7 and 422.35, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 2008, for tax years beginning on or after that date.

Approved March 11, 2008

CHAPTER 1012

VETERANS BENEFITS FUNDING SOURCES

H.F. 2359

AN ACT concerning veterans, including expenditures from the veterans trust fund and authorization of lottery games for veterans.

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

Section 1. Section 35A.13, subsection 5, Code Supplement 2007, is amended to read as follows:

5. The minimum balance of the trust fund required prior to expenditure of moneys from the

trust fund is ~~fifty million dollars. However, for the fiscal period beginning July 1, 2006, and ending June 30, 2009, the minimum balance of the trust fund required prior to expenditure of moneys from the trust fund is~~ five million dollars. Once the minimum balance is reached, the interest and earnings on the fund and any moneys received under subsection 3, paragraph "a", are appropriated to the commission to be used to achieve the purposes of this section. It is the intent of the general assembly that the balance in the trust fund reach fifty million dollars.

Sec. 2. NEW SECTION. 99G.9A LIMITED SERIES OF LOTTERY GAMES PROVIDING AID FOR VETERANS.

The chief executive officer, in consultation with the board, shall develop and conduct two additional instant scratch and two additional pull tab lottery games annually to provide moneys for the benefit of veterans and their spouses and dependents. The moneys received from the sale of tickets for each lottery game shall be deposited in a special account in the lottery fund. Notwithstanding section 99G.39, after payment of the prizes, the remaining moneys shall be transferred to the veterans trust fund established pursuant to section 35A.13. However, if the balance of the veterans trust fund is fifty million dollars or more, the remaining moneys shall be appropriated to the department of revenue for distribution to county directors of veteran affairs, with fifty percent of the money to be distributed equally to each county and fifty percent of the money to be distributed to each county based upon the population of veterans in the county, so long as the money distributed to a county does not supplant money appropriated by that county for the county director of veteran affairs.

Approved March 11, 2008

CHAPTER 1013

PEACE OFFICER AND EMERGENCY SERVICES
COMMUNICATION EQUIPMENT AND SERVICES — BONDING

H.F. 2366

AN ACT designating peace officer communication equipment and other emergency services communication equipment as an essential county purpose and as an essential corporate purpose that authorizes the issuance of general obligation bonds and providing an effective date.

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

Section 1. Section 331.441, subsection 2, paragraph b, Code Supplement 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (17) Peace officer communication equipment and other emergency services communication equipment and systems.

Sec. 2. Section 384.24, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. v. The acquisition of peace officer communication equipment and other emergency services communication equipment and systems.

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

Approved March 13, 2008

CHAPTER 1014

DEPARTMENT OF HUMAN SERVICES
HEALTH CARE ASSISTANCE PROGRAMS — ELIGIBILITY

S.F. 249

AN ACT relating to the conference of eligibility on and conditions of eligibility for individuals for certain programs under the purview of the department of human services.

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

Section 1. Section 249A.3, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. 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 guidelines published by the United States department of health and human services for the family, who have earned income and who are eligible for 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. For the purposes of determining the amount of an individual's resources under this paragraph 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, whose individual income exceeds one hundred fifty percent of the official poverty guidelines published by the 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 guidelines shall be commensurate with the cost of state employees' group health insurance in this state. The payment to and acceptance by an automated case management system or the department of the premium required under this paragraph shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted by the department's premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department.

Sec. 2. Section 249A.6, Code 2007, is amended to read as follows:

249A.6 ASSIGNMENT — LIEN.

1. a. As a condition of eligibility for medical assistance, a recipient who has the legal capacity to execute an assignment shall do all of the following:

(1) Assign to the department any rights to payments of medical care from any third party.

(2) Cooperate with the department in obtaining payments described in paragraph "a".

(3) Cooperate with the department in identifying and providing information to assist the department in pursuing any third party who may be liable to pay for medical care and services available under the medical assistance program.

b. Any amount collected by the department through an assignment shall be retained by the department as reimbursement for medical assistance payments.

c. An assignment under this subsection is in addition to an assignment of medical support payments under any other law, including section 252E.11.

~~1.~~ 2. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department shall have a lien, to the

extent of those payments, upon all monetary claims which the recipient may have against third parties. A lien under this section is not effective unless the department files a notice of lien with the clerk of the district court in the county where the recipient resides and with the recipient's attorney when the recipient's eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the recipient, the recipient's attorney, or other representative. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final for purposes of this section. A compromise, including but not limited to a settlement, waiver or release, of a claim under this section does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee. A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a recipient or on behalf of a recipient which fails to state a claim for recovery of medical expenses does not defeat the department's lien if there is any recovery on the recipient's claim.

~~2.~~ 3. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. An attorney representing an applicant for or recipient of assistance on a claim upon which the department has a lien under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge under this section shall include the notice to the attorney pursuant to subsection ~~1~~ 2.

The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

~~3.~~ 4. The department's lien is valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the attorney, insurer, or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which the attorney, insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to the notice. Payment of benefits by an insurer or third party pursuant to the rights of the lienholder in this section discharges the attorney, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of the payment to the department.

~~4.~~ 5. If a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim upon which the department has a lien under this section, upon the receipt of the judgment or settlement of the total claim, of which the lien for medical assistance payments is a part, the court costs and reasonable attorney fees shall first be deducted from this total judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the recipient. From the remaining balance, the lien of the department shall be paid. Any amount remaining shall be paid to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim upon which the department has a lien shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

~~5.~~ 6. For purposes of this section the term "third party" includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease, or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

~~6.~~ 7. The department may enforce its lien by a civil action against any liable third party.

Sec. 3. Section 249J.8, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Each expansion population member whose family income exceeds one hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall pay a monthly premium not to exceed one-twelfth of five percent of the member's annual family income. Each expansion population member whose family income is equal to or less than one hundred percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services shall not be subject to payment of a monthly premium. All premiums shall be paid on the last day of the month of coverage. The department shall deduct the amount of any monthly premiums paid by an expansion population member for benefits under the healthy and well kids in Iowa program when computing the amount of monthly premiums owed under this subsection. An expansion population member shall pay the monthly premium during the entire period of the member's enrollment. Regardless of the length of enrollment, the member is subject to payment of the premium for a minimum of four consecutive months. However, an expansion population member who complies with the requirement of payment of the premium for a minimum of four consecutive months during a consecutive twelve-month period of enrollment shall be deemed to have complied with this requirement for the subsequent consecutive twelve-month period of enrollment and shall only be subject to payment of the monthly premium on a month-by-month basis. Timely payment of premiums, including any arrearages accrued from prior enrollment, is a condition of receiving any expansion population services. The payment to and acceptance by an automated case management system or the department of the premium required under this subsection shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted by the department's premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department. Premiums collected under this subsection shall be deposited in the premiums subaccount of the account for health care transformation created pursuant to section 249J.23. An expansion population member shall also pay the same copayments required of other adult recipients of medical assistance.

Sec. 4. Section 514I.10, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The payment to and acceptance by an automated case management system or the department of the premium required under this section shall not automatically confer initial or continuing program eligibility on an individual. A premium paid to and accepted through the department's premium payment process that is subsequently determined to be untimely or to have been paid on behalf of an individual ineligible for the program shall be refunded to the remitter in accordance with rules adopted by the department.

Approved March 25, 2008

CHAPTER 1015

BUSINESS CORPORATIONS —
DISTRIBUTIONS AND BUSINESS OPPORTUNITIES

H.F. 2165

AN ACT relating to business corporations, by providing for distributions and business opportunities.

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

Section 1. Section 490.640, subsection 7, Code 2007, is amended to read as follows:

7. Indebtedness of a corporation, including indebtedness issued as a distribution, is not considered a liability for purposes of determinations under subsection 1 if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

8. This section shall not apply to distributions in liquidation under division XIV.

Sec. 2. Section 490.831, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. That any of the following apply:

(1) A 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.

(2) The protection afforded by section 490.870 precludes[1] liability.

Sec. 3. NEW SECTION. 490.870 BUSINESS OPPORTUNITIES.

1. A director's taking advantage, directly or indirectly, of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if before becoming legally obligated respecting the opportunity the director brings it to the attention of the corporation and any of the following apply:

a. Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section 490.832, as if the decision being made concerned a director's conflicting interest transaction.

b. Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedure set forth in section 490.832, as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making the disclosure as required in section 490.832, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

2. In any proceeding seeking equitable relief or other remedy based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection 1 before taking advantage of the opportunity shall not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

Approved March 25, 2008

[1] According to enrolled Act; the phrase "does not preclude" probably intended

CHAPTER 1016

DISPENSING OF PRESCRIPTION DRUGS —
PERMISSIBLE PRACTICES

H.F. 2166

AN ACT relating to the practice of pharmacy, including provisions governing tech-check-tech programs and specifying applicable penalty provisions.

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

Section 1. Section 147.107, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. 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~~ dispensing 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 or when a pharmacist is utilizing a tech-check-tech program, as defined in section 155A.3. When using an automated dispensing system the pharmacist or practitioner shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. When using a tech-check-tech program the pharmacist shall utilize an internal quality control assurance plan, in accordance with rules adopted by the board of pharmacy that ensures accuracy for dispensing. Verification of automated dispensing and tech-check-tech accuracy and completeness remains the responsibility of the pharmacist or practitioner and shall be determined in accordance with rules adopted by the board of pharmacy, the board of medicine, the dental board, and the board of podiatry for their respective licensees.

Sec. 2. Section 155A.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 39A. "Tech-check-tech program" means a program formally established by a pharmacist in charge of a pharmacy who has determined that one or more certified pharmacy technicians are qualified to safely check the work of other certified pharmacy technicians and thereby provide final verification for drugs which are dispensed for subsequent administration to patients in an institutional setting.

Sec. 3. Section 155A.6A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The board shall adopt rules in accordance with chapter 17A on matters pertaining to pharmacy technician registration, application, forms, renewals, fees, termination of registration, tech-check-tech programs, national certification, training, and any other relevant matters.

Sec. 4. Section 155A.24, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. If the prescription drug is a controlled substance, the person shall be punished pursuant to section 124.401, subsection 1, and other provisions of chapter 124, division IV.

Sec. 5. Section 155A.33, Code 2007, is amended to read as follows:

155A.33 DELEGATION OF TECHNICAL FUNCTIONS ~~— AUTOMATED DISPENSING SYSTEMS~~.

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 repre-

sentative. However, the physical presence requirement does not apply when a pharmacist is utilizing an automated dispensing system or a tech-check-tech program. When using an automated dispensing system or a tech-check-tech program, the pharmacist shall utilize an internal quality control assurance plan that ensures accuracy for dispensing. Verification of automated dispensing and tech-check-tech accuracy and completeness remains the responsibility of the pharmacist and shall be determined in accordance with rules adopted by the board.

Sec. 6. Section 155A.34, Code 2007, is amended to read as follows:

155A.34 TRANSFER OF PRESCRIPTIONS.

A pharmacist or a pharmacist-intern may transfer a valid prescription order to another pharmacist or a pharmacist-intern pursuant to rules adopted by the board.

Approved March 25, 2008

CHAPTER 1017

STATE MINIMUM WAGE REQUIREMENTS — APPLICABILITY

H.F. 2194

AN ACT relating to exemptions to state minimum wage requirements.

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

Section 1. Section 91D.1, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. The exemptions from the minimum wage requirements stated in 29 U.S.C. § 213, as amended to January 1, 2007, shall apply, except ~~that the exemption in 29 U.S.C. § 213(a)(2) shall only apply to an enterprise which is comprised of one or more retail or service establishments whose annual gross volume of sales made or business done is less than sixty percent of the amount stated in 29 U.S.C. § 203(s)(2), exclusive of excise taxes at the retail level that are separately stated~~ as otherwise provided in this subsection.

b. Except as provided in paragraph "c", the minimum wage requirements set forth in this section shall not apply to an enterprise whose annual gross volume of sales made or business done, exclusive of excise taxes at the retail level which are separately stated, is less than three hundred thousand dollars.

c. The minimum wage requirements set forth in this section shall apply to the following without regard to gross volume of sales or business done:

(1) An enterprise engaged in the business of laundering, cleaning, or repairing clothing or fabrics.

(2) An enterprise engaged in construction or reconstruction.

(3) An enterprise engaged in the operation of a hospital; an institution primarily engaged in the care of the sick, the aged, or the mentally ill or persons who have symptoms of mental illness who reside on the premises of such institution; a school for persons with mental or physical disabilities or for gifted children; a preschool, elementary or secondary school, or an institution of higher education. This subparagraph applies regardless of whether any such described hospital, institution, or school is public or private or operated for profit or not for profit.

(4) A public agency.

Approved March 25, 2008

CHAPTER 1018

REGULATION OF MOTOR VEHICLES —
MISCELLANEOUS CHANGES

H.F. 2213

AN ACT relating to technical matters concerning the regulation of motor vehicles by the department of transportation and providing an effective date.

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

Section 1. Section 321.1, subsection 6B, Code 2007, is amended to read as follows:

6B. "Bona fide residence" or "bona fide address" means the current street or highway address of an individual's residence. The bona fide residence of a person with more than one dwelling is the dwelling for which the person claims a homestead tax credit under chapter 425, if applicable. The bona fide residence of a homeless person is a primary nighttime residence meeting one of the criteria listed in section 48A.2, subsection 2.

Sec. 2. Section 321.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Completed motor vehicle" means a motor vehicle which does not require any additional manufacturing operations to perform its intended function except the addition of readily attachable equipment, components, or minor finishing operations.

Sec. 3. Section 321.1, subsection 37, Code 2007, is amended to read as follows:

37. "Manufacturer" means every person engaged in the business of fabricating or assembling vehicles of a type required to be registered. It does not include a person who converts, modifies, or alters a completed motor vehicle manufactured by another person. It includes a person who uses a completed motor vehicle manufactured by another person to construct a class "B" motor home as defined in section 321.124.

~~"Completed motor vehicle" means a motor vehicle which does not require any additional manufacturing operations to perform its intended function except the addition of readily attachable equipment, components, or minor finishing operations.~~

~~"Final stage manufacturer" means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle. A final stage manufacturer shall furnish to the department a document which identifies that the vehicle was incomplete prior to that manufacturing operation. The identification shall include the name of the incomplete vehicle manufacturer, the date of manufacture, and the vehicle identification number to ascertain that the document applies to a particular incomplete vehicle.~~

~~"Incomplete vehicle" means an assemblage, as a minimum, consisting of a frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be a part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable equipment, components, or minor finishing operations.~~

Sec. 4. Section 321.10, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The director and officers of the department designated by the director are authorized to prepare under the seal of the department and provide upon request a certified copy of any record of the department, charging a fee of fifty cents for each document so authenticated, and every such certified copy shall be admissible in any proceeding in any court in like manner as the original and shall be considered to be true and accurate unless shown otherwise by an objecting party. The seal of the department may be applied electronically on certified copies of records.

Sec. 5. Section 321.20, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. A statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and ~~bona fide~~ mailing addresses of all persons having any interest in the vehicle and the nature of every such interest. When the application refers to a new vehicle, it shall be accompanied by a manufacturer's or importer's certificate duly assigned as provided in section 321.45.

Sec. 6. Section 321.24, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, the amount of tax paid pursuant to section 423.26, the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of perfection, and name and mailing address of the secured party.

Sec. 7. Section 321.30, subsection 1, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. If the applicant is under eighteen years of age, unless the applicant has an Iowa driver's license or the application is being made by more than one applicant and one of the applicants is at least eighteen years of age.

Sec. 8. Section 321.30, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The department or the county treasurer shall refuse registration of a vehicle ~~on the following grounds:~~

~~a. If the applicant is under the age of eighteen years, unless the applicant has an Iowa driver's license or the application is being made by more than one applicant and one of the applicants is at least eighteen years of age.~~

~~b. If~~ if the applicant for registration of the vehicle has failed to pay the required registration fees of any vehicle owned or previously owned when the registration fee was required to be paid by the applicant, and for which vehicle the registration was suspended or revoked under section 321.101, subsection 1, paragraph "d", or section 321.101A, until the fees are paid together with any accrued penalties.

Sec. 9. Section 321.34, subsection 16, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a member of the national guard, as defined in chapter 29A, may, upon written application to the department, order special registration plates with a national guard processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the applicant is a member of the national guard. The application shall be approved by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized national guard plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for national guard plates. Special registration plates with a national guard processed emblem shall be surrendered, as provided in subsection 12, in exchange for regular registration plates upon termination of the owner's membership in the active national guard.

Sec. 10. Section 321.34, subsection 17, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates with a Pearl Harbor processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized Pearl Harbor plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for Pearl Harbor plates.

Sec. 11. Section 321.34, subsection 18, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States may, upon written application to the department and presentation of satisfactory proof of the award of the purple heart medal, order special registration plates with a purple heart processed emblem. The design of the emblem shall include a representation of a purple heart medal and ribbon. The application is subject to approval by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized purple heart plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for purple heart plates.

Sec. 12. Section 321.34, subsection 19, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a retired member of the United States armed forces may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. For purposes of this subsection, a person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized armed forces retired plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for armed forces retired plates.

Sec. 13. Section 321.34, subsection 20, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a silver or a bronze star by the

United States government, may, upon written application to the department and presentation of satisfactory proof of the award of the silver or bronze star, order special registration plates with a silver or bronze star processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized silver star and bronze star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for silver star and bronze star plates.

Sec. 14. Section 321.34, subsection 20A, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a distinguished service cross, a navy cross, or an air force cross by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a distinguished service cross, navy cross, or air force cross processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized distinguished service cross, navy cross, and air force cross plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for distinguished service cross, navy cross, and air force cross plates.

Sec. 15. Section 321.34, subsection 20B, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a soldier's medal, a navy and marine corps medal, or an airman's medal by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a soldier's medal, navy and marine corps medal, or airman's medal processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized soldier's medal, navy and marine corps medal, and airman's medal plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for soldier's medal, navy and marine corps medal, and airman's medal plates.

Sec. 16. Section 321.34, subsection 24, Code Supplement 2007, is amended to read as follows:

24. GOLD STAR PLATES. An owner referred to in subsection 12 who is the surviving spouse, parent, child, or sibling of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict may order special registration plates bearing a gold star emblem upon written application to the department accompanied by satisfactory supporting documentation as determined by the department. The gold

star emblem shall be designed by the department in cooperation with the commission of veterans affairs. The special plate fees collected by the director under subsection 12, ~~paragraph~~ paragraphs "a" and "c", from the issuance and annual validation of letter-number designated and personalized gold star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected under subsection 12, paragraph "a", in the previous month for gold star plates.

Sec. 17. Section 321.52, subsection 4, paragraph c, Code Supplement 2007, is amended to read as follows:

c. A salvage theft examination shall be made by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. The owner of the salvage vehicle shall make the vehicle available for examination at a time and location designated by the peace officer doing the examination. The owner may obtain a permit to drive the vehicle to and from the examination location by submitting a repair affidavit to the agency performing the examination stating that the vehicle is reasonably safe for operation and listing the repairs which have been made to the vehicle. The owner must be present for the examination and have available for inspection the salvage title, bills of sale for all essential parts changed, if applicable, and the repair affidavit. The examination shall be for the purposes of determining whether the vehicle or repair components have been stolen. The examination is not a safety inspection and a signed salvage theft examination certificate shall not be construed by any court of law to be a certification that the vehicle is safe to be operated. There shall be no cause of action against the peace officer or the agency conducting the examination or the county treasurer for failure to discover or note safety defects. If the vehicle passes the theft examination, the peace officer shall indicate that the vehicle passed examination on the salvage theft examination certificate. The permit and salvage theft examination certificate shall be on controlled forms prescribed and furnished by the department. The owner shall pay a fee of thirty dollars upon completion of the examination. The agency performing the examinations shall retain twenty dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the treasurer of state for deposit in the general fund of the state. Moneys deposited to the general fund under this paragraph are subject to the requirements of section 8.60 and shall be used by the Iowa law enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection.

~~The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section.~~

Sec. 18. Section 321.52, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The department shall adopt rules in accordance with chapter 17A to carry out this section.

Sec. 19. Section 321.90, subsection 2, paragraphs d and e, Code 2007, are amended to read as follows:

d. If the abandoned motor vehicle is not reclaimed in accordance with section 321.89, subsection 3, or no lienholder objects to the disposal in the case of an owner-applicant, the police authority shall give the applicant a certificate of authority allowing the applicant to obtain a junking certificate for the motor vehicle. The applicant shall make application for a junking certificate to the county treasurer within ~~fifteen~~ thirty days of ~~purchase~~ receipt of the certificate of authority and surrender the certificate of authority in lieu of the certificate of title. The

demolisher shall accept the junking certificate in lieu of the certificate of title to the motor vehicle.

e. Notwithstanding any other provisions of this section and sections 321.89 and 321.91, any person, firm, corporation, or unit of government upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may dispose of such motor vehicle to a demolisher for junk without a title and without the notification procedures of section 321.89, subsection 3, if the motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The owner shall apply to the county treasurer for a junking certificate within ~~fifteen~~ thirty days of ~~purchase~~ receipt of the certificate of authority and shall surrender the certificate of authority in lieu of the certificate of title.

Sec. 20. Section 321.105, unnumbered paragraph 5, Code 2007, is amended to read as follows:

Seriously disabled veterans who have been provided with an automobile or other vehicle by the United States government under the provisions of sections 1901 to 1903, Title 38 of the United States Code, 38 U.S.C. § 1901 et seq. (1970), shall be exempt from payment of ~~any automobile~~ the registration fee provided in this chapter for that vehicle, and shall be provided, without fee, with ~~a~~ one set of regular registration ~~plate~~ plates or one set of any type of special registration plates associated with service in the United States armed forces for which the disabled veteran qualifies under section 321.34. The disabled veteran, to be able to claim the ~~above~~ benefit, must be a resident of the state of Iowa. ~~The~~ In lieu of the set of regular or special military registration plates available without fee, the disabled veteran may obtain ~~a special or personalized plate~~ a set of nonmilitary special registration plates or personalized plates issued under section 321.34 by paying the ~~difference between the fee for a regular registration plate and the fee for the special or personalized registration plate~~ additional fees associated with those plates.

Sec. 21. Section 321.173, Code 2007, is amended to read as follows:

321.173 WHEN FEES RETURNABLE.

1. Whenever any application to the department is accompanied by ~~any~~ a vehicle registration fee as required by law and ~~such~~ the application is refused or rejected ~~said~~, the fee shall be returned to ~~said~~ the applicant.

2. Whenever the department through error collects any vehicle registration fee not required to be paid ~~hereunder~~ under this chapter, the ~~same~~ fee shall be refunded~~,~~ from the refund account~~,~~ to the person paying the ~~same~~ fee upon application ~~therefor~~ made within ~~six months~~ one year after the date of such payment.[1]

Sec. 22. Section 321.196, subsection 2, Code 2007, is amended to read as follows:

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 a driving test or 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.

Sec. 23. Section 321.210B, subsections 7 and 14, Code Supplement 2007, are amended to read as follows:

7. a. ~~The~~ A civil penalty~~, if~~ assessed pursuant to section 321.218A, 321A.32A, or 321J.17 shall be added to the amount owing under the installment agreement.

b. The clerk of the district court shall transmit to the department, from the first moneys collected, an amount equal to the amount of any civil penalty assessed pursuant to section

[1] See chapter 1113, §121 herein

321.218A or 321A.32A and added to the installment agreement. The department shall transmit the money received from the clerk of the district court pursuant to this ~~subsection~~ paragraph to the treasurer of state for deposit in the juvenile detention home fund created in section 232.142.

c. The clerk of the district court shall transmit to the department, from the first moneys collected, an amount equal to the amount of any civil penalty assessed pursuant to section 321J.17 and added to the installment agreement. The department shall transmit the money received from the clerk of the district court pursuant to this paragraph to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 915.94 and one-half of the money in the general fund of the state.

14. Except for ~~the~~ a civil penalty ~~if~~ assessed and collected pursuant to subsection 7, any amount collected under the installment agreement shall be distributed as provided in section 602.8107, subsection 4.

Sec. 24. Section 321A.32A, Code Supplement 2007, is amended to read as follows:

321A.32A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the juvenile detention home fund created in section 232.142. ~~A~~ Except as provided in section 321.210B, a temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

Sec. 25. Section 321J.17, subsection 1, Code 2007, is amended to read as follows:

1. If the department revokes a person's driver's license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 915.94 and one-half of the money in the general fund of the state. A temporary restricted license shall not be issued unless an ignition interlock device has been installed pursuant to section 321J.4 ~~and the civil penalty has been paid~~. A driver's license or nonresident operating privilege shall not be reinstated unless proof of deinstallation of an ignition interlock device installed pursuant to section 321J.4 has been submitted to the department ~~and~~. Except as provided in section 321.210B, a temporary restricted license shall not be issued or a driver's license or nonresident operating privilege reinstated until the civil penalty has been paid. A person assessed a penalty under this section may remit the civil penalty along with a processing fee of five dollars to a county treasurer authorized to issue driver's licenses under chapter 321M, or the civil penalty may be paid directly to the department.

Sec. 26. Section 321M.9, subsection 1, Code Supplement 2007, is amended to read as follows:

1. FEES TO COUNTIES. Notwithstanding any other provision in the Code to the contrary, the county treasurer of a county authorized to issue driver's licenses under this chapter shall retain for deposit in the county general fund seven dollars of fees received for each issuance or renewal of driver's licenses and nonoperator's identification cards, but shall not retain any moneys for the issuance of any persons with disabilities identification devices. The five dollar processing fee charged by a county treasurer for collection of a civil penalty under section 321.218A, ~~or~~ 321A.32A, or 321J.17 shall be retained for deposit in the county general fund. The county treasurer shall remit the balance of fees and all civil penalties to the department.

Sec. 27. Section 322.29, subsection 6, Code Supplement 2007, is amended to read as follows:

6. Notwithstanding section 322.3, subsection ~~1,~~ 14, a person licensed as a wholesaler under subsection 4 may be licensed as a used motor vehicle dealer ~~solely for the purpose of dealing in used motor vehicles of the same make and model the person is licensed to wholesale~~.

Sec. 28. Section 331.552, subsection 4, Code 2007, is amended to read as follows:

4. Keep the official county seal provided by the county. The official seal shall be an impression seal on the face of which shall appear the name of the county, the word "county" which may be abbreviated, the word "treasurer" which may be abbreviated, and the word "Iowa". ~~The impression of the seal shall be placed on each motor vehicle certificate of title signed by the treasurer.~~

Sec. 29. Section 331.557A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Accept payment of civil penalties pursuant to sections 321.218A, ~~and~~ 321A.32A, and 321J.17 and remit the penalties to the state department of transportation.

Sec. 30. CODIFICATION. The Code editor is requested to transfer section 321.173 pertaining to the return of vehicle registration fees, as amended in this Act, to section 321.129 or another suitable location to improve readability.

Sec. 31. EFFECTIVE DATE. The sections of this Act that amend sections 321.210B, 321A.32A, 321J.17, 321M.9, and 331.557A, being deemed of immediate importance, take effect upon enactment.

Approved March 25, 2008

CHAPTER 1019

CHILD SUPPORT — MISCELLANEOUS PROVISIONS

H.F. 2309

AN ACT relating to child support recovery including assignment of support to the state relative to receipt of family investment program benefits, the reporting of delinquent child support obligors to consumer reporting agencies, access to cellular telephone numbers for the purpose of the computer match program by the child support recovery unit, the information included in a notice regarding the administrative levy of an account, and medical support of a child, and providing effective and retroactive applicability dates.

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

DIVISION I
ASSIGNMENT OF CHILD SUPPORT — FAMILY INVESTMENT PROGRAM RECIPIENTS

Section 1. Section 239B.6, subsections 1 and 2, Code 2007, are amended to read as follows:

1. An assignment of support rights to the department is created by either of the following:

a. An applicant and other persons covered by an application are deemed to have assigned to the department at the time of application all rights to periodic support payments that accrue during the period the family receives assistance to the extent of the amount of assistance received by the applicant and by other persons covered by the application.

b. A determination that a child or another person covered by an application is eligible for assistance under this chapter creates an assignment by operation of law to the department of all rights to periodic support payments that accrue during the period the family receives assistance not to exceed the amount of assistance received by the child and other persons covered by the application.

2. An assignment takes effect upon determination that an applicant or another person covered by an application is eligible for assistance under this chapter, applies to both current and ~~accrued~~ accruing support obligations, and terminates when an applicant or another person covered by an application ceases to receive assistance under this chapter, except with respect to the amount of unpaid support obligations accrued ~~under~~ during the assignment. If an applicant or another person covered by an application ceases to receive assistance under this chapter and the applicant or other person covered by the application receives a periodic support payment, subject to limitations under federal law and subject to subsection 2A, the department is entitled only to that amount of the periodic support payment above the current periodic support obligation.

Sec. 2. Section 239B.6, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Any rights to support payments assigned to the department on or before September 30, 2009, shall remain assigned to the department.

Sec. 3. Section 252A.13, Code 2007, is amended to read as follows:

252A.13 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

1. If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

a. For family investment program assistance, section 239B.6 shall apply.

b. For foster care services, section 234.39 shall apply.

c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. If the applicant for public assistance, for whom public assistance is approved and provided on or after July 1, 1997, is a person other than a parent of the child, the department shall send notice of the assignment by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 252A.6, to which the department is entitled, to the department, unless the court has ordered the payments made directly to the department under that section. The department may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees awarding and temporary domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded is presumed to be payable on behalf of each child, subject to the order or judgment, for purposes of an assignment under this section.

Sec. 4. Section 252C.2, subsection 1, Code 2007, is amended to read as follows:

1. If public assistance is provided by the department to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all right in, title to, and interest in any support obligation, payment, and arrearages owed to or for the child or caretaker up to the amount of public assistance paid for or on behalf of the child or caretaker. Unless otherwise specified in the order, an equal and proportionate

share of any child support awarded is presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section. For family investment program assistance, section 239B.6 shall apply.

Sec. 5. Section 598.34, Code 2007, is amended to read as follows:

598.34 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

1. If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or for the child or caretaker not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

a. For family investment program assistance, section 239B.6 shall apply.

b. For foster care services, section 234.39 shall apply.

c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send a notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 598.22, to which the department is entitled, to the department, which may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees and temporary or domestic abuse orders addressing support when the parties are receiving public assistance or services are otherwise provided by the child support recovery unit pursuant to chapter 252B. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

Sec. 6. Section 600B.38, Code 2007, is amended to read as follows:

600B.38 RECIPIENTS OF PUBLIC ASSISTANCE — ASSIGNMENT OF SUPPORT PAYMENTS.

1. If public assistance is provided by the department of human services to or on behalf of a dependent child or a dependent child's caretaker, there is an assignment by operation of law to the department of any and all rights in, title to, and interest in any support obligation, payment, and arrearages owed to or on behalf of the child or caretaker, not to exceed the amount of public assistance paid for or on behalf of the child or caretaker as follows:

a. For family investment program assistance, section 239B.6 shall apply.

b. For foster care services, section 234.39 shall apply.

c. For medical assistance, section 252E.11 shall apply.

2. The department shall immediately notify the clerk of court by mail when such a child or caretaker has been determined to be eligible for public assistance. Upon notification by the department, the clerk of court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of the assignment. For public assistance approved and provided on or after July 1, 1997, if the applicant for public assistance is a person other than a parent of the child, the department shall send notice by regular mail to the last known addresses of the obligee and obligor. The clerk of court shall forward support payments received pursuant to section 600B.25, to which the department is entitled, to the department, which may secure support payments in default through other proceedings.

3. The clerk shall furnish the department with copies of all orders or decrees and temporary or domestic abuse orders addressing support when the parties are receiving public assistance

or services are otherwise provided by the child support recovery unit. Unless otherwise specified in the order, an equal and proportionate share of any child support awarded shall be presumed to be payable on behalf of each child subject to the order or judgment for purposes of an assignment under this section.

Sec. 7. EFFECTIVE DATE. This division of this Act takes effect October 1, 2009.

DIVISION II
CONSUMER REPORTING AGENCIES — REQUIREMENTS FOR
RECEIPT AND USE OF DELINQUENT SUPPORT INFORMATION

Sec. 8. Section 252B.9, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. The unit may provide information regarding delinquent obligors as provided in 42 U.S.C. § 666(a)(7) to a consumer reporting agency if all the following apply:

(1) The agency provides the unit with satisfactory evidence that it is a consumer reporting agency as defined in 15 U.S.C. § 1681a(f) and meets all the following requirements:

(a) Compiles and maintains files on consumers on a nationwide basis as provided in 15 U.S.C. § 1681a(p).

(b) Participates jointly with other nationwide consumer reporting agencies in providing annual free credit reports to consumers upon request through a centralized source as required by the federal trade commission in 16 C.F.R. § 610.2.

(2) The agency has entered into an agreement with the unit regarding receipt and use of the information.

DIVISION III
CELLULAR TELEPHONE NUMBERS — AVAILABLE
TO CHILD SUPPORT RECOVERY UNIT

Sec. 9. Section 252B.9, subsection 1, paragraph d, subparagraph (2), Code 2007, is amended to read as follows:

(2) Certain records held by public utilities, cable or other television companies, cellular telephone companies, and internet service providers with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records, and including the cellular telephone numbers of such individuals appearing in the customer records of cellular telephone companies. If the records are maintained in automated databases, the unit shall be provided with automated access.

DIVISION IV
OBLIGOR SOCIAL SECURITY NUMBER — NOTICE FORM

Sec. 10. Section 252I.6, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. The name ~~and social security number~~ of the obligor.

DIVISION V
MEDICAL SUPPORT

Sec. 11. Section 252E.1A, subsection 2, paragraph a, subparagraphs (1) and (2), as enacted by 2007 Iowa Acts, chapter 218, section 164, are amended to read as follows:

(1) The premium cost for a child to the parent ordered to provide the plan does not exceed five percent of that parent's gross income or the child support guidelines established pursuant to section 598.21B specifically provide an alternative income-based numeric standard for de-

termining the reasonable cost of the premium, in which case the reasonable cost of the premium as determined by the standard specified by the child support guidelines shall apply.

(2) The premium cost for a child exceeds ~~five percent of the gross income of the parent ordered to provide the plan~~ the amount specified in subparagraph (1) and that parent consents or does not object to entry of that order.

Sec. 12. Section 252E.1A, subsection 3, as enacted by 2007 Iowa Acts, chapter 218, section 164, is amended to read as follows:

3. If a health benefit plan is not available at the time of the entry of the order, the court shall order a reasonable monetary amount in lieu of a health benefit plan, which amount shall be stated in the order. For purposes of this subsection, a reasonable amount means five percent of the gross income of the parent ordered to provide the monetary amount for medical support or if the child support guidelines established pursuant to section 598.21B specifically provide an alternative income-based numeric standard for determining the reasonable amount, a reasonable amount means the amount as determined by the standard specified by the child support guidelines. This subsection shall not apply in any of the following circumstances:

a. If the parent's monthly support obligation established pursuant to the child support guidelines prescribed by the supreme court pursuant to section 598.21B is the minimum obligation amount. If this paragraph applies, the court shall order the parent to provide a health benefit plan when a plan becomes available for which there is no premium cost for a child to the parent.

b. If subsection 7, paragraph "d", "e", or "f" applies.

Sec. 13. Section 252E.1A, subsection 6, as enacted by 2007 Iowa Acts, chapter 218, section 164, is amended to read as follows:

6. An order, decree, or judgment entered before ~~March 1, 2008~~ July 1, 2009, that provides for the support of a child may be modified in accordance with this section.

Sec. 14. Section 252E.1A, subsection 7, as enacted by 2007 Iowa Acts, chapter 218, section 164, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. If a health benefit plan is not available, and the noncustodial parent is receiving assistance or is residing with any child receiving assistance as provided in section 252E.2A, subsection 1, paragraph "c", subparagraph (3) or (4), the unit shall seek an order that the noncustodial parent shall provide a health benefit plan when a plan becomes available for which there is no premium cost for a child to the parent.

Sec. 15. Section 252E.2A, subsection 1, paragraph b, as enacted by 2007 Iowa Acts, chapter 218, section 165, is amended to read as follows:

b. The unit is notified that the conditions of paragraph "c" are met and ~~there is a pending action to establish or modify support initiated by the unit, or~~ the parent ordered to provide medical support submits a written statement to the unit that the requirements of paragraph "c" are met.

Sec. 16. Section 252E.2A, subsection 1, paragraph c, unnumbered paragraph 1, as enacted by 2007 Iowa Acts, chapter 218, section 165, is amended to read as follows:

The parent ordered to provide medical support ~~or the parent from whom the unit is seeking to establish or modify medical support~~ meets at least one of the following conditions:

Sec. 17. Section 252E.2A, subsection 5, as enacted by 2007 Iowa Acts, chapter 218, section 165, is amended to read as follows:

5. An order, decree, or judgment entered or pending on or before ~~March 1, 2008~~ July 1, 2009, that provides for the support of a child may be satisfied as provided in this section.

Sec. 18. 2007 Iowa Acts, chapter 218, section 187, is amended to read as follows:

SEC. 187. EFFECTIVE DATE. This division of this Act takes effect ~~March 1, 2008~~ July 1, 2009.

Sec. 19. CHILD SUPPORT RECOVERY — MEDICAL SUPPORT. Notwithstanding chapter 252C, 252F, or 252H, or any other applicable chapter, either parent may be ordered to provide medical support in accordance with the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171.

Sec. 20. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to March 1, 2008.

Approved March 25, 2008

CHAPTER 1020

BLOOD LEAD TESTING AND
DENTAL SCREENING OF CHILDREN

S.F. 2111

AN ACT relating to requirements for blood lead testing and dental screening of children.

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

Section 1. Section 135.17, subsection 2, as enacted by 2007 Iowa Acts, chapter 146, section 1, is amended by striking the subsection and inserting in lieu thereof the following:

2. Each public and nonpublic school shall, in collaboration with the department, do the following:

a. Assure that the parent or guardian of a student enrolled in the school has complied with the requirements of subsection 1.

b. Provide, if a student has not had a dental screening performed in accordance with subsection 1, the parent or guardian of the student with community dental screening referral resources, including contact information for the i-smile coordinator, department, or dental society.

Sec. 2. Section 135.17, subsection 3, as enacted by 2007 Iowa Acts, chapter 146, section 1, is amended by striking the subsection.

Sec. 3. Section 135.17, subsection 4, as enacted by 2007 Iowa Acts, chapter 146, section 1, is amended to read as follows:

4. ~~Each~~ By June 30 annually, each local board shall furnish the department~~, within sixty days after the start of the school year,~~ with evidence that each person enrolled in any public or nonpublic school within the local board's jurisdiction has met the dental screening requirement in this section.

Sec. 4. Section 135.105D, subsection 2, paragraph b, Code Supplement 2007, is amended by striking the paragraph and inserting the following:

b. The board of directors of each school district and the authorities in charge of each nonpublic school shall, in collaboration with the department, do the following:

(1) Assure that the parent or guardian of a student enrolled in the school has complied with the requirements of paragraph "a".

(2) Provide, if the parent or guardian cannot provide evidence that the child received a blood lead test in accordance with paragraph "a", the parent or guardian with community blood lead testing program information, including contact information for the department.

Sec. 5. Section 135.105D, subsection 2, paragraph c, Code Supplement 2007, is amended by striking the paragraph.

Sec. 6. Section 135.105D, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The board of directors of each school district and the authorities in charge of each nonpublic school shall furnish the department, in the format specified by the department, within sixty days after the ~~first official day~~ start of the school calendar, ~~evidence that each child~~ a list of the children enrolled in ~~any elementary school has either been tested as required in subsection 2 or received a waiver under subsection 4~~ kindergarten. The department shall notify the school districts and nonpublic schools of the children who have not met the blood lead testing requirements set forth in this section and shall work with the school districts, nonpublic schools, and the local childhood lead poisoning prevention programs to assure that these children are tested as required by this section.

Approved March 26, 2008

CHAPTER 1021

COMMERCIAL MOTOR VEHICLE REGULATION
— OPERATORS AND EMPLOYERS

S.F. 2156

AN ACT relating to regulation of commercial motor vehicle operators by the state department of transportation and providing penalties.

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

Section 1. Section 321.1, subsection 11, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. "Employer" means any person, including the United States, a state, the District of Columbia, or a political subdivision of a state, who owns or leases a commercial motor vehicle or assigns an employee to operate such a vehicle.

Sec. 2. Section 321.1, subsection 11, paragraphs f, g, and h, Code 2007, are amended to read as follows:

~~f.~~ g. "Foreign jurisdiction" means a jurisdiction outside the fifty United States, the District of Columbia, and Canada.

~~g.~~ h. "Nonresident commercial driver's license" means a commercial driver's license issued to a person who is not a resident of the United States or Canada.

~~h.~~ i. "Tank vehicle" means a commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank ~~having a rated capacity of one thousand one or more gallons~~ that is either permanently or temporarily attached to the vehicle or chassis. For purposes of this paragraph, "tank" does not include a portable tank with a rated capacity of less than one thousand gallons or a permanent tank with a rated capacity of one hundred nineteen gallons or less.

Sec. 3. Section 321.1, subsection 15, Code 2007, is amended to read as follows:

15. "Conviction" means a final conviction, a final administrative ruling or determination, or an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court.

Sec. 4. Section 321.1, subsection 42, paragraph a, Code 2007, is amended to read as follows:

a. "Motor vehicle" means a vehicle which is self-propelled~~, but not including vehicles known as trackless trolleys which are propelled by electric power obtained from overhead trolley wires~~ and ~~are~~ not operated upon rails.

Sec. 5. Section 321.208, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. Operating a commercial motor vehicle involved in a fatal accident and being convicted of ~~a moving traffic violation that contributed to the fatality, or~~ manslaughter or vehicular homicide.

Sec. 6. Section 321.208, subsection 6, Code 2007, is amended to read as follows:

6. A person is disqualified from operating a commercial motor vehicle if the person receives convictions for committing within any three-year period two or more of the following offenses while operating a commercial motor vehicle or while operating a noncommercial motor vehicle and holding a commercial driver's license if the convictions result in the revocation, cancellation, or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges:

a. Operating a commercial motor vehicle upon a highway when not issued a commercial driver's license.

b. Operating a commercial motor vehicle upon a highway when not issued the proper class of commercial driver's license or endorsements for the specific vehicle group being operated or for the passengers or type of cargo being transported.

c. Operating a commercial motor vehicle upon a highway without immediate possession of a driver's license valid for the vehicle operated.

d. Speeding fifteen miles per hour or more over the legal speed limit.

e. Reckless driving.

f. Any violation of the traffic laws, except a parking violation or a vehicle weight violation, which arises in connection with a fatal traffic accident.

g. Following another motor vehicle too closely.

h. Improper lane changes in violation of section 321.306.

Sec. 7. Section 321.208, subsection 7, Code 2007, is amended by striking the subsection.

Sec. 8. Section 321.208, subsection 8, Code 2007, is amended to read as follows:

8. The period of disqualification under ~~subsections~~ subsection 6 ~~and 7~~ shall be sixty days for two offenses within any three-year period and one hundred twenty days for three offenses within any three-year period. Multiple periods of disqualification shall be consecutive.

Sec. 9. Section 321.208, subsection 10, paragraph a, Code 2007, is amended to read as follows:

a. For ~~ninety days~~ no less than one hundred eighty days and no more than one year upon conviction for the first violation of an out-of-service order; for ~~one year,~~ no less than two and not more than five years upon conviction for a second violation of an out-of-service order in separate incidents within a ten-year period; and for not less than three and not more than five years upon conviction for a third or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

Sec. 10. Section 321.208A, Code 2007, is amended to read as follows:

321.208A OPERATION IN VIOLATION OF OUT-OF-SERVICE ORDER — ~~PENALTY~~ PENALTIES.

1. A person required to hold a commercial driver's license to operate a commercial motor vehicle shall not operate a commercial motor vehicle on the highways of this state in violation of an out-of-service order issued by a peace officer for a violation of the out-of-service rules

adopted by the department. A driver who violates an out-of-service order shall be subject to a fine of not less than two thousand five hundred dollars upon conviction for the first violation of an out-of-service order and not less than five thousand dollars for a second or subsequent violation of an out-of-service order in separate incidents within a ten-year period.

2. An employer shall not knowingly allow, require, permit, or authorize an employee to drive a commercial motor vehicle in violation of ~~such~~ an out-of-service order. ~~A person who violates this section shall be subject to a scheduled fine of one hundred dollars under section 805.8A, subsection 13, paragraph "c".~~ An employer who violates this subsection shall be subject to a fine of not less than two thousand seven hundred fifty dollars and not more than twenty-five thousand dollars.

Sec. 11. NEW SECTION. 321.343A EMPLOYER VIOLATIONS — PENALTY.

An employer shall not knowingly allow, require, permit, or authorize a driver to operate a commercial motor vehicle in violation of section 321.341 or 321.343 or any other federal or local law or regulation pertaining to railroad grade crossings. An employer who violates this section shall be subject to a fine of not more than ten thousand dollars.

Sec. 12. Section 321.344A, subsection 2, Code 2007, is amended to read as follows:

2. A peace officer may initiate an investigation not more than seven calendar days after receiving a report of a violation pursuant to this section. The peace officer may request that the owner of the vehicle supply information identifying the driver of the vehicle in accordance with section 321.484, or in the case of a commercial motor vehicle, the peace officer may request that the employer of the driver provide information identifying the driver of the vehicle.

a. If from the investigation, the peace officer is able to identify the driver of the vehicle and has reasonable cause to believe a violation has occurred, the peace officer shall prepare a uniform traffic citation for the violation and shall serve it personally or by certified mail on the driver of the vehicle.

b. If, from the investigation, the peace officer has reasonable cause to believe that a violation occurred but is unable to identify the driver, the peace officer shall serve a uniform traffic citation for the violation on the owner of the motor vehicle or, in the case of a commercial motor vehicle, on the employer of the driver. Notwithstanding section 321.484, in a proceeding where the peace officer who conducted the investigation was not able to identify the driver of the motor vehicle, proof that the motor vehicle described in the uniform traffic citation was used to commit the violation of section 321.341, 321.342, 321.343, or 321.344, together with proof that the defendant named in the citation was the owner of the motor vehicle or, in the case of a commercial motor vehicle, the employer of the driver, at the time the violation occurred, constitutes a permissible inference that the owner or employer was the ~~driver~~ person who committed the violation.

c. For purposes of this subsection, "owner" means a person who holds the legal title to a motor vehicle; however, if the motor vehicle is the subject of a security agreement with a right of possession in the debtor, the debtor shall be deemed the owner for purposes of this subsection, or if the motor vehicle is leased as defined in section 321.493, the lessee shall be deemed the owner for purposes of this subsection.

Sec. 13. Section 805.8A, subsection 13, paragraph c, Code 2007, is amended to read as follows:

c. For violations under sections ~~321.208A,~~ 321.364, 321.450, 321.460, and 452A.52, the scheduled fine is one hundred dollars.

Approved March 26, 2008

CHAPTER 1022

WORKERS' COMPENSATION — BURIAL EXPENSES

S.F. 2221

AN ACT relating to workers' compensation benefit payments for burial expenses.

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

Section 1. Section 85.28, Code 2007, is amended to read as follows:

85.28 BURIAL EXPENSE.

When death ensues from the injury, the employer shall pay the reasonable expenses of burial of such employee, not to exceed ~~seven thousand five hundred dollars~~ twelve times the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of death, which shall be in addition to other compensation or any other benefit provided for in this chapter.

Approved March 26, 2008

CHAPTER 1023

BOILER AND PRESSURE VESSEL
AND ELEVATOR SAFETY REVOLVING FUNDS

S.F. 2304

AN ACT relating to the boiler and pressure vessel safety and elevator safety revolving funds under the control of the labor commissioner.

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

Section 1. Section 89.8, subsection 2, Code 2007, is amended by striking the subsection.

Sec. 2. Section 89A.19, subsection 2, Code 2007, is amended by striking the subsection.

Approved March 26, 2008

CHAPTER 1024

PRIVATE ACTIVITY BOND
ALLOCATION PROCEDURES AND LIMITATIONS

H.F. 2215

AN ACT relating to private activity bond allocation procedures and single-project limitations.

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

Section 1. Section 7C.4A, subsection 5, Code 2007, is amended to read as follows:

5. Eighteen percent of the state ceiling shall be allocated to bonds issued by political subdivi-

sions to finance a qualified industry or industries for the manufacturing, processing, or assembly of agricultural or manufactured products even though the processed products may require further treatment before delivery to the ultimate consumer. A single project allocated a portion of the state ceiling pursuant to this subsection shall not receive an allocation in excess of ten million dollars in any calendar year.

Sec. 2. Section 7C.4A, subsection 7, paragraph a, Code 2007, is amended to read as follows:

a. The amount of the state ceiling which is not otherwise allocated under subsections 1 through 5, and after June 30, the amount of the state ceiling reserved under subsection 6 and not allocated, shall be allocated to all bonds requiring an allocation under section 146 of the Internal Revenue Code without priority for any type of bond over another, except as otherwise provided in sections 7C.5 and 7C.11. A single project allocated a portion of the state ceiling pursuant to this subsection shall not receive an allocation in excess of ten million dollars in any calendar year.

Sec. 3. Section 7C.7, Code 2007, is amended to read as follows:

7C.7 CERTIFICATION OF ALLOCATION.

Upon the receipt of a completed application pursuant to section 7C.6, the governor's designee shall promptly certify to the political subdivision the amount of the state ceiling allocated to the bonds for the purpose or project with respect to which the application was submitted. The allocation shall remain valid for ~~thirty~~ one hundred twenty days from the date the allocation was certified, subject to the following conditions:

1. If the bonds are issued and delivered for the purpose or project within the ~~thirty-day~~ one-hundred-twenty-day period or the ~~forty-five day~~ thirty-day extension period provided in subsection 2, the political subdivision or its representative shall within ten days following the issuance and delivery of the bonds or not later than June 30 of that year, if the bonds were issued and delivered on or before that date, file with the governor's designee, in the form or manner the governor's designee may prescribe, a notification of the date of issuance and the delivery of the bonds, and the actual principal amount of bonds issued and delivered. The filing of the notification shall be done by actual delivery or by posting in a United States post office depository with correct first class postage paid. If the actual principal amount of bonds issued and delivered is less than the amount of the allocation, the amount of the allocation is automatically reduced to the actual principal amount of the bonds issued and delivered.

2. If the political subdivision does not reasonably expect to issue and deliver the bonds within the ~~thirty-day~~ one-hundred-twenty-day period and evidence of an executed, valid and binding agreement to purchase the bonds is obtained from an entity with the legal ability to purchase and this agreement is filed with the governor's designee, the ~~thirty-day~~ one-hundred-twenty-day allocation period is automatically extended for an additional ~~forty-five~~ thirty days. The allocation period shall not be extended beyond that additional ~~forty-five~~ thirty days.

3. The allocation is no longer valid unless the bonds are issued and delivered prior to December 24 or in the case of bonds described in section 7C.11 are issued and delivered prior to December 31 of the calendar year in which the allocation is certified, except as provided in section 7C.8.

Sec. 4. Section 7C.9, Code 2007, is amended to read as follows:

7C.9 NONBUSINESS DAYS.

If the expiration date of either the ~~thirty-day~~ one-hundred-twenty-day period or the ~~forty-five day~~ thirty-day extension period described in subsection 1 or 2 of section 7C.7 is a Saturday, Sunday or any day on which the offices of the state, banking institutions or savings and loan associations in the state are authorized or required to close, the expiration date is extended to the first day thereafter which is not a Saturday, Sunday or other previously described day.

Approved March 26, 2008

CHAPTER 1025

CONSUMER CREDIT CODE REVISIONS

H.F. 2268

AN ACT making specified revisions to the consumer credit code to conform to federal statutory updates and prohibit the transfer of ownership of a motor vehicle pursuant to a consumer rental purchase agreement.

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

Section 1. Section 537.1302, Code 2007, is amended to read as follows:

537.1302 DEFINITION — TRUTH IN LENDING ACT.

As used in this chapter, "Truth in Lending Act" means Title 1 of the Consumer Credit Protection Act, in subchapter 1 of 15 U.S.C. ch. 41, as amended to and including January 1, ~~1998~~ 2008, and includes regulations issued pursuant to that Act prior to January 1, ~~1998~~ 2008.

Sec. 2. Section 537.3604, subsection 7, Code 2007, is amended to read as follows:

7. "Personal property" means any property that is not real property under the laws of this state when it is made available for a consumer rental purchase agreement. For the purposes of this part, "personal property" does not include a motor vehicle, a manufactured home, or a manufactured or mobile home as defined in section 321.1.

Approved March 26, 2008

CHAPTER 1026

MILITARY COURTS-MARTIAL — PERMISSIBLE PENALTIES

H.F. 2287

AN ACT increasing the penalties that may be imposed by courts-martial under the Iowa code of military justice.

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

Section 1. Section 29B.17, subsections 1 and 2, Code 2007, are amended to read as follows:

1. A fine of not more than ~~two hundred~~ five thousand dollars;

2. Forfeiture of not more than twenty days' pay and allowances ~~not to exceed one thousand dollars~~;

Sec. 2. Section 29B.18, subsection 1, paragraph a, subparagraphs (1) and (2), Code Supplement 2007, are amended to read as follows:

(1) A fine not exceeding ~~one~~ two thousand five hundred dollars.

(2) Forfeiture of not more than twenty days' pay and allowances ~~not exceeding one thousand dollars~~.

Sec. 3. Section 29B.18, subsection 2, paragraph c, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) A fine of not more than ~~fifty~~ one thousand dollars for a single offense.

Approved March 26, 2008

CHAPTER 1027

STATE INCOME TAXES — FEDERAL TAX REBATES

H.F. 2417

AN ACT exempting certain federal tax rebates under 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. Section 422.9, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8. In determining the amount of deduction for federal income tax under subsection 1 or subsection 2, paragraph "b", for tax years beginning in the 2008 calendar year, the amount of the deduction for the tax year shall not be adjusted by the amount received during the tax year of the income tax rebate provided pursuant to the federal Recovery Rebates and Economic Stimulus for the American People Act of 2008, Pub. L. No. 110-185, and the amount of such income tax rebate shall not be subject to taxation under this division.

Sec. 2. VETERAN'S ELIGIBILITY. Notwithstanding any provision of or administrative rule adopted pursuant to chapter 35D, income tax rebates provided pursuant to the federal Recovery Rebates and Economic Stimulus for the American People Act of 2008, Pub. L. No. 110-185, shall not be considered for purposes of determining eligibility for admission to the Iowa veterans home and shall not be considered for determining whether a resident of the Iowa veterans home should contribute to the resident's own support.

Sec. 3. RETROACTIVE APPLICABILITY DATE. This Act applies retroactively to January 1, 2008, for tax years beginning on or after that date and before January 1, 2009.

Approved March 26, 2008

CHAPTER 1028

CIVIL RIGHTS COMPLAINTS — LIMITATIONS PERIOD

S.F. 2292

AN ACT expanding the time period during which a complaint may be filed with the Iowa civil rights commission.

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

Section 1. Section 216.15, subsection 12, Code Supplement 2007, is amended to read as follows:

12. Except as provided in section 614.8, a claim under this chapter shall not be maintained unless a complaint is filed with the commission within ~~one~~ three hundred ~~eighty~~ days after the alleged discriminatory or unfair practice occurred.

Approved March 27, 2008

CHAPTER 1029

LIFTS, HOISTS, AND OTHER CONVEYANCES —
WHEELCHAIR LIFTS

S.F. 2154

AN ACT relating to inclined or vertical wheelchair lifts regulated by the elevator safety board.

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

Section 1. Section 89A.1, subsection 10, Code Supplement 2007, is amended to read as follows:

10. "Inclined or vertical wheelchair lift" means a lift used ~~as part of an accessible route in or at a public building~~ to transport a wheelchair as specified in the American society of mechanical engineers safety ~~codes for elevators and escalators, A17.1~~ standard for platform lifts and stairway chairlifts, A18.1.

Sec. 2. Section 89A.2, Code Supplement 2007, is amended to read as follows:

89A.2 SCOPE OF CHAPTER.

1. The provisions of this chapter shall not apply to any of the following:

a. Any conveyance installed in any single private dwelling residence~~, to conveyances~~.

b. Material hoists subject to regulation under 875 IAC 26.1 and 29 C.F.R. § 1926.552~~, to lifts~~.

c. Lifts subject to regulation under chapter 88~~, to material~~.

d. Material lift elevators existing in the same location since prior to January 1, 1975~~, or to conveyances~~.

e. Conveyances over which an agency of the federal government is asserting similar enforcement jurisdiction.

2. Provisions of this chapter supersede conflicting provisions contained in building codes of this state or any subdivision thereof.

Sec. 3. Section 89A.9, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The operating permit shall indicate the type of equipment for which it is issued, and in the case of elevators shall state whether passenger or freight, and also shall state the contract load and speed for each conveyance. The permit shall be posted conspicuously in the car of an elevator, or on or near a dumbwaiter, escalator, moving walk, or inclined or vertical wheelchair lift.

Approved April 2, 2008

CHAPTER 1030

EXTERNAL REVIEW OF HEALTH INSURANCE
COVERAGE DECISIONS — SCOPE

S.F. 2199

AN ACT relating to appeals of denials of insurance coverage based on medical necessity.

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

Section 1. Section 514J.3, Code 2007, is amended to read as follows:

514J.3 EXCLUSIONS.

This chapter does not apply to a hospital confinement indemnity, credit, ~~dental,~~ vision, long-

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

Approved April 2, 2008

CHAPTER 1031

SUBSTANTIVE CODE CORRECTIONS

S.F. 2317

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities, and including effective and retroactive applicability date provisions.

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

DIVISION I
MISCELLANEOUS PROVISIONS

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

1C.2 PAID HOLIDAYS.

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

~~1.~~ a. New Year's Day, January 1.

~~2.~~ b. Martin Luther King, Jr.'s Birthday, the third Monday in January.

~~3.~~ c. Memorial Day, the last Monday in May.

~~4.~~ d. Independence Day, July 4.

~~5.~~ e. Labor Day, the first Monday in September.

~~6.~~ f. Veterans Day, November 11.

~~7.~~ g. Thanksgiving Day, the fourth Thursday in November.

~~8.~~ h. Friday after Thanksgiving, the Friday following Thanksgiving Day.

~~9.~~ i. Christmas Day, December 25.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2C.16 RECOMMENDATIONS TO AGENCY.

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

~~1.~~ a. A matter should be further considered by the agency~~;~~.

~~2.~~ b. An administrative action should be modified or canceled~~;~~.

~~3.~~ c. A rule on which an administrative action is based should be altered~~;~~.

~~4.~~ d. Reasons should be given for an administrative action~~; or~~.

~~5.~~ e. Any other action should be taken by the agency~~, the citizens' aide shall state the recommendations to the agency~~.

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

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

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

3.1 FORM OF BILLS.

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

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

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

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

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

Sec. 5. Section 3.3, Code Supplement 2007, is amended to read as follows:

3.3 HEADNOTES AND HISTORICAL REFERENCES.

Proper headnotes may be placed at the beginning of a section of a bill or a Code section, and at the end of a Code section there may be placed a reference to the section number of the Code, or any Iowa Act from which the matter of the Code section was taken. However, except as provided for the uniform commercial code~~,~~ pursuant to section 554.1107, headnotes shall not be considered as part of the law as enacted. Historical references shall not be considered as a part of the law as enacted.

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

4.13 GENERAL SAVINGS PROVISION.

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

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

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

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

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

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

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

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

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

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

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

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

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

9D.2 REGISTRATION REQUIRED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9D.3 EVIDENCE OF FINANCIAL SECURITY.

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

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

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

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

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

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

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

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

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

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

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

13A.3 MEMBERSHIP AND TERMS.

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

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

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

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

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

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

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

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

(1) Geographic location within the state.

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

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

(4) Urban and rural residents.

(5) Multicultural diversity.

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

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

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

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

a. The utilities division of the department of commerce insofar as the information relates to public utilities.

b. The banking division of the department of commerce.

~~c. The savings and loan division of the department of commerce.~~

~~d.~~ c. The credit union division of the department of commerce.

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

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

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

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

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

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

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

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

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

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

24.20 TAX RATES FINAL.

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

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

26.13 EARLY RELEASE OF RETAINED FUNDS.

1. For purposes of this section:

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

b. "Department" means the state department of transportation.

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

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

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

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

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

(b) The authorized contract representative.

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

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

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

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

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

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

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

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

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

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

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

~~(1) The architect or engineer authorized to make such certification.~~

~~(2) The authorized contract representative.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

86.2 APPOINTMENT OF DEPUTIES ~~AND ASSISTANTS~~.

1. The commissioner may appoint:

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

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

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

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

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

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

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

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

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

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

REJECTION OF WORKERS'
COMPENSATION OR EMPLOYERS'
LIABILITY COVERAGE

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

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

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

(1) I reject the employers' liability coverage.

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

Signed .....
Corporate Office .....
Date .....
City, County, State
of Residence .....

Witness .....
Witness .....

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

(1) The corporation rejects the employers' liability coverage.

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

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

Witness .....
Witness .....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. LAW ENFORCEMENT OFFICER.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

c. ~~for~~ For the purpose of one or more of the following:
~~a.~~ (1) Providing security for obligations.
~~b.~~ (2) Funding a default reserve fund.
~~c.~~ (3) Acquiring default insurance.
~~d.~~ (4) Defraying costs of the authority.
~~The moneys or properties shall be in amounts deemed necessary by the authority as a condition for the institution's participation in the authority's programs.~~

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

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

Sec. 45. Section 280.9A, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at times when these machines or sample ballots are not in use for their recognized purpose.

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

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

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

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

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

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

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

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

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

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

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

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

422.11T FILM QUALIFIED EXPENDITURE TAX CREDIT.

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

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

422.11U FILM INVESTMENT TAX CREDIT.

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

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

434.16 ASSESSMENT OF SLEEPING AND DINING CARS.

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

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

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

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

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

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

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

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

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

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

524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY INFORMATION.

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

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

533.214 CENTRAL CREDIT UNIONS.

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

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

This section does not apply to a contract for the operation of or for the sale or rental of equipment for games of skill or games of chance, if both the contract and the games are in compliance with chapter 99B. This section does not apply to wagering under the pari-mutuel method of wagering authorized by chapter 99D. This section does not apply to the sale, purchase, or redemption of a ticket or share in the state lottery in compliance with chapter 99G. This section does not apply to wagering ~~under the excursion boat gambling method of wagering~~ authorized by chapter 99F. This section does not apply to the sale, purchase, or redemption of any ticket or similar gambling device legally purchased in Indian lands within this state.

Sec. 59. Section 542.4, subsection 1, Code 2007, is amended to read as follows:

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

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

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

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

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

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

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

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

564.3 ~~FOOTWAY~~ PEDESTRIAN RIGHTS-OF-WAY OR EASEMENTS.

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

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

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

~~a. To maintain or transfer to another the physical possession of that child.~~

~~b. To protect, train, and discipline that child.~~

~~c. To provide food, clothing, housing, and ordinary medical care for that child.~~

~~d. To consent to emergency medical care, including surgery.~~

~~e. To sign a release of medical information to a health professional.~~

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

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

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

~~a. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric or surgical treatment.~~

~~b. To serve as custodian, unless another person has been appointed custodian.~~

~~c. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.~~

~~d. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.~~

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

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

a. To maintain or transfer to another the physical possession of that child.

b. To protect, train, and discipline that child.

c. To provide food, clothing, housing, and ordinary medical care for that child.

d. To consent to emergency medical care, including surgery.

e. To sign a release of medical information to a health professional.

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

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

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

1. To consent to marriage, enlistment in the armed forces of the United States, or medical, psychiatric, or surgical treatment.

2. To serve as custodian, unless another person has been appointed custodian.

3. To make reasonable visitations if the guardian does not have physical possession or custody of the minor child.

4. To consent to adoption and to make any other decision that the parents could have made when the parent-child relationship existed.

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

615.1 EXECUTION ON CERTAIN JUDGMENTS PROHIBITED.

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

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

b. An action on a claim for rent.

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

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

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

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

633.113 COMMITMENT.

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

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

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

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

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

DIVISION II
VOLUME I RENUMBERING

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

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

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

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

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

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

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

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

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

2.32 CONFIRMATION OF APPOINTMENTS — PROCEDURES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. DEFINITIONS. For the purposes of this section:

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

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

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

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

2. DUTIES. The governor shall:

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

(1) Fiscal impacts on costs and revenues.

(2) Health and safety effects.

(3) Community economic effects.
(4) Environmental, aesthetic, and social effects.
(5) Amount of disruption and inconvenience caused by the capital project.
(6) Distributional effects.
(7) Feasibility, including public support and project readiness.
(8) Implications of deferring the project.
(9) Amount of uncertainty and risk.
(10) Effects on interjurisdictional relationships.
(11) Advantages accruing from relationships to other capital project proposals.
(12) Private sector contracting for construction, operation, or maintenance.

b. Make recommendations to the general assembly and the legislative capital projects committee regarding the funding and priorities of proposed capital projects.

c. Develop maintenance standards and guidelines for capital projects.

d. Review financing alternatives available to fund capital projects, including the evaluation of the advantages and disadvantages of bonding for all types of capital projects undertaken by all state agencies.

e. Monitor the debt of the state or a state agency.

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

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

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

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

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

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

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

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

8A.324 DISPOSAL OF PERSONAL PROPERTY.

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

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

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

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

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

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

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

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

8A.413 STATE HUMAN RESOURCE MANAGEMENT — RULES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Negligence.

(4) Inefficiency.

(5) Incompetence.

(6) Insubordination.

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

(8) Dishonesty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.331A SALES AND USE TAX REFUND.

1. The eligible business shall be entitled to a refund of the sales and use taxes paid under chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

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

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

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

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

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

17A.4 PROCEDURE FOR ADOPTION OF RULES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.5 PUBLIC EMPLOYMENT RELATIONS BOARD.

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

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

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

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

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

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

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

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

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

24.26 STATE APPEAL BOARD.

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

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

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

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

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

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

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

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

10. a. "Contribution" means:

~~a.~~ (1) A gift, loan, advance, deposit, rebate, refund, or transfer of money or a gift in kind.

~~b.~~ (2) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee for any such purpose.

b. "Contribution" shall not include ~~services:~~

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

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

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

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

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

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

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

1. For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~a. To enforce all state laws.~~

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

~~c. To investigate all fires; to apprehend persons suspected of arson; to enforce all safety measures in connection with the prevention of fires; to disseminate fire-prevention education; to develop training standards and provide training to fire fighters around the state; and to address other issues related to fire service and emergency response as requested by the state fire service and emergency response council.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. To enforce all state laws.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80B.6 COUNCIL CREATED — MEMBERSHIP.

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

~~1.~~ a. Three residents of the state.

~~2.~~ b. A sheriff of a county.

~~3.~~ c. A police officer who is a member of a police department of a city with a population larger than fifty thousand persons.

~~4.~~ d. A police officer who is a member of a police department of a city with a population of less than fifty thousand persons.

~~5.~~ e. A member of the department of public safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~b.~~ a. "Worker" or "employee" includes ~~an~~ the following:

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

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

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

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

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

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

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

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

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

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

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

(2) An independent contractor.

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

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

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

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

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

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

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

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

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

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

3. CONTESTED NOTICE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIVISION III
CONFORMING AMENDMENTS TO MISCELLANEOUS PROVISIONS AND VOLUME I RENUMBERING

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

(3) The administrative rules review committee shall review the proposed waiver or suspension at the committee's next scheduled meeting following submission of the proposal and may either take no action or affirmatively approve the waiver or suspension, or delay the effective date of the waiver or suspension in the same manner as for rules as provided in section 17A.4, subsection ~~5~~ 6, and section 17A.8, subsection 9. If the administrative rules review committee either approves or takes no action concerning the proposed waiver or suspension, the waiver or suspension may become effective no earlier than the day following the meeting. If the administrative rules review committee delays the effective date of the waiver or suspension but no further action is taken to rescind the waiver or suspension, the proposed waiver or suspension may become effective no earlier than upon the conclusion of the delay. The administrative rules review committee shall notify the applicable charter agency of its action concerning the proposed waiver or suspension.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

87.23 COMPENSATION LIABILITY INSURANCE NOT REQUIRED.

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

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

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

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

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

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

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

147.102 PSYCHOLOGISTS, CHIROPRACTORS, AND DENTISTS.

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

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

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

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

152.2 EXECUTIVE DIRECTOR — ASSISTANTS.

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

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

231.22 DIRECTOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

321A.33 EXCEPTIONS.

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

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

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

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

1. MEMBERS OF THE BOARD.

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

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

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

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

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

~~e.~~ (5) Two owners or operators appointed by the governor. One of the owners or operators appointed pursuant to this ~~paragraph~~ subparagraph shall have been a petroleum systems insured through the underground storage tank insurance fund as it existed on June 30, 2004, or a successor to the underground storage tank insurance fund and shall have been an insured through the insurance account of the comprehensive petroleum underground storage tank fund on or before October 26, 1990. One of the owners or operators appointed pursuant to this ~~paragraph~~ subparagraph shall be self-insured.

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

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

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

3. RULES AND EMERGENCY RULES.

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

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

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

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

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

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

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

474.1 CREATION OF DIVISION AND BOARD — ORGANIZATION.

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

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

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

DIVISION IV
EFFECTIVE DATE — RETROACTIVE APPLICABILITY

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

Approved April 2, 2008

CHAPTER 1032

NONSUBSTANTIVE CODE CORRECTIONS

S.F. 2320

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

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

DIVISION I
MISCELLANEOUS CORRECTIONS

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

2.28 TELLERS.

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

2. Canvassing the votes for governor and lieutenant governor shall be conducted substantially according to the provisions of sections 2.25 ~~to 2.28~~ through 2.27 and this section.

Sec. 2. Section 7K.1, subsection 2, paragraph i, Code 2007, is amended to read as follows:

i. Identify ways to reduce the achievement gap between white and ~~non-white~~ nonwhite, non-Asian students.

Sec. 3. Section 12C.16, subsection 1, paragraph b, Code Supplement 2007, is amended to read as follows:

b. (1) The credit union may deposit, maintain, pledge and assign for the benefit of the public officer in the manner provided in this chapter, securities approved by the public officer, the market value of which is not less than one hundred ten percent of the total deposits of public funds placed by that public officer in the credit union. The securities shall consist of any of the following:

~~(1)~~ (a) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America or an agency or instrumentality of the United States of America.

~~(2)~~ (b) Public bonds or obligations of this state or a political subdivision of this state.

~~(3)~~ (c) Public bonds or obligations of another state or a political subdivision of another state whose bonds are rated within the two highest classifications of prime as established by at least one of the standard rating services approved by the superintendent of banking pursuant to chapter 17A.

~~(4)~~ (d) To the extent of the guarantee, loans, obligations, or 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 of the United States of America or the United States central credit union, a corporate central credit union organized under section 533.213, or a corporate credit union organized under 12 C.F.R. § 704, and the rating of any one of such credit unions remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

~~(5)~~ (e) First lien mortgages which are valued according to practices acceptable to the treasurer of state.

~~(6)~~ (f) Investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § ~~80(a)~~ 80a, which is operated in accordance with 17 C.F.R. § 270.2a-7.

(2) Direct obligations of, or obligations that are insured or fully guaranteed as to principal and interest by, the United States of America, which may be used to secure the deposit of public funds under subparagraph (1), subparagraph subdivision (a), include investments in an investment company or investment trust registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States government obligations described in subparagraph (1), subparagraph subdivision (a), and to repurchase agreements fully collateralized by the United States government obligations described in subparagraph (1), subparagraph subdivision (a), if the investment company or investment trust takes delivery of the collateral either directly or through an authorized custodian.

Sec. 4. Section 15.393, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The department shall establish and administer a film, television, and video project promotion program that provides for the registration of projects to be shot on location in the state. A project that is registered under the program is entitled to the assistance provided in subsection 2. A fee shall not be charged for registering. The department shall not register a project unless the department determines that all of the following criteria are met:

Sec. 5. Section 15.393, subsection 2, paragraph a, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) A qualified expenditure by a taxpayer is a payment to an Iowa resident or an Iowa-based business for the sale, rental, or furnishing of tangible personal property or for services directly related to the registered project including but not limited to aircraft, vehicles, equipment, materials, supplies, accounting, animals and animal care, artistic and design services, graphics, construction, data and information services, delivery and pickup services, ~~graphics,~~ labor and personnel, lighting, makeup and hairdressing, film, music, photography, sound, video and related services, printing, research, site fees and rental, travel related to Iowa distant locations, trash removal and cleanup, and wardrobe. For the purposes of this subparagraph, "labor and personnel" does not include the director, producers, or cast members other than extras and stand-ins. The department of revenue, in consultation with the department of economic development, shall by rule establish a list of eligible expenditures.

Sec. 6. Section 16.181, subsection 1, paragraph b, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) Any assets received by the authority from the former Iowa housing corporation.

Sec. 7. Section 35.9, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The department may expend not more than six hundred dollars per year for any one child who has lived in the state of Iowa for two years preceding application for state educational assistance, and who is the child of a person who died prior to September 11, 2001, during active federal military service while serving in the armed forces or during active federal military service in the Iowa national guard or other military component of the United States, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for the child or children incident to attendance in this state at an educational or training institution of college grade, or in a business or vocational training school with standards approved by the department ~~of veterans affairs~~.

Sec. 8. Section 42.4, subsection 8, paragraph b, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) Each holdover senatorial district to which subparagraph (1) is not applicable shall elect a senator in the year ending in two for a two-year term commencing in January of the year ending in three. However, if more than one incumbent state senator is residing in a holdover senatorial district on the first Wednesday in February of the year ending in two, and, on or before the first Wednesday in February of the year ending in two, all but one of the incumbent senators resigns from office effective no later than January of the year ending in three, the remaining incumbent senator shall represent the district in the senate for the general assembly commencing in January of the year ending in three. A copy of ~~the~~ each resignation must be filed in the office of the secretary of state no later than five p.m. on the third Wednesday in February of the year ending in two.

Sec. 9. Section 85.61, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

In this chapter and chapters 86 and 87, unless the context otherwise requires, the following definitions of terms shall prevail:

Sec. 10. Section 85.61, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The word "court" wherever used in this chapter and chapters 86 and 87, unless the context shows otherwise, shall be taken to mean the district court.

Sec. 11. Section 87.2, Code 2007, is amended to read as follows:

87.2 NOTICE OF FAILURE TO INSURE.

1. An employer who fails to insure the employer's liability as required by this chapter shall

keep posted a sign of sufficient size and so placed as to be easily seen by the employer's employees in the immediate vicinity where working, which sign shall read as follows:

NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure the employer's liability to pay compensation as required by law, and that because of such failure the employer is liable to the employer's employees in damages for personal injuries sustained by the employer's employees.

(Signed) .....

2. An employer coming under the provisions of this chapter and chapters 85, 85A, 85B, and 86 who fails to comply with this section or to post and keep the above notice in the manner and form required, shall be guilty of a simple misdemeanor.

Sec. 12. Section 97D.4, subsection 1, Code 2007, is amended to read as follows:

1. A public retirement systems committee is established.

a. The committee consists of five members of the senate appointed by the majority leader of the senate in consultation with the minority leader and five members of the house of representatives appointed by the speaker of the house in consultation with the minority leader. ~~The committee shall elect a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the members.~~

b. Members shall be appointed prior to January 31 of the first regular session of each general assembly and shall serve for terms ending upon the convening of the following general assembly or when their successors are appointed, whichever is later. A vacancy shall be filled in the same manner as the original appointment and shall be for the remainder of the unexpired term of the vacancy.

c. The committee shall elect a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the members.

Sec. 13. Section 97D.4, subsection 4, Code 2007, is amended to read as follows:

4. The committee may ~~contract:~~

a. Contract for actuarial assistance deemed necessary, and the costs of actuarial studies are payable from funds appropriated in section 2.12, subject to the approval of the legislative council. ~~The committee may administer~~

b. Administer oaths, issue subpoenas, and cite for contempt with the approval of the general assembly when the general assembly is in session and with the approval of the legislative council when the general assembly is not in session.

5. Administrative assistance shall be provided by the legislative services agency.

Sec. 14. Section 99B.10B, subsection 3, paragraph b, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) If a written request for a hearing is not received within thirty days after the mailing or service of the notice, the denial, suspension, or revocation of a ~~registrant~~ registration shall become effective pending a final determination by the department. The proposed action in the notice may be affirmed, modified, or set aside by the department in a written decision.

Sec. 15. Section 99F.12, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The licensee shall furnish to the commission reports and information as the commission may require with respect to ~~its~~ the licensee's activities. The gross receipts and adjusted gross receipts from gambling shall be separately handled and accounted for from all other moneys received from operation of an excursion gambling boat or from operation of a racetrack enclosure or gambling structure licensed to conduct gambling games. The commission may designate a representative to board a licensed excursion gambling boat or to enter a racetrack enclosure or gambling structure licensed to conduct gambling games~~, who~~. The representative shall have full access to all places within the enclosure of the boat, the gambling structure, or the

racetrack enclosure~~, who~~ and shall directly supervise the handling and accounting of all gross receipts and adjusted gross receipts from gambling~~, and who~~. The representative shall supervise and check the admissions. The compensation of a representative shall be fixed by the commission but shall be paid by the licensee.

Sec. 16. Section 99G.30A, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. All powers and requirements of the director to administer the state sales and use tax law are applicable to the administration of the monitor vending machine excise tax, including but not limited to the provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 ~~to~~ through 422.75, section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 ~~to~~ through 423.35, 423.37 ~~to~~ through 423.42, 423.46, and 423.47.

Sec. 17. Section 100.18, subsection 3, Code 2007, is amended to read as follows:

3. This section does not require the following:

a. The installation of smoke detectors in multiple-unit residential buildings which, on July 1, 1981, are equipped with heat detection devices or a sprinkler system with alarms approved by the state fire marshal.

b. ~~This section does not require the~~ The installation of smoke detectors in hotels, motels, and dormitories equipped with an automatic smoke detection system approved by the state fire marshal.

Sec. 18. Section 101B.4, subsection 1, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The department may adopt a subsequent ASTM international standard test method for measuring the ignition strength of cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM international standard E2187-04 and the performance standard in this section.

Sec. 19. Section 103.1, subsection 8, Code Supplement 2007, is amended to read as follows:

8. "Electrical contractor" means a person affiliated with an electrical contracting firm or business who is licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor pursuant to chapter 91C.

Sec. 20. Section 103.6, Code Supplement 2007, is amended to read as follows:

103.6 POWERS AND DUTIES.

1. The board shall:

~~1.~~ a. Adopt rules pursuant to chapter 17A and in doing so shall be governed by the minimum standards set forth in the most current publication of the national electrical code issued and adopted by the national fire protection association, and amendments to the code, which code and amendments shall be filed in the offices of the secretary of state and the board and shall be a public record. The board shall adopt rules reflecting updates to the code and amendments to the code. The board shall promulgate and adopt rules establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to this chapter.

~~2.~~ b. Revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee:

~~a.~~ (1) Fails or refuses to pay any examination, license, or renewal fee required by law.

~~b.~~ (2) Is an electrical contractor and fails or refuses to provide and keep in force a public liability insurance policy and surety bond as required by the board.

~~c.~~ (3) Violates any political subdivision's inspection ordinances.

~~The board may, in its discretion, revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee violates any provision of the national electrical code as adopted pursuant to subsection 1, this chapter, or any rule adopted pursuant to this chapter.~~

~~3.~~ c. Adopt rules for continuing education requirements for each classification of licensure established pursuant to this chapter, and adopt all rules, not inconsistent with the law, necessary for the proper performance of the duties of the board.

~~4.~~ d. Provide for the amount and collection of fees for inspection and other services.

2. The board may, in its discretion, revoke, suspend, or refuse to renew any license granted pursuant to this chapter when the licensee violates any provision of the national electrical code as adopted pursuant to subsection 1, this chapter, or any rule adopted pursuant to this chapter.

Sec. 21. Section 103.9, subsection 1, Code Supplement 2007, is amended to read as follows:

1. An applicant for an electrical contractor license shall either be or employ a licensed class A or class B master electrician, and be registered with the state of Iowa as a contractor pursuant to chapter 91C.

Sec. 22. Section 103.22, subsections 1 and 3, Code Supplement 2007, are amended to read as follows:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, registered as an architect pursuant to chapter 544A, licensed as a landscape architect pursuant to chapter 544B, or designated as lighting certified by the national council on qualifications for the lighting professions who is providing consultations and developing plans concerning electrical installations and who is exclusively engaged in the practice of the person's profession.

3. Require any person doing work for which a license would otherwise be required under this chapter to hold a license issued under this chapter if the person is the holder of a valid license issued by any political subdivision, so long as the person makes electrical installations only ~~in~~ within the jurisdictional limits of such political subdivision and such license issued by the political subdivision meets the requirements of this chapter.

Sec. 23. Section 123A.2, subsection 9, Code Supplement 2007, is amended to read as follows:

9. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade and defined and interpreted under section ~~554.2103~~ 554.1201.

Sec. 24. Section 135N.5, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The committee shall meet no less than four times per year and is subject to chapters ~~20 and~~ 21 and 22 relating to open meetings and public records.

Sec. 25. Section 141A.9, subsection 2, paragraph i, Code Supplement 2007, is amended to read as follows:

i. Pursuant to section 915.43, to a convicted or alleged sexual assault offender; the physician or other health care provider who orders the test of a convicted or alleged offender; the victim; the parent, guardian, or custodian of the victim if the victim is a minor; the physician of the victim if requested by the victim; the victim counselor or person requested by the victim to provide counseling regarding the HIV-related test and results; the victim's spouse; persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault; members of the victim's family within the third degree of consanguinity; and the county attorney who may use the results as evidence in the prosecution of sexual assault under chapter 915, subchapter IV, or prosecution of the offense of criminal transmission of HIV under chapter 709C. For the purposes of this paragraph, "victim" means victim as defined in section 915.40.

Sec. 26. Section 147.14, subsection 23, Code Supplement 2007, is amended to read as follows:

23. For nursing home administrators, a total of nine members: Four licensed nursing home administrators, one of whom is the administrator of a nonproprietary nursing home; three licensed members of any profession concerned with the care and treatment of chronically ill or elderly patients who are not nursing home administrators or nursing home owners; and two members of the general public who are not licensed under this chapter ~~147~~, have no financial interest in any nursing home, and who shall represent the general public. A majority of the members of the board constitutes a quorum.

Sec. 27. Section 159.20, Code 2007, is amended to read as follows:

159.20 POWERS OF DEPARTMENT.

1. The department shall perform duties designed to lead to more advantageous marketing of Iowa agricultural commodities. The department may do any of the following:

~~1.~~ a. Investigate the marketing of agricultural commodities.

~~2.~~ b. Promote the sale, distribution, and merchandising of agricultural commodities.

~~3.~~ c. Furnish information and assistance concerning agricultural commodities to the public.

~~4.~~ d. Cooperate with the college of agriculture and life sciences of the Iowa state university of science and technology in encouraging agricultural marketing education and research.

~~5.~~ e. Accumulate and diffuse information concerning the marketing of agricultural commodities in cooperation with persons, agencies, or the federal government.

~~6.~~ f. Investigate methods and practices related to the processing, handling, grading, classifying, sorting, weighing, packing, transportation, storage, inspection, or merchandising of agricultural commodities within this state.

~~7.~~ g. Ascertain sources of supply for Iowa agricultural commodities. The department shall prepare and periodically publish lists of names and addresses of producers and consignors of agricultural commodities.

~~8.~~ h. Perform inspection or grading of an agricultural commodity if requested by a person engaged in the production, marketing, or processing of the agricultural commodity. However, the person must pay for the services as provided by rules adopted by the department.

~~9.~~ i. Cooperate with the Iowa department of economic development to avoid duplication of efforts between the department and the agricultural marketing program operated by the Iowa department of economic development.

~~10.~~ j. Assist the office of renewable fuels and coproducts and the renewable fuels and coproducts advisory committee in administering the provisions of chapter 159A.

2. As used in this subchapter, "agricultural commodity" means any unprocessed agricultural product, including animals, agricultural crops, and forestry products grown, raised, produced, or fed in Iowa for sale in commercial channels. "Commercial channels" means the processes of sale of an agricultural commodity or unprocessed product from the agricultural commodity to any person, public or private, who resells the agricultural commodity for breeding, processing, slaughter, or distribution.

Sec. 28. Section 175A.2, subsection 1, Code 2007, is amended to read as follows:

1. A grape and wine development commission is established within the department. The commission shall be composed of the following persons:

a. The following persons, or their designees, who shall serve as nonvoting, ex officio members:

(1) The secretary of agriculture.

(2) The dean of the college of agriculture and life sciences of Iowa state university of science and technology.

(3) The director of the department of economic development.

(4) The director of the department of natural resources.

b. The following persons appointed by the secretary of agriculture, who shall serve as voting members:

(1) Two growers.
(2) Two winemakers.
(3) One retail seller.

c. The secretary of agriculture shall appoint the voting members based on a list of nominations submitted by organizations representing growers, winemakers, and retail sellers as certified by the department according to requirements of the department. Appointments of voting members are subject to the requirements of sections 69.16 and 69.16A. In addition, the appointments shall be geographically balanced. Unless the secretary of agriculture determines that it is not feasible, at least one person appointed as a voting member shall reside in each of the state's congressional districts at the time of appointment. The secretary of agriculture's appointees shall be confirmed by the senate, pursuant to section 2.32.

Sec. 29. Section 178.3, subsection 2, Code 2007, is amended to read as follows:

2. The dean of the college of agriculture and life sciences of the Iowa state university of science and technology.

Sec. 30. Section 181.3, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or a designee, who shall serve as a voting ex officio member.

Sec. 31. Section 182.5, Code 2007, is amended to read as follows:

182.5 COMPOSITION OF BOARD.

The Iowa sheep and wool promotion board established under this chapter shall be composed of nine producers, one from each district. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's representative and the secretary or the secretary's designee shall serve as ex officio nonvoting members of the board. The board shall annually elect a chairperson from its membership.

Sec. 32. Section 183A.2, Code 2007, is amended to read as follows:

183A.2 IOWA PORK PRODUCERS COUNCIL.

The Iowa pork producers council is created. The council consists of seven members, including two producers from each of three districts of the state designated by the secretary, and one producer from the state at large. The secretary shall appoint these members. The Iowa pork producers association may recommend the names of potential members, but the secretary is not bound by the recommendations. The secretary, the dean of the college of agriculture and life sciences of Iowa state university of science and technology, and the state veterinarian, or their designees, shall serve on the council as nonvoting ex officio members.

Sec. 33. Section 185.3, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's designee.

Sec. 34. Section 185C.10, subsection 2, Code 2007, is amended to read as follows:

2. The dean of the college of agriculture and life sciences of Iowa state university of science and technology or the dean's designee.

Sec. 35. Section 214A.2B, Code Supplement 2007, is amended to read as follows:

214A.2B LABORATORY FOR MOTOR FUEL AND BIOFUELS.

A laboratory for motor fuel and biofuels is established at a merged area school which is engaged in biofuels testing on July 1, 2007, and which testing includes but is not limited to ~~B20~~ B-20 biodiesel testing for motor trucks and the ability of biofuels to meet A.S.T.M. international standards. The laboratory shall conduct testing of motor fuel sold in this state and biofuel which is blended in motor fuel in this state to ensure that the motor fuel or biofuels meet the requirements in section 214A.2.

Sec. 36. Section 216.9, subsection 2, Code Supplement 2007, is amended to read as follows:

2. For the purpose of this section, "educational institution" includes any preschool, elementary~~,~~ or secondary school, ~~or~~ community college, area education agency, or postsecondary college or university and their governing boards. This section does not prohibit an educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes so long as comparable facilities are provided. Nothing in this section shall be construed as prohibiting any bona fide religious institution from imposing qualifications based on religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose or any institution from admitting students of only one sex.

Sec. 37. Section 231D.5, Code Supplement 2007, is amended to read as follows:

231D.5 DENIAL, SUSPENSION, OR REVOCATION.

1. The department may deny, suspend, or revoke certification if the department finds that there has been a substantial or repeated failure on the part of the adult day services program to comply with this chapter or the rules or minimum standards adopted pursuant to this chapter, or for any of the following reasons:

a. Appropriation or conversion of the property of a participant without the participant's written consent or the written consent of the participant's legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the adult day services program.

c. Obtaining or attempting to obtain or retain certification by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, owner, manager, or supervisor of the adult day services program.

e. Securing the devise or bequest of the property of a participant by undue influence.

f. Failure or neglect to maintain a required continuing education and training program for all personnel employed in the adult day services program.

g. Founded dependent adult abuse as defined in section 235B.2.

h. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a five percent equity interest in the program, having or having had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or having been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

i. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by this chapter.

~~j. For any other reason as provided by law or administrative rule.~~

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

k. For any other reason as provided by law or administrative rule.

~~3.~~ 2. In the case of a certificate applicant or existing certificate holder which is an entity other than an individual, the department may deny, suspend, or revoke a certificate if any individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by this section.

Sec. 38. Section 234.7, subsection 1, Code 2007, is amended to read as follows:

1. The department of human services shall comply with the ~~following requirement~~ provision associated with child foster care licensees under chapter 237~~:~~

~~The department shall include~~ that requires that a child's foster parent be included in, and

~~provide~~ be provided timely notice of, planning and review activities associated with the child, including but not limited to permanency planning and placement review meetings, which shall include discussion of the child's rehabilitative treatment needs.

Sec. 39. Section 236.5, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The court may grant a ~~protection~~ protective order or approve a consent agreement which may contain but is not limited to any of the following provisions:

Sec. 40. Section 236.5, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

An order for counseling, a ~~protection~~ protective order, or approved consent agreement shall be for a fixed period of time not to exceed one year. The court may amend or extend its order or a consent agreement at any time upon a petition filed by either party and after notice and hearing. The court may extend the order if the court, after hearing at which the defendant has the opportunity to be heard, finds 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. At the time of the extension, the parties need not meet the requirement in section 236.2, subsection 2, paragraph "d", that the parties lived together during the last year if the parties met the requirements of section 236.2, subsection 2, paragraph "d", at the time of the original order. The number of extensions that can be granted by the court is not limited.

Sec. 41. Section 249A.30A, Code Supplement 2007, is amended to read as follows:

249A.30A MEDICAL ASSISTANCE — PERSONAL NEEDS ALLOWANCE.

The personal needs allowance under the medical assistance program, which may be retained by a person who is a resident of a nursing facility, an intermediate care facility for persons with mental retardation, or an intermediate care facility for persons with mental illness, as defined in section 135C.1, or a person who is a resident of a psychiatric medical institution for children as defined in section 135H.1, shall be fifty dollars per month. A resident who has income of less than fifty dollars per month shall receive a supplement from the state in the amount necessary to receive a personal needs allowance of fifty dollars per month, if funding is specifically appropriated for this purpose.

Sec. 42. Section 256C.3, subsection 4, paragraph d, Code Supplement 2007, is amended to read as follows:

d. ~~Career~~ Professional development for school district preschool teachers shall be addressed in the school district's ~~career~~ professional development plan implemented in accordance with section 284.6.

Sec. 43. Section 257.11, subsection 6, paragraph c, Code Supplement 2007, is amended to read as follows:

c. Supplementary weighting pursuant to this subsection shall be available to an area education agency for a maximum of five years during the period commencing with the budget year beginning July 1, 2008. The minimum amount of additional funding for which an area education agency shall be eligible is fifty thousand dollars, and the maximum amount of additional funding for which an area education agency shall be eligible is two hundred thousand dollars. The department of management shall annually set a weighting for each area education agency to generate the approved operational sharing expense using the area education agency's special education cost per pupil amount and foundation level. Receipt of supplementary weighting by an area education agency for more than one year shall be contingent upon the annual submission of information by the district to the department documenting cost savings directly attributable to the shared operational functions. Criteria for determining the number of years for which supplementary weighting shall be received pursuant to this subsection, subject to the five-year maximum, and the amount generated by the supplementary weighting, and for

determining qualification of operational functions for supplementary weighting shall be determined by the department by rule, through consideration of long-term savings by the area ~~educational~~ education agency or increased student opportunities.

Sec. 44. Section 308.3, subsections 1, 4, and 5, Code 2007, are amended to read as follows:

1. "Conservation area" means land in which the state department of transportation or the department of natural resources has acquired rights, other than that land necessary for a ~~right of way~~ right-of-way.

4. ~~"Right of way"~~ "Right-of-way" means land area dedicated to public use for a highway and its maintenance, and includes land acquired in fee simple or by permanent easement for highway purposes, but does not include temporary easements or rights for supplementary highway appurtenances.

5. "A scenic and recreational highway" means a public highway designated to allow enjoyment of aesthetic and scenic views, points of historical, archaeological and scientific interest, state parks and other recreational areas and includes both the ~~right of way~~ right-of-way and conservation area.

Sec. 45. Section 308.4, subsection 3, paragraph b, Code 2007, is amended to read as follows:

b. Accept and administer state, federal, and any other public or private funds made available for the acquisition of rights in land and for the planning and construction or reconstruction of any segment of the great river road, and state and federal funds for the maintenance of that part of the great river road constituting the ~~right of way~~ right-of-way.

Sec. 46. Section 308.9, subsection 1, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The state transportation commission shall give notice and hold a public hearing on the matter in a convenient place in the area to be affected by the proposed improvement of the great river road. The state transportation commission shall consider and evaluate the testimony presented at the public hearing and shall make a study and prepare a map showing the location of the proposed new or reconstructed segment of the great river road and the approximate widths of ~~right of way~~ right-of-way needed. The map shall show the existing roadway and the property lines and record owners of lands to be needed. The approval of the map shall be recorded by reference in the state transportation commission's minutes, and a notice of the action and a copy of the map showing the lands or interest in the lands needed in any county shall be filed in the office of the county recorder of that county. Notice of the action and of the filing shall be published once in a newspaper of general circulation in the county, and within sixty days following the filing, notice of the filing shall be served by registered mail on the owners of record on the date of filing. Using the same procedures for approval, notice and publications, and notice to the affected record owners, the state transportation commission may amend the map.

Sec. 47. Section 321.52, subsection 4, paragraph c, Code Supplement 2007, is amended to read as follows:

c. A salvage theft examination shall be made by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. The owner of the salvage vehicle shall make the vehicle available for examination at a time and location designated by the peace officer doing the examination. The owner may obtain a permit to drive the vehicle to and from the examination location by submitting a repair affidavit to the agency performing the examination stating that the vehicle is reasonably safe for operation and listing the repairs which have been made to the vehicle. The owner must be present for the examination and have avail-

able for inspection the salvage title, bills of sale for all essential parts changed, and the repair affidavit. The examination shall be for the purposes of determining whether the vehicle or repair components have been stolen. The examination is not a safety inspection and a signed salvage theft examination certificate shall not be construed by any court of law to be a certification that the vehicle is safe to be operated. There shall be no cause of action against the peace officer or the agency conducting the examination or the county treasurer for failure to discover or note safety defects. If the vehicle passes the theft examination, the peace officer shall indicate that the vehicle passed examination on the salvage theft examination certificate. The permit and salvage theft examination certificate shall be on controlled forms prescribed and furnished by the department. The owner shall pay a fee of thirty dollars upon completion of the examination. The agency performing the examinations shall retain twenty dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the treasurer of state for deposit in the general fund of the state. Moneys deposited to the general fund under this paragraph are subject to the requirements of section 8.60 and shall be used by the Iowa law enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection.

~~The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section.~~

Sec. 48. Section 321.52, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section.

Sec. 49. Section 321J.15, Code 2007, is amended to read as follows:

321J.15 EVIDENCE IN ANY ACTION.

Upon the trial of a civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating a motor vehicle in violation of section 321J.2 or 321J.2A, evidence of the alcohol concentration or the presence of a controlled substance or other drugs in the person's body ~~substances~~ at the time of the act alleged as shown by a chemical analysis of the person's blood, breath, or urine is admissible. If it is established at trial that an analysis of a breath specimen was performed by a certified operator using a device intended to determine alcohol concentration and methods approved by the commissioner of public safety, no further foundation is necessary for introduction of the evidence.

Sec. 50. Section 403A.6, Code 2007, is amended to read as follows:

403A.6 OPERATION OF HOUSING NOT FOR PROFIT.

It is hereby declared to be the policy of this state that each municipality shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals or payments for dwelling accommodations at low rates consistent with its providing decent, safe and sanitary dwelling accommodations for persons of low income, and that no municipality shall construct or operate any housing project for profit, or as a source of revenue to the municipality. To this end the municipality shall fix the rentals or payments for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which, ~~(together~~ together with all other available moneys, revenues, income and receipts in connection with or for such projects from whatever sources derived, including federal financial ~~assistance)~~ assistance, will be sufficient ~~(1)~~ to do all of the following:

1. ~~to~~ To pay, as the same become due, the principal and interest on the bonds issued pursuant to this chapter~~; (2)~~.

2. ~~to~~ To create and maintain such reserves as may be required to assure the payment of principal and interest as it becomes due on such bonds~~; (3)~~.

3. ~~to~~ To meet the cost of, and to provide for, maintaining and operating the projects ~~(including~~ including necessary reserves therefor and the cost of any insurance, and of administrative ~~expenses); and (4)~~ expenses.

4. ~~to~~ To make such payments in lieu of taxes and, after payment in full of all obligations for which federal annual contributions are pledged, to make such repayments of federal and local contributions as it determines are consistent with the maintenance of the low-rent character of projects. Rentals or payments for dwellings shall be established and the projects administered, insofar as possible, so as to assure that any federal financial assistance required shall be strictly limited to amounts and periods necessary to maintain the low-rent character of the projects.

Sec. 51. Section 403A.7, Code 2007, is amended to read as follows:

403A.7 HOUSING RENTALS AND TENANT ADMISSIONS.

1. A municipality shall do the following:

~~1.~~ a. Rent or lease the dwelling accommodations in a housing project only to persons or families of low income and at rentals within their financial reach.

~~2.~~ b. Rent or lease to a tenant such dwelling accommodations consisting of the number of rooms which it deems necessary to provide safe and sanitary accommodations to the proposed occupants without overcrowding.

~~3.~~ c. (1) Fix income limits for occupancy and rents after taking into consideration the following:

~~a.~~ (a) The family size, composition, age, physical disabilities, and other factors which might affect the rent-paying ability of the person or family.

~~b.~~ (b) The economic factors which affect the financial stability and solvency of the project.

(2) However, such determination of eligibility shall be within the limits of the income limits hereinbefore set out.

2. Nothing contained in this section or ~~the preceding~~ section 403A.6 shall be construed as limiting the power of a municipality with respect to a housing project, to vest in an obligee the right, in the event of a default by the municipality, to take possession or cause the appointment of a receiver for the housing project, free from all the restrictions imposed by this section or ~~the preceding~~ section 403A.6.

Sec. 52. Section 423.4, subsection 8, paragraph d, Code Supplement 2007, is amended to read as follows:

d. In determining the amount to be refunded, if the dates of the utility billing or meter reading cycle for the sale or furnishing of metered gas and electricity ~~is~~ are on or after the first day of the first month through the last day of the last month of the refund year, the full amount of tax charged in the billings shall be refunded. In determining the amount to be refunded, if the dates of the sale or furnishing of fuel for purposes of commercial energy and the delivery of the fuel ~~is~~ are on or after the first day of the first month through the last day of the last month of the refund year, the full amount of tax charged in the billings shall be refunded.

Sec. 53. Section 423B.6, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 423. All powers and requirements of the director to administer the state sales tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to the provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 ~~to~~ through 422.75, section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 ~~to~~ through 423.35, 423.37 ~~to~~ through 423.42, 423.46, and 423.47. Local officials shall confer with the director of revenue for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

Sec. 54. Section 452A.53, Code 2007, is amended to read as follows:

452A.53 PERMIT OR LICENSE.

1. The advance arrangements referred to in ~~the preceding~~ section 452A.52 shall include the

procuring of a permanent international fuel tax agreement permit or license or ~~single trip~~ single-trip interstate permit.

2. Persons choosing not to make advance arrangements with the state department of transportation by procuring a permit or license are not relieved of their responsibility to purchase motor fuel and special fuel commensurate with their use of the state's highway system. When there is reasonable cause to believe that there is evasion of the fuel tax on commercial motor vehicles, the state department of transportation may audit persons not holding a permit or license. Audits shall be conducted pursuant to section 452A.55 and in accordance with international fuel tax agreement guidelines. The state department of transportation shall collect all taxes due and refund any overpayment.

3. A permanent international fuel tax agreement permit or license may be obtained upon application to the state department of transportation. A fee of ten dollars shall be charged for each permit or license issued. The holder of a permanent permit or license shall have the privilege of bringing into this state in the fuel supply tanks of commercial motor vehicles any amount of motor fuel or special fuel to be used in the operation of the vehicles and for that privilege shall pay Iowa motor fuel or special fuel taxes as provided in section 452A.54.

4. A ~~single trip~~ single-trip interstate permit may be obtained from the state department of transportation. A fee of twenty dollars shall be charged for each individual ~~single trip~~ single-trip interstate permit issued. A ~~single trip~~ single-trip interstate permit is subject to the following provisions and limitations:

~~1.~~ a. The permit shall be issued and be valid for seventy-two consecutive hours, except in emergencies, or until the time of leaving the state, whichever first occurs.

~~2.~~ b. The permit shall cover only one commercial motor vehicle and is not transferable.

~~3.~~ c. ~~Single trip~~ Single-trip interstate fuel permits may be made available from sources other than indicated in this section at the discretion of the state department of transportation.

5. Each vehicle operated into or through Iowa in interstate operations using motor fuel or special fuel acquired in any other state shall carry in or on the vehicle a duplicate or evidence of the permit or license required in this section. A fee not to exceed fifty cents shall be charged for each duplicate or other evidence of a permit or license issued.

Sec. 55. Section 453A.31, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:

c. A one thousand dollar penalty for a third or subsequent violation within three years of the first violation.

Sec. 56. Section 453A.50, subsection 3, paragraph a, subparagraph (3), Code Supplement 2007, is amended to read as follows:

(3) A one thousand dollar penalty for a third or subsequent violation within three years of the first violation.

Sec. 57. Section 455B.109, subsection 1, Code 2007, is amended to read as follows:

1. The commission shall establish, by rule, a schedule or range of civil penalties which may be administratively assessed. The schedule shall provide procedures and criteria for the administrative assessment of penalties of not more than ten thousand dollars for violations of this chapter or rules, permits or orders adopted or issued under this chapter. In adopting a schedule or range of penalties and in proposing or assessing a penalty, the commission and director shall consider among other relevant factors the following:

a. The costs saved or likely to be saved by noncompliance by the violator.

b. The gravity of the violation.

c. The degree of culpability of the violator.

d. The maximum penalty authorized for that violation under this chapter.

1A. Penalties may be administratively assessed only after an opportunity for a contested case hearing which may be combined with a hearing on the merits of the alleged violation. Violations not fitting within the schedule, or violations which the commission determines

should be referred to the attorney general for legal action shall not be governed by the schedule established under ~~this~~ subsection 1.

Sec. 58. Section 455B.455, Code 2007, is amended to read as follows:

455B.455 SURCHARGE IMPOSED.

A land burial surcharge tax of two percent is imposed on the fee for land burial of a hazardous waste. The owner of the land burial facility shall remit the tax collected to the director of revenue after consultation with the director according to rules that the director shall adopt. The director shall forward a copy of the site license to the director of revenue which shall be the appropriate license for the collection of the land burial surcharge tax and shall be subject to suspension or revocation if the site license holder fails to collect or remit the tax collected under this section. The provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 ~~to~~ through 422.75, section 423.14, subsection 1, and sections 423.23, 423.24, 423.25, 423.31, 423.33, 423.35, 423.37 ~~to~~ through 423.42, and 423.47, consistent with the provisions of this part 6 of division IV, shall apply with respect to the taxes authorized under this part, in the same manner and with the same effect as if the land burial surcharge tax were sales taxes within the meaning of those statutes. Notwithstanding the provisions of this section, the director shall provide for only quarterly filing of returns as prescribed in section 423.31. Taxes collected by the director of revenue under this section shall be deposited in the general fund of the state.

Sec. 59. Section 459.102, subsection 18, Code 2007, is amended to read as follows:

18. "Covered" means organic or inorganic material placed upon an animal feeding operation structure used to store manure as provided by rules adopted by the department after receiving recommendations which shall be submitted to the department by the college of agriculture and life sciences at Iowa state university of science and technology.

Sec. 60. Section 469.9, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The fund shall be used to further the goals of increasing the research, development, production, and use of biofuels and other sources of renewable energy, ~~improve~~ improving energy efficiency, and ~~reduce~~ reducing greenhouse gas emissions, and shall encourage, support, and provide for research, development, commercialization, and the implementation of energy technologies and practices. The technologies and practices should reduce this state's dependence on foreign sources of energy and fossil fuels. The research, development, commercialization, implementation, and distribution of such technologies and practices are intended to sustain the environment and develop business in this state as Iowans market these technologies and practices to the world.

Sec. 61. Section 469.9, subsection 4, paragraph b, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) Utilization of crops and products grown or produced in this state that ~~maximize~~ maximizes the value of crops used as feedstock in biomanufacturing products and as coproducts.

Sec. 62. Section 469.10, subsections 3 and 4, Code Supplement 2007, are amended to read as follows:

3. Of the moneys appropriated to the office and deposited in the fund, there shall be allocated on an annual basis two million five hundred thousand dollars to the department of economic development for deposit into the workforce training and economic development funds of the community colleges created pursuant to section 260C.18A. Of the funds so deposited into the workforce training and economic development funds of the community colleges, two million five hundred thousand dollars shall be used each year in the development and expansion of energy industry areas and for the department's north American ~~industrial~~ industry classification system for targeted industry areas established pursuant to section 260C.18A.

4. Notwithstanding section 8.33, amounts appropriated pursuant to this section shall not revert but shall remain available for the purposes designated for the following fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the ~~funds~~ Iowa power fund shall be credited to the fund.

Sec. 63. Section 477.5, Code 2007, is amended to read as follows:

477.5 EQUAL FACILITIES — DELAY.

If the proprietor of any telegraph or telephone line within the state, or the person having the control and management thereof, refuses to furnish equal facilities to the public and to all connecting lines for the transmission of communications in accordance with the nature of the business which it undertakes to carry on, or to transmit the same with fidelity and without unreasonable delay, the law in relation to limited partnerships, corporations, and to the taking of private property for works of internal improvement, shall ~~not~~ no longer apply to them, and property taken for the use thereof without the consent of the owner may be recovered by the owner.

Sec. 64. Section 479.29, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under this section to be performed at any pipeline construction project in the county. A ~~licensed~~ professional engineer familiar with the standards adopted under this section and licensed under chapter 542B shall be responsible for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be borne by the pipeline company.

Sec. 65. Section 483A.24, subsections 3 and 4, Code Supplement 2007, are amended to read as follows:

3. The director shall provide up to seventy-five nonresident deer hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the department of economic development, or their designees. The licenses provided pursuant to ~~the~~ this subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.8. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, videotapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon payment of the nonresident deer hunting license fee and the wildlife habitat fee. The licenses are valid in all zones open to deer hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

4. The director shall provide up to twenty-five nonresident wild turkey hunting licenses for allocation as requested by a majority of a committee consisting of the majority leader of the senate, speaker of the house of representatives, and director of the department of economic development, or their designees. The licenses provided pursuant to ~~the~~ this subsection shall be in addition to the number of nonresident licenses authorized pursuant to section 483A.7. The purpose of the special nonresident licenses is to allow state officials and local development groups to promote the state and its natural resources to nonresident guests and dignitaries. Photographs, videotapes, or any other form of media resulting from the hunting visitation shall not be used for political campaign purposes. The nonresident licenses shall be issued without application upon payment of the nonresident wild turkey hunting license fee and the wildlife habitat fee. The licenses are valid in all zones open to wild turkey hunting. The hunter safety and ethics education certificate requirement pursuant to section 483A.27 is waived for a nonresident issued a license pursuant to this subsection.

Sec. 66. Section 512B.9, subsection 2, Code 2007, is amended to read as follows:

2. a. A person may be indemnified and reimbursed by a society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of a proceeding, whether civil, criminal, administrative, or investigative, or a threat of action in which the person is or may be involved by reason of the person being a director, officer, employee, or agent of the society or of any other legal entity or position which the person served in any capacity at the request of the society.

b. However, a person shall not be so indemnified or reimbursed for either of the following:

~~a.~~ (1) In relation to any matter to which the person is finally adjudged to be or have been guilty of breach of a duty as a director, officer, employee, or agent of the society.

~~b.~~ (2) In relation to any matter which has been made the subject of a compromise settlement.

c. However, if the person acted in good faith for a purpose the person reasonably believed to be in or not opposed to the best interests of the society and, in addition, in a criminal proceeding, had no reasonable cause to believe that the conduct was unlawful, ~~paragraphs "a" and~~ paragraph "b", subparagraphs (1) and (2), do not apply. The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in paragraph ~~"a" or~~ "b", subparagraph (1) or (2), may only be made by the supreme governing body by a majority vote of a quorum consisting of persons who were not parties to the proceeding or by a court of competent jurisdiction. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to a person, does not in itself create a conclusive presumption that the person met or did not meet the standard of conduct required in order to justify indemnification and reimbursement. The right of indemnification and reimbursement is not exclusive of other rights to which a person may be entitled as a matter of law and shall inure to the benefit of the person's heirs, executors, and administrators.

Sec. 67. Section 554.2315, Code 2007, is amended to read as follows:

554.2315 IMPLIED WARRANTY — FITNESS FOR PARTICULAR PURPOSE.

Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller's skill or judgment to select or furnish suitable goods, there is unless excluded or modified under ~~the next~~ section 554.2316 an implied warranty that the goods shall be fit for such purpose.

Sec. 68. Section 554.2502, subsection 1, Code 2007, is amended to read as follows:

1. Subject to subsections 2 and 3 and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which the buyer has a special property under the provisions of ~~the immediately preceding~~ section 554.2501 may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

a. in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

b. in all cases the seller becomes insolvent within ten days after receipt of the first installment on their price.

Sec. 69. Section 554.2503, subsection 2, Code Supplement 2007, is amended to read as follows:

2. Where the case is within ~~the next~~ section 554.2504 respecting shipment tender requires that the seller comply with its provisions.

Sec. 70. Section 554.2604, Code 2007, is amended to read as follows:

554.2604 BUYER'S OPTIONS AS TO SALVAGE OF RIGHTFULLY REJECTED GOODS.

Subject to the provisions of ~~the immediately preceding~~ section 554.2603 on perishables if the seller gives no instructions within a reasonable time after notification of rejection the buyer

may store the rejected goods for the seller's account or reship them to the seller or resell them for the seller's account with reimbursement as provided in ~~the preceding~~ section 554.2603. Such action is not acceptance or conversion.

Sec. 71. Section 554.2615, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except so far as a seller may have assumed a greater obligation and subject to ~~the preceding~~ section 554.2614 on substituted performance:

Sec. 72. Section 554.2616, subsections 1 and 3, Code 2007, are amended to read as follows:

1. Where the buyer receives notification of a material or indefinite delay or an allocation justified under ~~the preceding~~ section 554.2615 the buyer may by written notification to the seller as to any delivery concerned, and where the prospective deficiency substantially impairs the value of the whole contract under the provisions of this Article relating to breach of installment contracts (section 554.2612), then also as to the whole,

a. terminate and thereby discharge any unexecuted portion of the contract; or

b. modify the contract by agreeing to take the buyer's available quota in substitution.

3. The provisions of this section may not be negated by agreement except insofar as the seller has assumed a greater obligation under ~~the preceding~~ section 554.2615.

Sec. 73. Section 554.2703, Code 2007, is amended to read as follows:

554.2703 SELLER'S REMEDIES IN GENERAL.

Where the buyer wrongfully rejects or revokes acceptance of goods or fails to make a payment due on or before delivery or repudiates with respect to a part or the whole, then with respect to any goods directly affected and, if the breach is of the whole contract (section 554.2612), then also with respect to the whole undelivered balance, the aggrieved seller may:

~~a.~~ 1. withhold delivery of such goods;

~~b.~~ 2. stop delivery by any bailee as hereafter provided (section 554.2705);

~~c.~~ 3. proceed under ~~the next~~ section 554.2704 respecting goods still unidentified to the contract;

~~d.~~ 4. resell and recover damages as hereafter provided (section 554.2706);

~~e.~~ 5. recover damages for nonacceptance (section 554.2708) or in a proper case the price (section 554.2709);

~~f.~~ 6. cancel.

Sec. 74. Section 554.2704, subsection 1, Code 2007, is amended to read as follows:

1. An aggrieved seller under ~~the preceding~~ section 554.2703 may:

a. identify to the contract conforming goods not already identified if at the time the seller learned of the breach they are in the seller's possession or control;

b. treat as the subject of resale goods which have demonstrably been intended for the particular contract even though those goods are unfinished.

Sec. 75. Section 554.2709, subsections 1 and 3, Code 2007, are amended to read as follows:

1. When the buyer fails to pay the price as it becomes due the seller may recover, together with any incidental damages under the next section, the price:

a. of goods accepted or of conforming goods lost or damaged within a commercially reasonable time after risk of their loss has passed to the buyer; and

b. of goods identified to the contract if the seller is unable after reasonable effort to resell them at a reasonable price or the circumstances reasonably indicate that such effort will be unavailing.

3. After the buyer has wrongfully rejected or revoked acceptance of the goods or has failed to make a payment due or has repudiated (section 554.2610), a seller who is held not entitled to the price under this section shall nevertheless be awarded damages for nonacceptance under ~~the preceding~~ section 554.2708.

Sec. 76. Section 554.2711, subsections 1 and 2, Code 2007, are amended to read as follows:

1. Where the seller fails to make delivery or repudiates or the buyer rightfully rejects or justifiably revokes acceptance then with respect to any goods involved, and with respect to the whole if the breach goes to the whole contract (section 554.2612), the buyer may cancel and whether or not the buyer has done so may in addition to recovering so much of the price as has been paid:

a. "cover" and have damages under ~~the next~~ section 554.2712 as to all the goods affected whether or not they have been identified to the contract; or

b. recover damages for nondelivery as provided in this Article (section 554.2713).

2. Where the seller fails to deliver or repudiates the buyer may also:

a. if the goods have been identified recover them as provided in this Article (section 554.2502); or

b. in a proper case obtain specific performance or replevy the goods as provided in this Article (section 554.2716).

Sec. 77. Section 554.2712, subsection 1, Code 2007, is amended to read as follows:

1. After a breach within ~~the preceding~~ section 554.2711 the buyer may "cover" by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.

Sec. 78. Section 554.2714, subsection 3, Code 2007, is amended to read as follows:

3. In a proper case any incidental and consequential damages under ~~the next~~ section 554.2715 may also be recovered.

Sec. 79. Section 554.2719, subsection 1, Code 2007, is amended to read as follows:

1. Subject to the provisions of subsections 2 and 3 of this section and of ~~the preceding~~ section 554.2718 on liquidation and limitation of damages,

a. the agreement may provide for remedies in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article, as by limiting the buyer's remedies to return of the goods and repayment of the price or to repair and replacement of nonconforming goods or parts; and

b. resort to a remedy as provided is optional unless the remedy is expressly agreed to be exclusive, in which case it is the sole remedy.

Sec. 80. Section 554.7601A, subsection 2, Code Supplement 2007, is amended to read as follows:

2. If a warehouse receipt has been lost~~, stolen,~~ or destroyed, the depositor may either remove the goods from the warehouse facility or sell the goods to the warehouse after executing a lost warehouse receipt release on a form prescribed by the department of agriculture and land stewardship. The form shall include an affidavit stating that the warehouse receipt has been lost or destroyed, and the depositor's undertaking to indemnify the warehouse for any loss incurred as a result of the loss or destruction of the warehouse receipt. The form shall be filed with the department of agriculture and land stewardship.

Sec. 81. Section 554.13103, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The following definitions in other Articles apply to this Article:

"Account"	Section 554.9102, subsection 1, paragraph "b"
"Between merchants"	Section 554.2104, subsection 3
"Buyer"	Section 554.2103, subsection 1, paragraph "a"
"Chattel paper"	Section 554.9102, subsection 1, paragraph "k"

"Consumer goods"	Section 554.9102, subsection 1, paragraph "w"
"Document"	Section 554.9102, subsection 1, paragraph "ad"
"Entrusting"	Section 554.2403, subsection 3
"General intangible"	Section 554.9102, subsection 1, paragraph "ap"
"Good faith"	Section ~~554.2103, subsection 1, paragraph "b"~~ 554.1201
"Instrument"	Section 554.9102, subsection 1, paragraph "au"
"Merchant"	Section 554.2104, subsection 1
"Mortgage"	Section 554.9102, subsection 1, paragraph "bc"
"Pursuant to commitment"	Section 554.9102, subsection 1, paragraph "bp"
"Receipt"	Section 554.2103, subsection 1, paragraph "c"
"Sale"	Section 554.2106, subsection 1
"Sale on approval"	Section 554.2326
"Sale or return"	Section 554.2326
"Seller"	Section 554.2103, subsection 1, paragraph "d"

Sec. 82. Section 554.13309, subsection 7, Code 2007, is amended to read as follows:

7. In cases not within ~~the preceding~~ subsections 1 through 6, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

Sec. 83. Section 614.1, subsection 5, Code Supplement 2007, is amended to read as follows:

5. WRITTEN CONTRACTS — JUDGMENTS OF COURTS NOT OF RECORD — RECOVERY OF REAL PROPERTY. Those founded on written contracts, or on judgments of any courts except those provided for in ~~the next~~ subsection 6, and those brought for the recovery of real property, within ten years.

Sec. 84. Section 633.113, Code 2007, is amended to read as follows:

633.113 COMMITMENT.

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

Sec. 85. Section 633.305, unnumbered paragraph 1, Code 2007, is amended to read as follows:

On admission of a will to probate without administration of the estate, the proponent shall cause to be published, in the manner prescribed in ~~the preceding~~ section 633.304, a notice of the admission of the will to probate. As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall include a notice that

any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

Sec. 86. Section 633.426, Code 2007, is amended to read as follows:

633.426 ORDER OF PAYMENT OF DEBTS AND CHARGES.

Payment of debts and charges of the estate shall be made in the order provided in ~~the preceding~~ section 633.425, without preference of any claim over another of the same class. If the assets of the estate are insufficient to pay in full all of the claims of a class, then such claims shall be paid on a pro rata basis, without preference between claims then due and those of the same class not due.

Sec. 87. Section 633.700, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Unless specifically relieved from so doing~~,~~ by the instrument creating the trust~~,~~ or by order of the court, the trustee shall make a written report~~,~~ under oath~~,~~ to the court~~,~~ once each year~~,~~ within ninety days of the close of the reporting period, and more often~~,~~ if required by the court. Such report shall state:

Sec. 88. Section 718A.1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

As used in this ~~section~~ chapter:

Sec. 89. Section 729.1, Code 2007, is amended to read as follows:

729.1 RELIGIOUS TEST.

Any violation of ~~section 4,~~ Article I, section 4, of the Constitution of the State of Iowa is hereby declared to be a simple misdemeanor unless a greater penalty is otherwise provided by law.

Sec. 90. Section 820.14, Code 2007, is amended to read as follows:

820.14 ARREST WITHOUT WARRANT.

The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against the accused under oath setting forth the ground for the arrest as in ~~the preceding~~ section 820.13; and thereafter the accused's answer shall be heard as if the accused had been arrested on a warrant.

Sec. 91. Section 820.15, Code 2007, is amended to read as follows:

820.15 HOLDING TO AWAIT REQUISITION.

If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 820.6, that the person has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit the person to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in ~~the next~~ section 820.16, or until the accused shall be legally discharged.

Sec. 92. Section 915.20A, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. "Victim counselor" means a person who is engaged in a crime victim center, is certified as a counselor by the crime victim center, and is under the control of a direct services supervisor of a crime victim center, whose primary purpose is the rendering of advice, counseling, and assistance to the victims of crime. To qualify as a "victim counselor" under this section, the

person must also have completed at least twenty hours of training provided by the center in which the person is engaged, by the Iowa organization of victim assistance, by the Iowa coalition against sexual ~~abuse~~ assault, or by the Iowa coalition against domestic violence, which shall include but not be limited to, the dynamics of victimization, substantive laws relating to violent crime, sexual assault, and domestic violence, crisis intervention techniques, communication skills, working with diverse populations, an overview of the state criminal justice system, information regarding pertinent hospital procedures, and information regarding state and community resources for victims of crime.

Sec. 93. 2007 Iowa Acts, chapter 182, section 3, subsection 1, is amended to read as follows:

1. The Iowa propane education and research council is established. Members of the council shall be appointed by the governor from a list of nominees submitted by qualified propane industry organizations within thirty days after the effective date of this section of this Act and by December 15 of each year thereafter. The council shall consist of ten voting members, nine of whom represent retail propane marketers and one of whom shall be a public member. Qualified propane industry organizations shall together nominate all members of the council. A vacancy in the unfinished term of a council member shall be filled for the remainder of the term in the same manner as the original appointment was made. Other than the public member, council members shall be full-time employees or owners of a propane industry business or representatives of an agricultural cooperative actively engaged in the propane industry. An employee of a qualified propane industry organization shall not serve as a member of the council. An officer of the board of directors of a qualified propane industry organization or propane industry trade association shall not serve concurrently as a member of the council. The fire marshal or a designee may serve as an ex officio, nonvoting member of the council.

Sec. 94. 2007 Iowa Acts, chapter 197, section 33, subsection 1, is amended to read as follows:

1. All new electrical installations for commercial or industrial applications, including installations both inside and outside of buildings, and for public use buildings and facilities and any installation at the request of the property owner.

Sec. 95. 2007 Iowa Acts, chapter 197, section 34, subsection 2, is amended to read as follows:

2. State inspection shall not apply within the jurisdiction of any political subdivision which, pursuant to section 103.29, provides by resolution or ordinance standards of electrical wiring and its installation that are not less stringent than those prescribed by the board or by this chapter and which further provides by resolution or ordinance for the inspection of electrical installations within the limits of such subdivision by a certified electrical inspector. A copy of the certificate of each electrical inspector shall be provided to the board by the political subdivision issuing the certificate.

Sec. 96. Section 103.25, as enacted by 2007 Iowa Acts, chapter 197, section 35, is amended to read as follows:

103.25 REQUEST FOR INSPECTION — FEES.

At or before commencement of any installation required to be inspected by the board, the licensee or property owner making such installation shall submit to the state fire marshal's office a request for inspection. The board shall prescribe the methods by which the request may be submitted, which may include electronic submission or through a form prescribed by the board that can be submitted either through the mail or by a fax transmission. The board shall also prescribe methods by which inspection fees can by paid, which may include electronic methods of payment. If the board or the state fire marshal's office becomes aware that a person has failed to file a necessary request for inspection, the board or the state fire marshal's office shall send a written notification by certified mail that the request must ~~by~~ be filed within fourteen days. Any person filing a late request for inspection shall pay a delinquency

fee in an amount to be determined by the board. ~~Failure~~ A person who fails to file a late request within fourteen days shall be subject to a civil penalty to be determined by the board by rule.

Sec. 97. Section 103.26, as enacted by 2007 Iowa Acts, chapter 197, section 36, is amended to read as follows:

103.26 CONDEMNATION — DISCONNECTION — OPPORTUNITY TO CORRECT NON-COMPLIANCE.

If the inspector finds that any installation or portion of an installation is not in compliance with accepted standards of construction for health safety ~~to health~~ and property safety, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, the inspector shall by written order condemn the installation or noncomplying portion or order service to such installation disconnected and shall send a copy of such order to the board, the state fire marshal, and the electrical utility supplying power involved. If the installation or the noncomplying portion is such as to seriously and proximately endanger human health or property, the order of the inspector when approved by the inspector's superior shall require immediate condemnation and disconnection by the applicant. In all other cases, the order of the inspector shall establish a reasonable period of time for the installation to be brought into compliance with accepted standards of construction for health safety ~~to health~~ and property safety prior to the effective date established in such order for condemnation or disconnection.

Sec. 98. 2007 Iowa Acts, chapter 197, section 38, subsection 2, is amended to read as follows:

2. If the electrical inspector determines that an electrical installation subject to inspection by the board is not in compliance with accepted standards of construction for health safety ~~to health~~ and property safety, based upon minimum standards adopted by the board pursuant to this chapter, the inspector shall issue a correction order. A correction order made pursuant to this section shall be served personally or by United States mail only upon the licensee making the installation. The correction order shall order the licensee to make the installation comply with the standards, noting specifically what changes are required. The order shall specify a date, not more than seventeen calendar days from the date of the order, when a new inspection shall be made. When the installation is brought into compliance to the satisfaction of the inspector, the inspector shall file with the electrical utility supplying power a certificate stating that the electrical inspector has approved energization.

Sec. 99. 2007 Iowa Acts, chapter 197, section 41, subsection 4, is amended to read as follows:

4. Except when an inspection reveals that an installation or portion of an installation is not in compliance with accepted standards of construction for health safety ~~to health~~ and property safety, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, such that an order of condemnation or disconnection is warranted pursuant to section 103.26, an inspector shall not add to, modify, or amend a construction plan as originally approved by the state fire marshal in the course of conducting an inspection.

Sec. 100. 2007 Iowa Acts, chapter 197, section 42, subsection 3, is amended to read as follows:

3. When an inspection is requested by ~~an~~ a property owner, the minimum fee shall be thirty dollars plus five dollars per branch circuit or feeder. The fee for fire and accident inspections shall be computed at the rate of forty-seven dollars per hour, and mileage and other expenses shall be reimbursed as provided by the office of the state fire marshal.

Sec. 101. 2007 Iowa Acts, chapter 197, section 43, subsection 1, is amended to read as follows:

1. Any person aggrieved by a condemnation or disconnection order issued by the state fire

marshal's office may appeal from the order by filing a written notice of appeal with the board within ten days after the date the order was served upon the property owner or within ten days after the order was filed with the board, whichever is later.

Sec. 102. Section 104C.2, subsection 8, as enacted by 2007 Iowa Acts, chapter 198, section 2, is amended to read as follows:

8. "Hydronic" means a heating or cooling system that transfers heating or cooling by circulating fluid through a closed system, including boilers, pressure vessels, refrigerated equipment in connection with chilled water systems, all steam piping, hot or chilled water piping together with all control devices and accessories, installed as part of, or in connection with, any comfort heating or comfort cooling system or appliance using a liquid, water, or steam as the heating or cooling media. "Hydronic" includes all low-pressure and high-pressure systems.

Sec. 103. 2007 Iowa Acts, chapter 198, section 10, subsection 3, is amended to read as follows:

3. The board may allow a two-year delay in implementing the licensure requirements for contractors who employ ~~less~~ fewer than ten mechanical professionals.

Sec. 104. 2007 Iowa Acts, chapter 198, section 11, subsection 1, is amended to read as follows:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, registered as an architect pursuant to chapter 544A, or licensed as a landscape architect pursuant to chapter 544B who provides consultations or develops plans or other work concerning plumbing, HVAC, refrigeration, or hydronic work and who is exclusively engaged in the practice of the person's profession.

Sec. 105. 2007 Iowa Acts, chapter 198, section 18, subsection 2, paragraph c, subparagraph (3), is amended to read as follows:

(3) Provide evidence to the examining board that the person has previously been a licensed journeyperson in the applicable discipline or satisfies all requirements ~~required to be licensed~~ for licensure as a journeyperson in the applicable discipline.

Sec. 106. Sections 99A.1, 177A.16, 321.1, 321A.1, 321H.2, 322.2, 329.1, 428.28, 428.29, 433.12, 438.1, 438.2, 438.3, 453A.1, 455B.131,[1] 476.44, 484B.4, 536.4, 536.5, 536.19, 536A.17, 543B.31,[2] 589.8, 589.24, 624.27, 624.28, 727.2, and 730.2, Code 2007, are amended by striking the word "copartnership" and inserting the word "partnership".

Sec. 107. Sections 322.4 and 322.7, Code Supplement 2007, are amended by striking the word "copartnership" and inserting the word "partnership".

Sec. 108. Sections 214A.2B,[3] 258.16, 260C.40, and 282.7, Code 2007, are amended by striking the words "merged area school" and "merged area schools" and inserting the words "community college" and "community colleges".

DIVISION II
VOLUME I RENUMBERING

Sec. 109. Section 1.18, Code 2007, is amended to read as follows:

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.

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[1] Section 455B.131 appeared in Code Supplement 2007

[2] Section 543B.31 appeared in Code Supplement 2007

[3] Section 214A.2B appeared in Code Supplement 2007

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 5 and ~~5~~ 6, 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.

4. 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:

a. Binds the government.

b. Is required by law.

c. Is otherwise subject to scrutiny by either the press or the public.

~~4.~~ 5. 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.~~ 6. 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. 110. Section 2.10, subsection 4, Code 2007, is amended to read as follows:

4. a. The director of the department of administrative services shall pay the travel and expenses of the members of the general assembly commencing with the first pay period after the names of such persons are officially certified. The salaries of the members of the general assembly shall be paid pursuant to any of the following alternative methods:

~~a.~~ (1) During each month of the year at the same time state employees are paid.

~~b.~~ (2) During each pay period during the first six months of each calendar year.

~~c.~~ (3) During the first six months of each calendar year by allocating two-thirds of the annual salary to the pay periods during those six months and one-third of the annual salary to the pay periods during the second six months of a calendar year.

b. Each member of the general assembly shall file with the director of the department of administrative services a statement as to the method the member selects for receiving payment of salary. The presiding officers of the two houses of the general assembly shall jointly certify

to the director of the department of administrative services the names of the members, officers, and employees of their respective houses and the salaries and mileage to which each is entitled. Travel and expense allowances shall be paid upon the submission of vouchers to the director of the department of administrative services indicating a claim for the same.

Sec. 111. Section 2.15, Code 2007, is amended to read as follows:

2.15 POWERS AND DUTIES OF STANDING COMMITTEES.

1. The powers and duties of standing committees shall include, but shall not be limited to, the following:

~~1.~~ a. Introducing legislative bills and resolutions.

~~2.~~ b. Conducting investigations with the approval of either or both houses during the session, or the legislative council during the interim, with authority to call witnesses, administer oaths, issue subpoenas, and cite for contempt.

~~3.~~ c. Requiring reports and information from state agencies as well as the full ~~co-operation~~ cooperation of their personnel.

~~4.~~ d. Selecting nonlegislative members when conducting studies as provided in section 2.14.

~~5.~~ e. Undertaking in-depth studies of governmental matters within their assigned jurisdiction, not only for the purpose of evaluating proposed legislation, but also for studying existing laws and governmental operations and functions to determine their usefulness and effectiveness, as provided in section 2.14.

~~6.~~ f. Reviewing the operations of state agencies and departments.

~~7.~~ g. Giving thorough consideration to, establishing priorities for, and making recommendations on all bills assigned to committees.

~~8.~~ h. Preparing reports to be made available to members of the general assembly containing the committee's findings, recommendations, and proposed legislation.

2. A standing committee may call upon any department, agency or office of the state, or any political subdivision of the state, for information and assistance as needed in the performance of its duties and the information and assistance shall be furnished to the extent that they are within the resources and authority of the department, agency, office or political subdivision. This ~~paragraph~~ subsection does not require the production or opening of any records which are required by law to be kept private or confidential.

Sec. 112. Section 7K.1, subsection 3, Code 2007, is amended to read as follows:

3. MEMBERSHIP.

a. The board of directors of the foundation shall consist of fifteen members serving staggered three-year terms beginning on May 1 of the year of appointment who shall be appointed as follows:

~~a.~~ (1) Five members shall be appointed by the governor as follows:

~~(1)~~ (a) A school district superintendent from a school district with enrollment of one thousand one hundred forty-nine or fewer pupils.

~~(2)~~ (b) An individual representing an Iowa business employing more than two hundred fifty employees.

~~(3)~~ (c) A community college president.

~~(4)~~ (d) An individual representing labor and workforce interests.

~~(5)~~ (e) An individual representing an Iowa agriculture association.

~~b.~~ (2) Five members shall be appointed by the speaker of the house of representatives as follows:

~~(1)~~ (a) An individual representing the area education agencies.

~~(2)~~ (b) The president of an accredited private institution as defined in section 261.9.

~~(3)~~ (c) An individual representing an Iowa business employing more than fifty employees but not more than two hundred fifty employees.

~~(4)~~ (d) An individual representing urban economic development interests.

~~(5)~~ (e) An individual from an association representing Iowa businesses.

~~c.~~ (3) Five members shall be appointed by the president of the senate as follows:

~~(1)~~ (a) A school district superintendent from a school district with an enrollment of more than one thousand one hundred forty-nine pupils.

~~(2)~~ (b) A president of an institution of higher education under the control of the state board of regents.

~~(3)~~ (c) An individual representing an Iowa business employing fifty or fewer employees.

~~(4)~~ (d) An individual representing rural economic development interests.

~~(5)~~ (e) An individual representing a business that established itself in Iowa on or after July 1, 1999.

b. Members, except as provided in paragraph ~~"c"~~ "a", subparagraph ~~(2)~~ (3), subparagraph subdivision (b), shall not be employed by the state. One co-chairperson shall be appointed by the speaker of the house of representatives and one co-chairperson shall be appointed by the president of the senate.

Sec. 113. Section 8A.204, subsection 1, paragraph a, unnumbered paragraphs 1 and 2, Code Supplement 2007, are amended to read as follows:

"Agency" means a participating agency as defined in section 8A.201. In addition, the following definitions shall also apply:

~~In addition, the following definitions shall also apply:~~

Sec. 114. Section 8A.502, subsection 14, Code 2007, is amended to read as follows:

14. FEDERAL CASH MANAGEMENT AND IMPROVEMENT ACT ADMINISTRATOR.

a. To serve as administrator for state actions relating to the federal Cash Management and Improvement Act of 1990, Pub. L. No. 101-453, as codified in 31 U.S.C. § 6503. The director shall perform the following duties relating to the federal law:

~~a.~~ (1) Act as the designated representative of the state in the negotiation and administration of contracts between the state and federal government relating to the federal law.

~~b.~~ (2) Modify the centralized statewide accounting system and develop, or require to be developed by the appropriate departments of state government, the reports and procedures necessary to complete the managerial and financial reports required to comply with the federal law.

b. There is annually appropriated from the general fund of the state to the department an amount sufficient to pay interest costs that may be due the federal government as a result of implementation of the federal law. This paragraph does not authorize the payment of interest from the general fund of the state for any departmental revolving, trust, or special fund where monthly interest earnings accrue to the credit of the departmental revolving, trust, or special fund. For any departmental revolving, trust, or special fund where monthly interest is accrued to the credit of the fund, the director may authorize a supplemental expenditure to pay interest costs from the individual fund which are due the federal government as a result of implementation of the federal law.

Sec. 115. Section 9D.3, subsection 2, Code 2007, is amended to read as follows:

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

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

~~b.~~ (2) The state on behalf of a person or persons under ~~paragraph "a"~~ subparagraph (1).

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

Sec. 116. Section 9H.4, Code 2007, is amended to read as follows:

9H.4 RESTRICTION ON INCREASE OF HOLDINGS — EXCEPTIONS — PENALTY.

1. A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liabili-

ty company, family trust, authorized trust, revocable trust, or testamentary trust shall not, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

~~1.~~ a. A bona fide encumbrance taken for purposes of security.

~~2.~~ b. Agricultural land acquired for research or experimental purposes. Agricultural land is used for research or experimental purposes if any of the following apply:

~~a.~~ (1) Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation or limited liability company. Commercial sales are incidental to the research or experimental purposes of the corporation or limited liability company when such sales are less than twenty-five percent of the gross sales of the primary product of the research.

~~b.~~ (2) The agricultural land is used for the primary purpose of testing, developing, or producing seeds or plants for sale or resale to farmers as seed stock. Grain which is not sold as seed stock is an incidental sale and must be less than twenty-five percent of the gross sales of the primary product of the research and experimental activities.

~~c.~~ (3) (a) The agricultural land is used by a corporation or limited liability company, including any trade or business which is under common control, as provided in 26 U.S.C. § 414 for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after July 1, 1989, to qualify under this ~~paragraph~~ subparagraph subdivision, the following conditions must be satisfied:

~~(1)~~ (i) The corporation or limited liability company must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation or limited liability company shall not renew a lease. The corporation or limited liability company shall not enter into a lease under this ~~paragraph~~ subparagraph subdivision part, if the corporation or limited liability company has ever entered into another lease under this ~~paragraph "c"~~ subparagraph (3), whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.

~~(2)~~ (ii) A term or condition of sale, including resale, of breeding stock must not relate to the direct or indirect control by the corporation or limited liability company of the breeding stock or breeding stock progeny subsequent to the sale.

~~(3)~~ (iii) The number of acres of agricultural land held by the corporation or limited liability company must not exceed six hundred forty acres.

~~(4)~~ (iv) The corporation or limited liability company must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the lease. However, this subparagraph subdivision does not apply to a domestic corporation organized under chapter 504, Code 1989, or current chapter 504.

(b) Culls and test animals may be sold under this ~~paragraph "c"~~ subparagraph (3). For a three-year period beginning on the date that the corporation or limited liability company acquires an interest in the agricultural land, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less.

~~3.~~ c. Agricultural land, including leasehold interests, acquired by a nonprofit corporation organized under the provisions of chapter 504, Code 1989, and current chapter 504 including land acquired and operated by or for a state university for research, experimental, demonstration, foundation seed increase or test purposes and land acquired and operated by or for nonprofit corporations organized specifically for research, experimental, demonstration, foundation seed increase or test purposes in support of or in conjunction with a state university.

~~4.~~ d. Agricultural land acquired by a corporation or limited liability company for immediate or potential use in nonfarming purposes.

~~5.~~ e. Agricultural land acquired by a corporation or limited liability company by process of

law in the collection of debts, or pursuant to a contract for deed executed prior to August 15, 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

~~6.~~ f. A municipal corporation.

~~7.~~ g. Agricultural land which is acquired by a trust company or bank in a fiduciary capacity or as trustee for a family trust, authorized trust or testamentary trust or for nonprofit corporations.

~~8.~~ h. A corporation or its subsidiary organized under chapter 490 or a limited liability company organized under chapter 490A and to which section 312.8 is applicable.

~~9.~~ i. Agricultural land held or leased by a corporation on July 1, 1975, as long as the corporation holding or leasing the land on this date continues to hold or lease such agricultural land.

~~10.~~ j. Agricultural land held or leased by a trust on July 1, 1977, as long as the trust holding or leasing such land on this date continues to hold or lease such agricultural land.

~~11.~~ k. Agricultural land acquired by a trust for immediate use in nonfarming purposes.

2. A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust, revocable trust, or testamentary trust, violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. The courts of this state may prevent and restrain violations of this section 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 section.

Sec. 117. Section 11.4, Code 2007, is amended to read as follows:

11.4 REPORT OF AUDITS.

1. The auditor of state shall make or cause to be made and filed and kept in the auditor's office written reports of all audits and examinations, which reports shall set out in detail the following:

~~1.~~ a. The actual condition of such department found to exist on every examination.

~~2.~~ b. Whether, in the auditor's opinion,

~~a.~~ (1) All funds have been expended for the purpose for which appropriated.

~~b.~~ (2) The department so audited and examined is efficiently conducted, and if the maximum results for the money expended are obtained.

~~c.~~ (3) The work of the departments so audited or examined needlessly conflicts with or duplicates the work done by any other department.

~~3.~~ c. All illegal or unbusinesslike practices.

~~4.~~ d. Any recommendations for greater simplicity, accuracy, efficiency, or economy in the operation of the business of the several departments and institutions.

~~5.~~ e. Comparisons of prices paid and terms obtained by the various departments for goods and services of like character and reasons for differences therein, if any.

~~6.~~ f. Any other information which, in the auditor's judgment, may be of value to the auditor.

2. All such reports shall be filed and kept in the auditor's office.

3. The state auditor is hereby authorized to obtain, maintain, and operate, under the auditor's exclusive control such machinery as may be necessary to print confidential reports and documents originating in the auditor's office.

Sec. 118. Section 11.6, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. (1) The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every

four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds, the certified annual financial report, the certified enrollment as provided in section 257.6, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62. Differences in certified enrollment shall be reported to the department of management. The examination of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include an audit of the city's compliance with section 388.10. The examination of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include an audit of the city's compliance with section 388.10.

(2) Subject to the exceptions and requirements of subsection 2 and subsection 4, paragraph ~~"c"~~ "a", subparagraph (3), examinations shall be made as determined by the governmental subdivision either by the auditor of state or by certified public accountants, certified in the state of Iowa, and they shall be paid from the proper public funds of the governmental subdivision.

Sec. 119. Section 11.6, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) (a) As part of its audit, the governmental subdivision is responsible for obtaining and providing to the person performing the audit the audited financial statements and related report on internal control structure of outside persons, performing any of the following during the period under audit for the governmental subdivision:

~~(a)~~ (i) Investing public funds.

~~(b)~~ (ii) Advising on the investment of public funds.

~~(c)~~ (iii) Directing the deposit or investment of public funds.

~~(d)~~ (iv) Acting in a fiduciary capacity for the governmental subdivision.

(b) The audit under this section shall not be certified until all material information required by this subparagraph is reviewed by the person performing the audit.

Sec. 120. Section 11.6, subsection 4, Code 2007, is amended to read as follows:

4. a. In addition to the powers and duties under other provisions of the Code, the auditor of state may at any time cause to be made a complete or partial reaudit of the financial condition and transactions of any city, county, county hospital, memorial hospital, entity organized under chapter 28E, merged area, area education agency, school corporation, township, or other governmental subdivision, or an office of any of these, if one of the following conditions exists:

~~a.~~ (1) The auditor of state has probable cause to believe such action is necessary in the public interest because of a material deficiency in an audit of the governmental subdivision filed with the auditor of state or because of a substantial failure of the audit to comply with the standards and procedures established and published by the auditor of state.

~~b.~~ (2) The auditor of state receives from an elected official or employee of the governmental subdivision a written request for a complete or partial reaudit of the governmental subdivision.

~~c.~~ (3) The auditor of state receives a petition signed by at least fifty eligible electors of the governmental subdivision requesting a complete or partial reaudit of the governmental subdivision. If the governmental subdivision has not contracted with or employed a certified public accountant to perform an audit of the fiscal year in which the petition is received by the auditor of state, the auditor of state may perform an audit required by subsection 1 or 3.

b. The state audit shall be paid from the proper public funds available in the office of the auditor of state. In the event the audited governmental subdivision recovers damages from a person performing a previous audit due to negligent performance of that audit or breach of the audit contract, the auditor of state shall be entitled to reimbursement on an equitable basis for funds expended from any recovery made by the governmental subdivision.

c. An examination under this subsection shall include a determination of whether investments by the governmental subdivision are authorized by state law.

Sec. 121. Section 13.2, Code 2007, is amended to read as follows:

13.2 DUTIES.

1. It shall be the duty of the attorney general, except as otherwise provided by law to:

~~1.~~ a. Prosecute and defend all causes in the appellate courts in which the state is a party or interested.

~~2.~~ b. Prosecute and defend in any other court or tribunal, all actions and proceedings, civil or criminal, in which the state may be a party or interested, when, in the attorney general's judgment, the interest of the state requires such action, or when requested to do so by the governor, executive council, or general assembly.

~~3.~~ c. Prosecute and defend all actions and proceedings brought by or against any state officer in the officer's official capacity.

~~4.~~ d. Prosecute and defend all actions and proceedings brought by or against any employee of a judicial district department of correctional services in the performance of an assessment of risk pursuant to chapter 692A.

~~5.~~ e. Give an opinion in writing, when requested, upon all questions of law submitted by the general assembly or by either house thereof, or by any state officer, elective or appointive. Questions submitted by state officers must be of a public nature and relate to the duties of such officer.

~~6.~~ f. Prepare drafts for contracts, forms, and other writings which may be required for the use of the state.

~~7.~~ g. Report to the governor, at the time provided by law, the condition of the attorney general's office, opinions rendered, and business transacted of public interest.

~~8.~~ h. Supervise county attorneys in all matters pertaining to the duties of their offices, and from time to time to require of them reports as to the condition of public business entrusted to their charge.

~~9.~~ i. Promptly account, to the treasurer of state, for all state funds received by the attorney general.

~~10.~~ j. Keep in proper books a record of all official opinions, and a register of all actions, prosecuted and defended by the attorney general, and of all proceedings had in relation thereto, which books shall be delivered to the attorney general's successor.

~~11.~~ k. Perform all other duties required by law.

~~12.~~ l. Inform prosecuting attorneys and assistant prosecuting attorneys to the state of all changes in law and matters pertaining to their office and establish programs for the continuing education of prosecuting attorneys and assistant prosecuting attorneys. The attorney general may accept funds, grants and gifts from any public or private source which shall be used to defray the expenses incident to implementing duties under this ~~subsection~~ paragraph.

~~13.~~ m. Establish and administer, in cooperation with the law schools of Drake university and the state university of Iowa, a prosecutor intern program incorporating the essential elements of the pilot program denominated "law student intern program in prosecutors' office" funded by the Iowa crime commission and participating counties. The attorney general shall consult with an advisory committee including representatives of each participating law school and the Iowa county attorneys association, inc. concerning development, administration, and critique of this program. The attorney general shall report on the program's operation annually to the general assembly and the supreme court.

~~14.~~ n. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

2. Executing the duties of this section shall not be deemed a violation of section 68B.6.

Sec. 122. Section 15.313, subsection 1, Code 2007, is amended to read as follows:

1. a. An Iowa strategic investment fund is created as a revolving fund consisting of any money appropriated by the general assembly for that purpose 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 fund shall also include all of the following:

~~a.~~ (1) All unencumbered and unobligated funds from the special community economic betterment program fund created under 1990 Iowa Acts, chapter 1262, section 1, subsection 18, remaining on June 30, 1992, all repayments of loans or other awards made under the community economic betterment account or under the community economic betterment program during any fiscal year beginning on or after July 1, 1985, and recaptures of awards.

~~b.~~ (2) All unencumbered and unobligated funds from the targeted small business financial assistance program, the financing rural economic development or successor loan program, and the value-added agricultural products and processes financial assistance fund remaining on June 30, 1992, and all repayments of loans or other awards or recaptures of awards made under these programs.

b. Notwithstanding section 8.33, moneys in the strategic investment fund at the end of each fiscal year shall not revert to any other fund but shall remain in the strategic investment fund for expenditure for subsequent fiscal years.

Sec. 123. Section 15.331A, Code 2007, is amended to read as follows:

15.331A SALES AND USE TAX REFUND.

1. The eligible business shall be entitled to a refund of the sales and use taxes paid under chapter 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility of the eligible business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded. However, an eligible business shall be entitled to a refund for taxes attributable to racks, shelving, and conveyor equipment to be used in a warehouse or distribution center subject to section 15.331C.

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

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

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

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

Sec. 124. Section 15A.1, subsection 1, Code 2007, is amended to read as follows:

1. a. Economic development is a public purpose for which the state, a city, or a county may provide grants, loans, guarantees, tax incentives, and other financial assistance to or for the benefit of private persons.

b. For purposes of this chapter, "economic development" means private or joint public and private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost.

Sec. 125. Section 15A.2, Code 2007, is amended to read as follows:

15A.2 CONFLICTS OF INTEREST.

1. a. If a member of the governing body of a city or county or an employee of a state, city, or county board, agency, commission, or other governmental entity of the state, city, or county has an interest, either direct or indirect, in a private person for which grants, loans, guarantees, tax incentives, or other financial assistance may be provided by the governing board or governmental entity, the interest shall be disclosed to that governing body or governmental entity in writing. The member or employee having the interest shall not participate in the decision-making process with regard to the providing of such financial assistance to the private person.

b. Employment by a public body, its agencies, or institutions or by any other person having such an interest shall not be deemed an indicia of an interest by the employee or of any ownership or control by the employee of interests of the employee's employer.

c. The word "participate" or "participation" shall be deemed not to include discussion or debate preliminary to a vote of a local governing body or agency upon proposed ordinances or resolutions relating to such a project or any abstention from such a vote.

d. The designation of a bank or trust company as depository, paying agent, or agent for investment of funds shall not be deemed a matter of interest or personal interest.

e. Stock ownership in a corporation having such an interest shall not be deemed an indicia of an interest or of ownership or control by the person owning the stocks when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by that person.

f. The phrase "decision-making process" shall not be deemed to include resolutions advisory to the local governing body or agency by any citizens group, board, body, or commission designated to serve a purely advisory approving or recommending function for economic development.

2. A violation of a provision of this section is misconduct in office under section 721.2. However, a decision of the governing board or governmental entity is not invalid because of the participation of the member or employee in the decision-making process or because of a vote cast by a member or employee in violation of this section unless the participation or vote was decisive in the awarding of the financial assistance.

Sec. 126. Section 15A.9, subsection 8, paragraphs a, b, and e, Code Supplement 2007, are amended to read as follows:

a. (1) The credit equals the sum of the following:

~~(1)~~ (a) Thirteen percent of the excess of qualified research expenses during the tax year over the base amount for the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

~~(2)~~ (b) Thirteen percent of the basic research payments determined under section 41(e)(1)(A) of the Internal Revenue Code during the tax year based upon the state's apportioned share of the qualifying expenditures for increasing research activities.

(2) The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state within the zone to total qualified research expenditures.

b. In lieu of the credit amount computed in paragraph "a", subparagraph (1), subparagraph subdivision (a), a business may elect to compute the credit amount for qualified research expenses incurred in this state within the zone in a manner consistent with the alternative incremental credit described in section 41(c)(4) of the Internal Revenue Code. The taxpayer may make this election regardless of the method used for the taxpayer's federal income tax. The election made under this paragraph is for the tax year and the taxpayer may use another or the same method for any subsequent year.

e. (1) 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.

(2) For purposes of this subsection, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, 2007.

Sec. 127. Section 15F.204, subsection 8, paragraph b, Code 2007, is amended to read as follows:

b. There is appropriated from the franchise tax revenues deposited in the general fund of the state to the community attraction and tourism fund, the following amounts:

(1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of seven million dollars.

(2) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of seven million dollars.

(3) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of seven million dollars.

(4) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of seven million dollars.

(5) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of seven million dollars.

9. Notwithstanding the allocation requirements in subsection 5, the board may make a multiyear commitment to an applicant of up to four million dollars in any one fiscal year.

Sec. 128. Section 15G.203, subsection 7, Code Supplement 2007, is amended to read as follows:

7. a. An award of financial incentives to a participating person shall be in the form of a grant.

b. In order to participate in the program an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the retail motor fuel site.

~~a.~~ (1) Except as provided in ~~paragraph "b"~~ subparagraph (2), a participating person may be awarded standard financial incentives. The standard financial incentives awarded to the participating person shall not exceed fifty percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less. The infrastructure board may approve multiple awards to make improvements to a retail motor fuel site so long as the total amount of the awards does not exceed the limitations provided in this ~~paragraph~~ subparagraph.

~~b.~~ (2) In addition to any standard financial incentives awarded to a participating person under ~~paragraph "a"~~ subparagraph (1), the participating person may be awarded supplemental financial incentives to upgrade or replace a dispenser which is part of gasoline storage and dispensing infrastructure used to store and dispense E-85 gasoline as provided in section 455G.31. The person is only eligible to receive the supplemental financial incentives if the person installed the dispenser not later than sixty days after the date of the publication in the Iowa administrative bulletin of the state fire marshal's order providing that a commercially available dispenser is listed as compatible for use with E-85 gasoline by an independent testing laboratory as provided in section 455G.31. The supplemental financial incentives awarded to the participating person shall not exceed seventy-five percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.

Sec. 129. Section 15I.2, subsection 1, Code Supplement 2007, is amended to read as follows:

1. ~~a.~~ Any nonretail, nonservice business may claim a tax credit equal to a percentage of the annual wages and benefits paid for a qualified new job created by the location or expansion of the business in the state.

a. (1) The tax credit shall be allowed against taxes imposed under chapter 422, division II, III, or V, and chapter 432 and against the moneys and credits tax imposed in section 533.329. The percentage shall be equal to the amount provided in subsection 2.

(2) Any credit in excess of the tax liability shall be refunded. In lieu of claiming a refund,

a taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following taxable year.

b. 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. 130. Section 16.28, subsection 2, Code 2007, is amended to read as follows:

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

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

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

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

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

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

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

Sec. 131. Section 16.52, subsections 2 and 3, Code 2007, are amended to read as follows:

2. The authority shall adopt rules and allocation procedures which will ensure the maximum use of available tax credits in order to encourage development of low-income housing in the state. The authority shall consider the following factors in the adoption and application of the allocation rules:

a. Timeliness of the application.

b. Location of the proposed housing project.

c. Relative need in the proposed area for low-income housing.

d. Availability of low-income housing in the proposed area.

e. Economic feasibility of the proposed project.

f. Ability of the applicant to proceed to completion of the project in the calendar year for which the credit is sought.

3. a. The authority shall adopt rules specifying the application procedure and the allowance of low-income housing credits under the state housing credit ceiling.

~~3.~~ b. The authority shall not allow more than ninety percent of the low-income housing credits under the state housing credit ceiling to projects other than qualified low-income housing projects as defined in Internal Revenue Code § 42(h)(5)(B).

Sec. 132. Section 16.91, subsection 5, Code Supplement 2007, is amended to read as follows:

5. The participation of abstractors and attorneys shall be in accordance with rules established by the division and adopted by the authority pursuant to chapter 17A.

a. (1) Each participant shall at all times maintain liability coverage in amounts approved by the division. Upon payment of a claim by the division, the division shall be subrogated to the rights of the claimant against all persons relating to the claim.

(2) Additionally, each participating abstractor is required to own or lease, and maintain and use in the preparation of abstracts, an up-to-date abstract title plant including tract indices for

real estate for each county in which abstracts are prepared for real property titles guaranteed by the division. The tract indices shall contain a reference to all instruments affecting the real estate which are recorded in the office of the county recorder, and shall commence not less than forty years prior to the date the abstractor commences participation in the title guaranty program. However, a participating attorney providing abstract services continuously from November 12, 1986, to the date of application, either personally or through persons under the attorney's supervision and control is exempt from the requirements of this ~~paragraph~~ subparagraph.

b. The division may waive the requirements of this subsection pursuant to an application of an attorney or abstractor which shows that the requirements impose a hardship to the attorney or abstractor and that the waiver clearly is in the public interest or is absolutely necessary to ensure availability of title guaranties throughout the state.

Sec. 133. Section 16.100, subsection 2, paragraph c, Code 2007, is amended to read as follows:

c. (1) A home ownership incentive program to help lower income and very low income families achieve single family home ownership. Funds provided under this program shall not be restricted to first-time home buyers but shall be limited to mortgages under fifty-five thousand dollars, except in those areas of the state where the median price of homes exceeds the state average. The assistance provided shall include at least one of the following kinds of assistance:

~~(1)~~ (a) Closing costs assistance.

~~(2)~~ (b) Down payment assistance.

~~(3)~~ (c) Home maintenance and repair assistance.

~~(4)~~ (d) Loan processing assistance through a loan endorser review contractor who acts on behalf of the authority in assisting lenders in processing loans that will qualify for government insurance or guarantee or for financing under the authority's mortgage revenue bond program.

~~(5)~~ (e) Mortgage insurance program.

(2) Five percent of the moneys expended under this program shall be used to finance the purchase or acquisition, in communities with a population of less than ten thousand, of manufactured homes as defined in 42 U.S.C. § 5403. Moneys available for this purpose which are unencumbered or unobligated at the end of the fiscal year shall revert to the housing improvement fund for reallocation for the next fiscal year.

(3) Not more than fifty percent of the assistance provided under this program shall be provided under ~~subparagraphs (4)~~ subparagraph (1), subparagraph subdivisions (d) and ~~(5)~~ (e). So long as at least one of the kinds of assistance described in ~~subparagraphs~~ subparagraph (1), subparagraph subdivisions (a) through ~~(5)~~ (e) is provided, additional assistance not described in ~~subparagraphs~~ subparagraph (1), subparagraph subdivisions (a) through ~~(5)~~ (e) may also be provided.

Sec. 134. Section 16A.10, subsection 2, Code 2007, is amended to read as follows:

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

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

~~b.~~ (2) Bring suit upon the obligations.

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

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

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

b. The holders of obligations, to the extent provided in the resolution by which the obligations were issued or in their agreement with the authority, may enforce any of the remedies in ~~paragraphs~~ paragraph "a", subparagraphs (1) to ~~"e"~~ (5) or the remedies provided in those agreements for and on their own behalf.

Sec. 135. Section 17A.1, subsection 2, Code 2007, is amended to read as follows:

2. This chapter is intended to provide a minimum procedural code for the operation of all state agencies when they take action affecting the rights and duties of the public. Nothing in this chapter is meant to discourage agencies from adopting procedures providing greater protections to the public or conferring additional rights upon the public; and save for express provisions of this chapter to the contrary, nothing in this chapter is meant to abrogate in whole or in part any statute prescribing procedural duties for an agency which are greater than or in addition to those provided here. This chapter is meant to apply to all rulemaking and contested case proceedings and all suits for the judicial review of agency action that are not specifically excluded from this chapter or some portion thereof by its express terms or by the express terms of another chapter.

3. The purposes of this chapter are: To provide legislative oversight of powers and duties delegated to administrative agencies; to increase public accountability of administrative agencies; to simplify government by assuring a uniform minimum procedure to which all agencies will be held in the conduct of their most important functions; to increase public access to governmental information; to increase public participation in the formulation of administrative rules; to increase the fairness of agencies in their conduct of contested case proceedings; and to simplify the process of judicial review of agency action as well as increase its ease and availability.

4. In accomplishing its objectives, the intention of this chapter is to strike a fair balance between these purposes and the need for efficient, economical and effective government administration. The chapter is not meant to alter the substantive rights of any person or agency. Its impact is limited to procedural rights with the expectation that better substantive results will be achieved in the everyday conduct of state government by improving the process by which those results are attained.

Sec. 136. Section 17A.7, subsection 2, Code 2007, is amended to read as follows:

2. a. Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator for an agency to conduct a formal review of a specified rule of that agency to determine whether the rule should be repealed or amended or a new rule adopted instead. The administrative rules coordinator shall determine whether the request is reasonable and does not place an unreasonable burden upon the agency.

b. If the agency has not conducted such a review of the specified rule within a period of five years prior to the filing of the written request, and upon a determination by the administrative rules coordinator that the request is reasonable and does not place an unreasonable burden upon the agency, the agency shall prepare within a reasonable time a written report with respect to the rule summarizing the agency's findings, its supporting reasons, and any proposed course of action. The report must include, for the specified rule, a concise statement of all of the following:

~~a.~~ (1) The rule's effectiveness in achieving its objectives, including a summary of any available data supporting the conclusions reached.

~~b.~~ (2) Written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule tendered to the agency or granted by the agency.

~~c.~~ (3) Alternative solutions regarding the subject matter of the criticisms and the reasons they were rejected or the changes made in the rule in response to those criticisms and the reasons for the changes.

c. A copy of the report shall be sent to the administrative rules review committee and the administrative rules coordinator and shall be made available for public inspection.

Sec. 137. Section 23A.2, subsection 10, paragraph l, subparagraph (2), subparagraph subdivision (c), Code 2007, is amended to read as follows:

(c) A resident who cannot be placed in a community placement plan with a community-based provider of services may be placed by the state resource center in an on-campus or off-campus vocational or employment training program.

(i) However, prior to placing a resident in an on-campus vocational or employment training program, the state resource center shall seek an off-campus vocational or employment training program offered by a community-based provider who serves the county in which the state resource center is based or the counties contiguous to the county, provided that the resident will not be required to travel for more than thirty minutes one way to obtain services.

(ii) If off-campus services cannot be provided by a community-based provider, the state resource center shall offer the resident an on-campus vocational or employment training program. The on-campus program shall be operated in compliance with the federal Fair Labor Standards Act. At least semiannually, the state resource center shall seek an off-campus community-based vocational or employment training option for each resident placed in an on-campus program.

(iii) The state resource center shall not place a resident in an off-campus program in which the cost to the state resource center would be in excess of the provider's actual cost as determined by purchase of service rules or if the service would not be reimbursed under the medical assistance program.

Sec. 138. Section 24.48, Code 2007, is amended to read as follows:

24.48 APPEAL TO STATE BOARD FOR SUSPENSION OF LIMITATIONS.

1. If the property tax valuations effective January 1, 1979 and January 1 of any subsequent year, are reduced or there is an unusually low growth rate in the property tax base of a political subdivision, the political subdivision may appeal to the state appeal board to request suspension of the statutory property tax levy limitations to continue to fund the present services provided. A political subdivision may also appeal to the state appeal board where the property tax base of the political subdivision has been reduced or there is an unusually low growth rate for any of the following reasons:

~~1.~~ a. Any unusual increase in population as determined by the preceding certified federal census.

~~2.~~ b. Natural disasters or other emergencies.

~~3.~~ c. Unusual problems relating to major new functions required by state law.

~~4.~~ d. Unusual staffing problems.

~~5.~~ e. Unusual need for additional funds to permit continuance of a program which provides substantial benefit to its residents.

~~6.~~ f. Unusual need for a new program which will provide substantial benefit to residents, if the political subdivision establishes the need and the amount of the necessary increased cost.

2. The state appeal board may approve or modify the request of the political subdivision for suspension of the statutory property tax levy limitations.

3. Upon decision of the state appeal board, the department of management shall make the necessary changes in the total budget of the political subdivision and certify the total budget to the governing body of the political subdivision and the appropriate county auditors.

4. a. The city finance committee shall have officially notified any city of its approval, modification or rejection of the city's appeal of the decision of the director of the department of management regarding a city's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

b. The state appeals board shall have officially notified any county of its approval, modification or rejection of the county's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

5. a. For purposes of this section only, "political subdivision" means a city, school district, or any other special purpose district which certifies its budget to the county auditor and derives

funds from a property tax levied against taxable property situated within the political subdivision.

b. For the purpose of this section, when the political subdivision is a city, the director of the department of management, and the city finance committee on appeal of the director's decision, shall be the state appeal board.

Sec. 139. Section 28A.18, subsections 1, 2, and 4, Code 2007, are amended to read as follows:

1. a. The bonds issued by the board pursuant to this division shall be authorized by resolution of the board and shall be either term or serial bonds, shall bear the date, mature at the time, not exceeding forty years from their respective dates, bear interest at the rate, not exceeding the rate permitted under chapter 74A or the rate authorized by another state within the greater metropolitan area, whichever rate is lower, payable monthly or semiannually, be in the denominations, be in the form, either coupon or fully registered, shall carry the registration, exchangeability and interchangeability privileges, be payable in the medium of payment and at the place, within or without the state, be subject to the terms of redemption and be entitled to the priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority as the resolution may provide. The bonds shall be executed either by manual or facsimile signature by the officers as the authority shall determine, provided that the bonds shall bear at least one signature which is manually executed on the bond, and the coupons attached to the bonds shall bear the facsimile signature of the officer as designated by the authority and the bonds shall have the seal of the authority, affixed, imprinted, reproduced, or lithographed on the bond, all as may be prescribed in a resolution.

b. The bonds shall be sold at public sale or private sale at the price as the authority shall determine to be in the best interests of the authority provided that the bonds shall not be sold at less than ninety-eight percent of the par value of the bond, plus accrued interest and provided that the net interest cost shall not exceed that permitted by applicable state law. Pending the preparation of definitive bonds, interim certificates or temporary bonds may be issued to the purchaser of the bonds, and may contain the terms and conditions as the board may determine.

2. a. The board, after the issuance of bonds, may borrow moneys for the purposes for which the bonds are to be issued in anticipation of the receipt of the proceeds of the sale of the bonds and within the authorized maximum amount of the bond issue. Any loan shall be paid within three years after the date of the initial loan. Bond anticipation notes shall be issued for all moneys so borrowed under this section, and the notes may be renewed, but all the renewal notes shall mature within the time above limited for the payment of the initial loan. The notes shall be authorized by resolution of the board and shall be in the denominations, shall bear interest at the rate not exceeding the maximum rate permitted by the resolution authorizing the issuance of the bonds, shall be in the form and shall be executed in the manner, all as the authority prescribes.

b. The notes shall be sold at public or private sale or, if the notes are renewal notes, they may be exchanged for notes outstanding on the terms as the board determines. The board may retire any notes from the revenues derived from its metropolitan facilities or from other moneys of the authority which are lawfully available or from a combination of revenues and other available moneys, in lieu of retiring them by means of bond proceeds. However, before the retirement of the notes by any means other than the issuance of bonds, the board shall amend or repeal the resolution authorizing the issuance of the bonds, in anticipation of the proceeds of the sale of the notes, so as to reduce the authorized amount of the bond issue by the amount of the notes so retired. The amendatory or repealing resolution shall take effect upon its passage.

4. The board of the authority may enter into any deeds of trust, mortgages, indentures, or other agreements, with any bank or trust company or any other lender within or without the state as security for the bonds, and may assign and pledge all or any of the revenues, rates, fees, rentals, or other charges or receipts of the authority. The deeds of trust, mortgages, indentures, or other agreements may contain the provisions as may be customary in the instruments, or, as the board may authorize, including, but without limitation, provisions as to:

a. The construction, improvement, operation, leasing, maintenance, and repair of the metropolitan facilities and duties of the board with reference to the facilities.

b. The application of funds and the safeguarding and investment of funds on hand or on deposit.

c. The appointment of consulting engineers or architects and approval by the holders of the bonds.

d. The rights and remedies of the trustee and the holders of the bonds.

e. The terms and provisions of the bonds or the resolution authorizing the issuance of the bonds.

5. Any of the bonds issued pursuant to this section are negotiable instruments, and have all the qualities and incidents of negotiable instruments and are exempt from state taxation.

Sec. 140. Section 28E.17, subsection 3, Code 2007, is amended to read as follows:

3. a. A city which is a party to a joint transit agency may issue general corporate purpose bonds for the support of a capital program for the joint agency in the following manner:

~~a.~~ (1) The council shall give notice and conduct a hearing on the proposal in the manner set forth in section 384.25. However, the notice must be published at least ten days prior to the hearing, and if a petition valid under section 362.4 is filed with the clerk of the city prior to the hearing, asking that the question of issuing the bonds be submitted to the registered voters of the city, the council shall either by resolution declare the proposal abandoned or shall direct the county commissioner of elections to call a special election to vote upon the question of issuing the bonds. Notice of the election and its conduct shall be in the manner provided in section 384.26.

~~b.~~ (2) If no petition is filed, or if a petition is filed and the proposition of issuing bonds is approved at the election, the council may proceed with the authorization and issuance of the bonds.

b. An agreement may provide for full or partial payment from transit revenues to the cities for meeting debt service on such bonds.

c. This subsection shall be construed as granting additional power without limiting the power already existing in cities, and as providing an alternative independent method for the carrying out of any project for the issuance and sale of bonds for the financing of a city's share of a capital expenditures project of a joint transit agency, and no further proceedings with respect to the authorization of the bonds shall be required.

Sec. 141. Section 28E.22, Code 2007, is amended to read as follows:

28E.22 REFERENDUM FOR TAX.

1. The board of supervisors, or the city councils of a district composed only of cities, may, and upon receipt of a petition signed by eligible electors residing in the district equal in number to at least five percent of the registered voters in the district shall, submit a proposition to the electorate residing in the district at any general election or at a special election held throughout the district. The proposition shall provide for the establishment of a public safety fund and the levy of a tax on taxable property located in the district at rates not exceeding the rates specified in this section for the purpose of providing additional moneys for the operation of the district.

2. The ballot for the election shall be prepared in substantially the form for submitting special questions at general elections and the form of the proposition shall be substantially as follows:

~~Shall~~ "Shall an annual levy, the amount of which will not exceed a rate of one dollar and fifty cents per thousand dollars of assessed value of the taxable property in the unified law enforcement district be authorized for providing additional moneys needed for unified law enforcement services in the district?

Yes ____ No ____ "

3. If a majority of the registered voters in each city and the unincorporated area of the county voting on the proposition approve the proposition, the county board of supervisors for unincor-

porated area and city councils for cities are authorized to levy the tax as provided in section 28E.23.

4. Such moneys collected pursuant to the tax levy shall be expended only for providing additional moneys needed for unified law enforcement services in the district and shall be in addition to the revenues raised in the county and cities in the district from their general funds which are based upon an average of revenues raised for law enforcement purposes by the county or city for the three previous years. The amount of revenues raised for law enforcement purposes by the county for the three previous years shall be computed separately for the unincorporated portion of the district and for each city in the district.

Sec. 142. Section 29B.117, Code 2007, is amended to read as follows:

29B.117 COURTS OF INQUIRY.

1. a. Courts of inquiry to investigate any matter may be convened by the adjutant general, the governor, or by any other person designated by the adjutant general or authorized to convene a general court-martial for that purpose, whether or not the persons involved have requested the inquiry.

b. A court of inquiry consists of three or more commissioned officers. For each court of inquiry the convening authority shall also appoint counsel for the court.

2. Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

3. a. Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

b. The members, counsel, the reporter, and interpreters of courts of inquiry shall take an oath or affirmation to faithfully perform their duties.

c. Witnesses may be summoned to appear and testify and be examined before courts of inquiry, as provided for courts-martial.

d. Courts of inquiry shall make findings of fact but may not express opinions or make recommendations unless required to do so by the convening authority.

e. Each court of inquiry shall keep a record of its proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority. If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president. If the record cannot be authenticated by the counsel for the court, it shall be signed by a member in lieu of the counsel.

Sec. 143. Section 34A.3, subsection 3, Code 2007, is amended to read as follows:

3. CHAPTER 28E AGREEMENT — ALTERNATIVE TO JOINT E911 SERVICE BOARD.

a. A legal entity created pursuant to chapter 28E by a county or counties, other political divisions, and public or private agencies to jointly plan, implement, and operate a countywide, or larger, enhanced 911 service system may be substituted for the joint E911 service board required under subsection 1. An alternative legal entity created pursuant to chapter 28E as a substitute for a joint E911 service board, as permitted by this subsection, may be created by either:

~~An alternative legal entity created pursuant to chapter 28E as a substitute for a joint E911 service board, as permitted by this subsection, may be created by either:~~

~~a.~~ (1) Agreement of the parties entitled to voting membership on a joint E911 service board.

~~b.~~ (2) Agreement of the members of a joint E911 service board.

b. An alternative chapter 28E entity has all of the powers of a joint E911 service board and any additional powers granted by the agreement. As used in this chapter, "joint E911 service board" includes an alternative chapter 28E entity created for that purpose, except as specifically limited by the chapter 28E agreement or unless clearly provided otherwise in this chapter.

A chapter 28E agreement related to E911 service shall permit the participation of a private safety agency or other persons allowed to participate in a joint E911 service board, but the terms, scope, and conditions of participation are subject to the chapter 28E agreement.

Sec. 144. Section 34A.6, subsections 1 and 2, Code 2007, are amended to read as follows:

1. Before a joint E911 service board may request imposition of the surcharge by the program manager, the board shall submit the following question to voters, as provided in subsection 2, in the proposed E911 service area, and the question shall receive a favorable vote from a simple majority of persons submitting valid ballots on the following question within the proposed E911 service area:

~~Shall~~ "Shall the following public measure be adopted? YES ____ NO ____

Enhanced 911 emergency telephone service shall be funded, in whole or in part, by a monthly surcharge of (an amount determined by the local joint E911 service board of up to one dollar) on each telephone access line collected as part of each telephone subscriber's monthly phone bill if provided within (description of the proposed E911 service area)."

2. The referendum required as a condition of the surcharge imposition in subsection 1 shall be conducted using the following electoral mechanism:

a. At the request of the joint E911 service board a county commissioner of elections shall include the question on the next eligible general election ballot in each electoral precinct to be served, in whole or in part, by the proposed E911 service area, provided the request is timely submitted to permit inclusion.

b. The question may be included in the next election in which all of the voters in the proposed E911 service area will be eligible to vote on the same day.

c. The county commissioner of elections shall report the results to the joint E911 service board.

d. The joint E911 service board shall compile the results if subscribers from more than one county are included within the proposed service area. The joint E911 service board shall announce whether a simple majority of the compiled votes reported by the commissioner approved the referendum question.

Sec. 145. Section 47.6, subsection 1, Code 2007, is amended to read as follows:

1. a. (1) The governing body of any political subdivision which has authorized a special election to which section 39.2 is applicable shall by written notice inform the commissioner who will be responsible for conducting the election of the proposed date of the special election.

(a) If a public measure will appear on the ballot at the special election the governing body shall submit the complete text of the public measure to the commissioner with the notice of the proposed date of the special election.

(b) If the proposed date of the special election coincides with the date of a regularly scheduled election or previously scheduled special election, the notice shall be given no later than five p.m. on the last day on which nomination papers may be filed with the commissioner for the regularly scheduled election or previously scheduled special election, but in no case shall notice be less than thirty-two days before the election. Otherwise, the notice shall be given at least thirty-two days in advance of the date of the proposed special election.

(2) Upon receiving the notice, the commissioner shall promptly give written approval of the proposed date unless it appears that the special election, if held on that date, would conflict with a regular election or with another special election previously scheduled for that date.

b. A public measure shall not be withdrawn from the ballot at any election if the public measure was placed on the ballot by a petition, or if the election is a special election called specifically for the purpose of deciding one or more public measures for a single political subdivision. However, a public measure which was submitted to the county commissioner of elections by the governing body of a political subdivision may be withdrawn by the governing body which submitted the public measure if the public measure was to be placed on the ballot of a regularly

scheduled election. The notice of withdrawal must be made by resolution of the governing body and must be filed with the commissioner no later than the last day upon which a candidate may withdraw from the ballot.

Sec. 146. Section 47.8, subsections 1 and 3, Code 2007, are amended to read as follows:

1. A state voter registration commission is established which shall meet at least quarterly to make and review policy, adopt rules, and establish procedures to be followed by the registrar in discharging the duties of that office, and to promote interagency cooperation and planning.

a. The commission shall consist of the state commissioner of elections or the state commissioner's designee, the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in the most recent general election, or their respective designees, and a county commissioner of registration appointed by the president of the Iowa state association of county auditors, or an employee of the commissioner.

b. The commission membership shall be balanced by political party affiliation pursuant to section 69.16. Members shall serve without additional salary or reimbursement.

c. The state commissioner of elections, or the state commissioner's designee, shall serve as chairperson of the state voter registration commission.

3. a. The registrar shall provide staff services to the commission and shall make available to it all information relative to the activities of the registrar's office in connection with voter registration policy which may be requested by any commission member. The registrar shall also provide to the commission at no charge statistical reports for planning and analyzing voter registration services in the state.

b. The commission may authorize the registrar to employ such additional staff personnel as it deems necessary to permit the duties of the registrar's office to be adequately and promptly discharged. Such personnel shall be employed pursuant to chapter 8A, subchapter IV.

Sec. 147. Section 48A.27, subsection 4, paragraph c, Code 2007, is amended to read as follows:

c. If the information provided by the vendor indicates that a registered voter has moved to an address outside the county, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at both the former and new addresses.

(1) 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.

(2) The notice shall contain a statement in substantially the following form:

PARAGRAPH DIVIDED. "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 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. 148. Section 48A.29, subsections 1 and 3, Code 2007, are amended to read as follows:

1. If a confirmation notice and return card sent pursuant to section 48A.28 is returned as undeliverable by the United States postal service, the commissioner shall make the registra-

tion record inactive and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.

a. 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.

b. The notice shall contain a statement in substantially the following form:

PARAGRAPH DIVIDED. "Information received from the United States postal service indicates that you are no longer a resident of (residence address) 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 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 voters in that county."

3. When a detachable return card originally attached to a confirmation notice is returned by anyone other than the registered voter indicating that the registered voter is no longer a resident of the registration address, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.

a. 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.

b. The notice shall contain a statement in substantially the following form:

PARAGRAPH DIVIDED. "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 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. 149. Section 49.11, Code 2007, is amended to read as follows:

49.11 NOTICE OF BOUNDARIES OF PRECINCTS — MERGER OR DIVISION.

1. The board of supervisors or the temporary county redistricting commission or city council shall number or name the precincts established by the supervisors or council pursuant to sections 49.3, 49.4, and 49.5. The boundaries of the precincts shall be recorded in the records of the board of supervisors, temporary county redistricting commission, or city council, as the case may be.

2. The board of supervisors or city council shall publish notice of changes in the county or city precinct boundaries in a newspaper of general circulation published in the county or city once each week for three consecutive weeks. The series of publications shall be made after the changes in the precincts have been approved by the state commissioner of elections. The last of the three publications shall be made no later than thirty days before the next general election. A map showing the new boundaries may be used. No publication is necessary if no changes were made.

3. The precincts established pursuant to section 49.7 shall not be changed except in the manner provided by law. However, for any election other than the primary or general election or any special election held under section 69.14, the county commissioner of elections may:

~~1.~~ a. Consolidate two or more precincts into one.

(1) However, the commissioner shall not do so if there is filed with the commissioner at least twenty days before the election a petition signed by twenty-five or more eligible electors of any precinct requesting that it not be merged with any other precinct. There shall be attached to the petition the affidavit of an eligible elector of the precinct that the signatures on the petition are genuine and that all of the signers are to the best of the affiant's knowledge and belief eligible electors of the precinct.

(2) If a special election is to be held in which only those registered voters residing in a specified portion of any established precinct are entitled to vote, that portion of the precinct may be merged by the commissioner with one or more other established precincts or portions of established precincts for the special election, and the right to petition against merger of a precinct shall not apply.

~~2.~~ b. Divide any precinct permanently established under this section which contains all or any parts of two or more mutually exclusive political subdivisions, either or both of which is independently electing one or more officers or voting on one or more questions on the same date, into two or more temporary precincts and designate a polling place for each.

~~3.~~ c. Notwithstanding ~~the provisions of the first unnumbered paragraph of this section~~ subsection 1 the commissioner may consolidate precincts for any election including a primary and general election under any of the following circumstances:

~~a.~~ (1) One of the precincts involved consists entirely of dormitories that are closed at the time the election is held.

~~b.~~ (2) The consolidated precincts, if established as a permanent precinct, would meet all requirements of section 49.3, and a combined total of no more than three hundred fifty voters voted in the consolidated precincts at the last preceding similar election.

~~c.~~ (3) The city council of a special charter city with a population of three thousand five hundred or less which is divided into council wards requests the commissioner to consolidate two or more precincts for any election.

Sec. 150. Section 49.31, subsections 1 and 2, Code 2007, are amended to read as follows:

1. a. All ballots shall be arranged with the names of candidates for each office listed below the office title. For partisan elections the name of the political party or organization which nominated each candidate shall be listed after or below each candidate's name.

b. The commissioner shall determine the order of political parties and nonparty political organizations on the ballot. The sequence shall be the same for each office on the ballot and for each precinct in the county voting in the election.

2. a. The commissioner shall prepare a list of the election precincts of the county, by arranging the various townships and cities in the county in alphabetical order, and the wards or precincts in each city or township in numerical order under the name of such city or township.

b. The commissioner shall then arrange the surnames of each political party's candidates for each office to which two or more persons are to be elected at large alphabetically for the respective offices for the first precinct on the list; thereafter, for each political party and for each succeeding precinct, the names appearing first for the respective offices in the last preceding precinct shall be placed last, so that the names that were second before the change shall be first after the change. The commissioner may also rotate the names of candidates of a political party in the reverse order of that provided in this subsection or alternate the rotation so that the candidates of different parties shall not be paired as they proceed through the rotation. The procedure for arrangement of names on ballots provided in this section shall likewise be substantially followed in elections in political subdivisions of less than a county.

c. 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 commissioner shall hold the drawing on the first business day following the deadline for filing of nomination certificates or petitions with the commissioner for the general election pursuant to section 44.4. If a candidate withdraws, dies, or is removed from the ballot after the ballot position of names has been determined, such candidate's name shall be removed from the ballot, and the order of the remaining names shall not be changed.

Sec. 151. Section 49.37, subsection 1, Code 2007, is amended to read as follows:

1. For general elections, and for other elections in which more than one partisan office will be filled, the first section of the ballot shall be for straight party voting.

a. Each political party or organization which has nominated candidates for more than one office shall be listed. Instructions to the voter for straight party or organization voting shall be in substantially the following form:

PARAGRAPH DIVIDED. "To vote for all candidates from a single party or organization, mark the voting target next to the party or organization name. Not all parties or organizations have nominated candidates for all offices. Marking a straight party or organization vote does not include votes for nonpartisan offices, judges, or questions."

b. Political parties and nonparty political organizations which have nominated candidates for only one office shall be listed below the other political organizations under the following heading:

PARAGRAPH DIVIDED. "Other Political Organizations. The following organizations have nominated candidates for only one office:".

c. Offices shall be arranged in groups. Partisan offices, nonpartisan offices, judges, and public measures shall be separated by a distinct line appearing on the ballot.

Sec. 152. Section 49.77, subsections 1 and 3, Code Supplement 2007, are amended to read as follows:

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters.

a. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the . . . . . precinct, ... ward or township, city of . . . . . ., county of . . . . . ., Iowa.

I am a registered voter. I have not voted and will not vote in any other precinct in said election.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

. . . . . .
Signature of Voter

. . . . . .
Address

. . . . . .
Telephone

Approved:

. . . . . .
Board Member

b. At the discretion of the commissioner, this declaration may be printed on each page of the election register and the voter shall sign the election register next to the voter's printed name. The voter's signature in the election register shall be considered the voter's signed declaration of eligibility affidavit. The state commissioner of elections shall prescribe by rule an alternate method for providing the information in subsection 2 for those counties where the declaration of eligibility is printed in the election register. The state voter registration system shall be designed to allow for the affidavit to be printed on each page of the election register and to allow sufficient space for the voter's signature.

3. a. A precinct election official shall require any person whose name does not appear on the election register as an active voter to show identification. Specific documents which are acceptable forms of identification shall be prescribed by the state commissioner.

b. A precinct election official may require of the voter unknown to the official, identification upon which the voter's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.

Sec. 153. Section 50.48, subsections 1 through 4, Code Supplement 2007, are amended to read as follows:

1. a. The county board of canvassers shall order a recount of the votes cast for a particular office or nomination in one or more specified election precincts in that county if a written request therefor is made not later than ~~five o'clock~~ 5:00 p.m. on the third day following the county board's canvass of the election in question. The request shall be filed with the commissioner of that county, or with the commissioner responsible for conducting the election if section 47.2, subsection 2 is applicable, and shall be signed by either of the following:

~~a.~~ (1) A candidate for that office or nomination whose name was printed on the ballot of the precinct or precincts where the recount is requested.

~~b.~~ (2) Any other person who receives votes for that particular office or nomination in the precinct or precincts where the recount is requested and who is legally qualified to seek and to hold the office in question.

b. Immediately upon receipt of a request for a recount, the commissioner shall send a copy of the request to the apparent winner by certified mail. The commissioner shall also attempt to contact the apparent winner by telephone. If the apparent winner cannot be reached within four days, the chairperson of the political party or organization which nominated the apparent winner shall be contacted and shall act on behalf of the apparent winner, if necessary. For candidates for state or federal offices, the chairperson of the state party shall be contacted. For candidates for county offices, the county chairperson of the party shall be contacted.

2. a. 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:

~~a.~~ (1) For an office filled by the electors of the entire state, one thousand dollars.

~~b.~~ (2) For United States representative, five hundred dollars.

~~c.~~ (3) For senator in the general assembly, three hundred dollars.

~~d.~~ (4) For representative in the general assembly, one hundred fifty dollars.

~~e.~~ (5) For an office filled by the electors of an entire county having a population of fifty thousand or more, two hundred dollars.

~~f.~~ (6) For any elective office to which ~~paragraphs "a" to "e" of this subsection~~ subparagraphs (1) through (5) are not applicable, one hundred dollars.

b. After all recount proceedings for a particular office are completed and the official canvass of votes cast for that office is corrected or completed pursuant to subsections 5 and 6, if necessary, any bond posted under this subsection shall be returned to the candidate who requested the recount if the apparent winner before the recount is not the winner as shown by the corrected or completed canvass. In all other cases, the bond shall be deposited in the general fund of the state if filed with the state commissioner or in the election fund of the county with whose commissioner it was filed.

3. a. The recount shall be conducted by a board which shall consist of:

~~a.~~ (1) A designee of the candidate requesting the recount, who shall be named in the written request when it is filed.

~~b.~~ (2) A designee of the apparent winning candidate, who shall be named by that candidate at or before the time the board is required to convene.

~~c.~~ (3) A person chosen jointly by the members designated under ~~paragraphs "a" and "b" of this subsection~~ subparagraphs (1) and (2).

b. The commissioner shall convene the persons designated under ~~paragraphs~~ paragraph "a" ~~and "b" of this subsection,~~ subparagraphs (1) and (2), not later than ~~nine o'clock~~ 9:00 a.m. on the seventh day following the county board's canvass of the election in question. If those two members cannot agree on the third member by ~~eight o'clock~~ 8:00 a.m. on the ninth day following the canvass, they shall immediately so notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than ~~five o'clock~~ 5:00 p.m. on the eleventh day following the canvass.

4. a. When all members of the recount board have been selected, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots or voting machine documents to ensure that the ballots and other documents are protected from alteration or damage. The board shall open only the sealed ballot containers from the precincts specified to be recounted in the request or by the recount board. The board shall recount only the ballots which were voted and counted for the office in question, including any disputed ballots returned as required in section 50.5. If an electronic tabulating system was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the electronic tabulating system. The same program used for tabulating the votes on election day shall be used at the recount unless the program is believed or known to be flawed. If a voting machine was used, the paper record required in section 52.7, subsection 2, shall be the official record used in the recount. However, if the commissioner believes or knows that the paper records produced from a machine have been compromised due to damage, mischief, malfunction, or other cause, the printed ballot images produced from the internal audit log for that machine shall be the official record used in the recount.

b. Any member of the recount board may at any time during the recount proceedings extend the recount of votes cast for the office or nomination in question to any other precinct or precincts in the same county, or from which the returns were reported to the commissioner responsible for conducting the election, without the necessity of posting additional bond.

c. The ballots or voting machine documents shall be resealed by the recount board before adjournment and shall be preserved as required by section 50.12. At the conclusion of the recount, the recount board shall make and file with the commissioner a written report of its findings, which shall be signed by at least two members of the recount board. The recount board shall complete the recount and file its report not later than the eighteenth day following the county board's canvass of the election in question.

Sec. 154. Section 50.49, Code 2007, is amended to read as follows:

50.49 RECOUNTS FOR PUBLIC MEASURES.

1. A recount for any public measure shall be ordered by the board of canvassers if a petition requesting a recount is filed with the county commissioner not later than three days after the completion of the canvass of votes for the election at which the question appeared on the ballot. The petition shall be signed by the greater of not less than ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure. Each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

2. The recount shall be conducted by a board which shall consist of:

~~1.~~ a. A designee named in the petition requesting the recount.

~~2.~~ b. A designee named by the commissioner at or before the time the board is required to convene.

~~3.~~ c. A person chosen jointly by the members designated under ~~subsections 1 and 2~~ paragraphs "a" and "b".

3. The commissioner shall convene the persons designated under ~~subsections 1 and~~ subsection 2, paragraphs "a" and "b", not later than ~~nine~~ 9:00 a.m. on the seventh day following the

canvass of the election in question. If those two members cannot agree on the third member by ~~eight~~ 8:00 a.m. on the ninth day following the canvass, they shall immediately notify the chief judge of the judicial district in which the canvass is occurring, who shall appoint the third member not later than ~~five~~ 5:00 p.m. on the eleventh day following the canvass.

4. 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.

5. The procedure for the recount shall follow the provisions of section 50.48, subsections 4 through 7, as far as possible.

Sec. 155. Section 52.9, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. It shall be the duty of the commissioner or the commissioner's duly authorized agents to examine and test the voting machines to be used at any election, after the machines have been prepared for the election and not less than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the county chairperson of each political party referred to in section 49.13 shall be notified in writing of the date, time, and place the machines shall be examined and tested so that they may be present, or have a representative present. For every election, the commissioner shall publish notice of the date, time, and place the examination and testing will be conducted. The commissioner may include such notice in the notice of the election published pursuant to section 49.53.

3. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

The Undersigned Hereby Certify that, having duly qualified, we were present and witnessed the testing and preparation of the following voting machines; that we believe the same to be in proper condition for use in the election of . . . . . (date); that each registering counter of the machine is set at 000; that the public counter is set at 000; that the seal numbers and the protective counter numbers are as indicated below.

Signed:
. . . . . .
Republican (if applicable)
. . . . . .
Democrat (if applicable)
. . . . . .
. . . . . .
Voting machine custodian
Dated . . . . . .

Machine Number	Protective Counter Number	Seal Number
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .
. . . . .	. . . . .	. . . . .

~~3.~~ 4. On those voting machines presently equipped with an after-election latch and on all machines placed in use after January 1, 1961, in this state, the after-election latch shall be fully used by the election officials.

Sec. 156. Section 52.37, subsection 1, Code Supplement 2007, is amended to read as follows:

1. a. If any ballot is found damaged or defective, so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate shall be made by the resolution board team and substituted for the damaged or defective ballot, or, as an alternative, the valid votes on a defective ballot may be manually counted by the special precinct election board, whichever method is best suited to the system being used. All duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the damaged or defective ballot.

b. The special precinct election board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast.

c. Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots. The commissioner may instruct the special precinct election board to mark over voters' unreadable marks using a marker compatible with the tabulating equipment. The special precinct election board shall take care to leave part of the original mark made by the voter. If it is impossible to mark over the original marks made by the voter without completely obliterating them, the ballot shall be duplicated.

Sec. 157. Section 53.2, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The state commissioner shall prescribe a form for absentee ballot applications.

a. Absentee ballot applications may include instructions to send the application directly to the county commissioner of elections. However, no absentee ballot application shall be preaddressed or printed with instructions to send the applications to anyone other than the appropriate commissioner.

b. No absentee ballot application shall be preaddressed or printed with instructions to send the ballot to anyone other than the voter.

Sec. 158. Section 64.24, Code 2007, is amended to read as follows:

64.24 RECORDING.

1. a. The secretary of state, each county auditor, district court clerk, and each auditor or clerk of a city shall keep a book, to be known as the "Record of Official Bonds", and all official bonds shall be recorded therein in full as follows:

~~1.~~ (1) In the record kept by the secretary of state, the official bonds of all state officers, elective or appointive, except the bonds of notaries public.

~~2.~~ (2) In the record kept by the county auditor, the official bonds of all county officers, elective or appointive, and township clerks.

~~3.~~ (3) In the record kept by the city auditor or clerk, the official bonds of all city officers, elective or appointive.

~~4.~~ (4) In the record kept by the district court clerk, the official bonds of judicial magistrates.

b. The records shall have an index which, under the title of each office, shall show the name of each principal and the date of the filing of the bond.

2. A bond when recorded shall be returned to the officer charged with the custody thereof.

Sec. 159. Section 68A.402, subsection 2, paragraph b, Code Supplement 2007, is amended to read as follows:

b. SUPPLEMENTARY REPORT — STATEWIDE AND GENERAL ASSEMBLY ELECTIONS.

(1) A candidate's committee of a candidate for statewide office or the general assembly shall file a supplementary report in a year in which a primary, general, or special election for that office is held. The supplementary reports shall be filed if contributions are received after the close of the period covered by the last report filed prior to that primary, general, or special election if any of the following applies:

~~(1)~~ (a) The committee of a candidate for governor receives ten thousand dollars or more.

~~(2)~~ (b) The committee of a candidate for any other statewide office receives five thousand dollars or more.

~~(3)~~ (c) The committee of a candidate for the general assembly receives one thousand dollars or more.

(2) The amount of any contribution causing a supplementary report under this paragraph "b" shall include the estimated fair market value of any in-kind contribution. The report shall be filed by the Friday immediately preceding the election and be current through the Tuesday immediately preceding the election.

Sec. 160. Section 68A.406, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. Campaign signs shall not be placed on any of the following:

~~a.~~ (1) Any property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way. Upon a determination by the board that a sign has been improperly placed, the sign shall be removed by highway authorities as provided in section 318.5, or by county or city law enforcement authorities in a manner consistent with section 318.5.

~~b.~~ (2) Property owned by a prohibited contributor under section 68A.503 unless the sign advocates the passage or defeat of a ballot issue or is exempted under subsection 1.

~~c.~~ (3) On any property without the permission of the property owner.

~~d.~~ (4) On election day either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the polls are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the polls are held.

~~e.~~ (5) Within three hundred feet of an absentee voting site during the hours when absentee ballots are available in the office of the county commissioner of elections as provided in section 53.10.

~~f.~~ (6) Within three hundred feet of a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station as provided in section 53.11.

b. ~~Paragraphs "d", "e", and "f"~~ Paragraph "a", subparagraphs (4), (5), and (6) shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place, which sign is more than ninety square inches in size, is prohibited.

Sec. 161. Section 69.8, subsection 5, Code 2007, is amended to read as follows:

5. ELECTED TOWNSHIP OFFICES.

a. When a vacancy occurs in the office of township clerk or township trustee, the vacancy shall be filled by appointment by the trustees. All appointments to fill vacancies in township offices shall be until a successor is elected at the next general election and qualifies by taking the oath of office. If the term of office in which the vacancy exists will expire within seventy days after the next general election, the person elected to the office for the succeeding term shall qualify by taking the oath of office within ten days after the election and shall serve for the remainder of the unexpired term, as well as for the next four-year term.

b. However, if the offices of two trustees are vacant the county board of supervisors shall fill the vacancies by appointment. If the offices of three trustees are vacant the board may fill the vacancies by appointment, or the board may adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which the vacancies exist until the vacancies are filled at the next general election. If a township office vacancy is not filled by the trustees within thirty days after the vacancy occurs, the board of supervisors may appoint a successor to fill the vacancy until the vacancy can be filled at the next general election.

Sec. 162. Section 69.14A, subsections 1 and 2, Code 2007, are amended to read as follows:

1. A vacancy on the board of supervisors shall be filled by one of the following procedures:

a. By appointment by the committee of county officers designated to fill the vacancy in section 69.8.

(1) The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the committee of county officers designated to fill the vacancy chooses to proceed under this paragraph, the committee shall publish notice in the manner prescribed by section 331.305 stating that the committee intends to fill the vacancy by appointment but that the electors of the district or county, as the case may be, have the right to file a petition requiring that the vacancy be filled by special election. The committee may publish notice in advance if an elected official submits a resignation to take effect at a future date. The committee may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection shall have actually resided in the county which the appointee represents sixty days prior to appointment.

(2) However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306, except that in counties where supervisors are elected under plan "three", the number of signatures calculated according to the formula in section 331.306 shall be divided by the number of supervisor districts in the county.

b. By special election held to fill the office for the remaining balance of the unexpired term.

(1) The committee of county officers designated to fill the vacancy in section 69.8 may, on its own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

(2) However, if a vacancy on the board of supervisors occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the committee or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot, as "For Board of Supervisors, To Fill Vacancy". The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

(3) If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

c. For a vacancy declared by the board pursuant to section 331.214, subsection 2, by special election held to fill the office if the remaining balance of the unexpired term is two and one-half years or more. The committee of county officers designated to fill the vacancy in section 69.8 shall order the special election at the earliest practicable date, but giving at least thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county. The office shall be listed on the ballot, as "For Board of Supervisors, To Fill Vacancy". The person elected at the special election shall serve the balance of the unexpired term.

2. A vacancy in any of the offices listed in section 39.17 shall be filled by one of the two following procedures:

a. By appointment by the board of supervisors.

(1) The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the board of super-

visors chooses to proceed under this paragraph, the board shall publish notice in the manner prescribed by section 331.305 stating that the board intends to fill the vacancy by appointment but that the electors of the county have the right to file a petition requiring that the vacancy be filled by special election. The board may publish notice in advance if an elected official submits a resignation to take effect at a future date. The board may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection, except for a county attorney, shall have actually resided in the county which the appointee represents sixty days prior to appointment. A person appointed to the office of county attorney shall be a resident of the county at the time of appointment.

(2) However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306.

b. By special election held to fill the office for the remaining balance of the unexpired term.

(1) The board of supervisors may, on its own motion, or shall, upon receipt of a petition as provided in paragraph "a", call for a special election to fill the vacancy in lieu of appointment. The supervisors shall order the special election at the earliest practicable date, but giving at least thirty-two days' notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

(2) If a vacancy in an elective county office occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the board of supervisors or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot with the name of the office and the additional description, "To Fill Vacancy". The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

(3) If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

Sec. 163. Section 73.2, subsection 1, Code 2007, is amended to read as follows:

1. a. 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.

b. All such requests and bids shall contain a paragraph in easily legible print, reading as follows:

~~By~~ "By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the state of Iowa."

Sec. 164. Section 73.16, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. Prior to the commencement of a fiscal year, the director of each agency or department of state government having purchasing authority, in cooperation with the targeted small business marketing and compliance manager of the department of economic development, shall establish for that fiscal year a procurement goal from certified targeted small businesses identified pursuant to section 10A.104, subsection 8.

(1) The procurement goal shall include the procurement of all goods and services, including construction, but not including utility services.

(2) A procurement goal shall be stated in terms of a dollar amount of certified purchases and

shall be established at a level that exceeds the procurement levels from certified targeted small businesses during the previous fiscal year.

b. The director of an agency or department of state government that has established a procurement goal as required under this subsection shall provide a report within fifteen business days following the end of each calendar quarter to the targeted small business marketing and compliance manager of the department of economic development, providing the total dollar amount of certified purchases from certified targeted small businesses during the previous calendar quarter. The required report shall be made in a form approved by the targeted small business marketing and compliance manager. The first quarterly report shall be for the calendar quarter ending September 30, 2007.

c. (1) The director of each department and agency of state government shall cooperate with the director of the department of inspections and appeals, the director of the department of economic development, and the director of the department of management and do all acts necessary to carry out the provisions of this division.

(2) The director of each agency or department of state government having purchasing authority shall issue electronic bid notices for distribution to the targeted small business web page located at the department of economic development if the director releases a solicitation for bids for procurement of equipment, supplies, or services. The notices shall be provided to the targeted small business marketing manager forty-eight hours prior to the issuance of all bid notices. The notices shall contain a description of the subject of the bid, a point of contact for the bid, and any subcontract goals included in the bid.

(3) A community college, area education agency, or school district shall establish a procurement goal from certified targeted small businesses, identified pursuant to section 10A.104, subsection 8, of at least ten percent of the value of anticipated procurements of goods and services including construction, but not including utility services, each fiscal year.

d. Of the total value of anticipated procurements of goods and services under this subsection, an additional goal shall be established to procure at least forty percent from minority-owned businesses, and forty percent from female-owned businesses.

Sec. 165. Section 74A.3, Code 2007, is amended to read as follows:

74A.3 INTEREST RATES FOR PUBLIC OBLIGATIONS.

1. Except as otherwise provided by law, the rates of interest on obligations issued by this state, or by a county, school district, city, special improvement district, or any other governmental body or agency are as follows:

~~1.~~ a. General obligation bonds, warrants, or other evidences of indebtedness which are payable from general taxation or from the state's sinking fund for public deposits may bear interest at a rate to be set by the issuing governmental body or agency.

~~2.~~ b. Revenue bonds, warrants, pledge orders or other obligations, the principal and interest of which are to be paid solely from the revenue derived from the operations of the publicly owned enterprise or utility for which the bonds or obligations are issued, may bear interest at a rate to be set by the issuing governmental body or agency.

~~3.~~ c. Special assessment bonds, certificates, warrants or other obligations, the principal and interest of which are payable from special assessments levied against benefited property may bear interest at a rate to be set by the issuing governmental body or agency.

2. The interest rates authorized by this section to be set by the issuing governmental body or agency shall be set in each instance by the governing body which, in accordance with applicable provisions of law then in effect, authorizes the issuance of the bonds, warrants, pledge orders, certificates, obligations, or other evidences of indebtedness.

Sec. 166. Section 80.8, Code 2007, is amended to read as follows:

80.8 EMPLOYEES AND PEACE OFFICERS — SALARIES AND COMPENSATION.

1. The commissioner shall employ personnel as may be required to properly discharge the duties of the department.

2. The commissioner may delegate to the peace officers of the department such additional

duties in the enforcement of this chapter as the commissioner may deem proper and incidental to the duties now imposed upon them by law.

3. a. The salaries of peace officers and employees of the department and the expenses of the department shall be provided for by a legislative appropriation. The compensation of peace officers of the department shall be fixed according to grades as to rank and length of service by the commissioner with the approval of the department of administrative services, unless covered by a collective bargaining agreement that provides otherwise.

b. The peace officers shall be paid additional compensation in accordance with the following formula: When peace officers have served for a period of five years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described five-year period; when peace officers have served for a period of ten years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increase provided herein to be paid after five years of service; when peace officers have served for a period of fifteen years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described fifteen-year period, such sums being in addition to the increases previously provided for herein; when peace officers have served for a period of twenty years, their compensation then being paid shall be increased by the sum of twenty-five dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein.

c. While on active duty, each peace officer shall also receive a flat daily sum as fixed by the commissioner for meals unless the amount of the flat daily sum is covered by a collective bargaining agreement that provides otherwise.

d. A collective bargaining agreement entered into between the state and a state employee organization under chapter 20 made final after July 1, 1977, shall not include any pay adjustment to longevity pay authorized under this section.

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

Sec. 167. Section 80E.2, Code 2007, is amended to read as follows:

80E.2 DRUG POLICY ADVISORY COUNCIL — MEMBERSHIP — DUTIES.

1. An Iowa drug policy advisory council is established which shall consist of the following fifteen members:

a. The drug policy coordinator, who shall serve as chairperson of the council.

b. The director of the department of corrections, or the director's designee.

c. The director of the department of education, or the director's designee.

d. The director of the Iowa department of public health, or the director's designee.

e. The commissioner of public safety, or the commissioner's designee.

f. The director of the department of human services, or the director's designee.

g. The director of the division of criminal and juvenile justice planning in the department of human rights, or the division director's designee.

h. A prosecuting attorney.

i. A licensed substance abuse treatment specialist.

j. A certified substance abuse prevention specialist.

k. A substance abuse treatment program director.

l. A justice of the Iowa supreme court, or judge, as designated by the chief justice of the supreme court.

m. A member representing the Iowa association of chiefs of police and peace officers.

n. A member representing the Iowa state police association.

o. A member representing the Iowa state sheriffs' and deputies' association.

2. The prosecuting attorney, licensed substance abuse treatment specialist, certified substance abuse prevention specialist, substance abuse treatment program director, member representing the Iowa association of chiefs of police and peace officers, member representing the Iowa state police association, and the member representing the Iowa state sheriffs' and deputies' association shall be appointed by the governor, subject to senate confirmation, for four-year terms beginning and ending as provided in section 69.19. A vacancy on the council shall be filled for the unexpired term in the same manner as the original appointment was made.

~~2.~~ 3. The council shall make policy recommendations to the appropriate departments concerning the administration, development, and coordination of programs related to substance abuse education, prevention, treatment, and enforcement.

~~3.~~ 4. The members of the council shall be reimbursed for actual and necessary travel and related expenses incurred in the discharge of official duties. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

~~4.~~ 5. The council shall meet at least quarterly throughout the year.

~~5.~~ 6. A majority of the members of the council constitutes a quorum, and a majority of the total membership of the council is necessary to act in any matter within the jurisdiction of the council.

Sec. 168. Section 84A.1, subsections 2 and 3, Code 2007, 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.

a. The director of the department of workforce development shall serve at the pleasure of the governor.

b. The governor shall set the salary of the director within the applicable salary range established by the general assembly.

c. 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.

d. If the office of director becomes vacant, the vacancy shall be filled in the same manner as the original appointment was made.

3. a. 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.

b. 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.~~ 4. The department of workforce development shall include the division of labor services, the division of workers' compensation, and other divisions as appropriate.

Sec. 169. Section 85.31, subsection 1, Code 2007, is amended to read as follows:

1. a. When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of the injury, during their lifetime, compensation upon the basis of eighty percent per week of the employee's average weekly spendable earnings, commencing from the date of death as follows:

~~a.~~ (1) To the surviving spouse for life or until remarriage, provided that upon remarriage two years' benefits shall be paid to the surviving spouse in a lump sum, if there are no children entitled to benefits.

~~b.~~ (2) To any child of the deceased until the child shall reach the age of eighteen, provided that a child beyond eighteen years of age shall receive benefits to the age of twenty-five if actually dependent, and the fact that a child is under twenty-five years of age and is enrolled as a full-time student in any accredited educational institution shall be a prima facie showing of actual dependency.

~~c.~~ (3) To any child who was physically or mentally incapacitated from earning at the time of the injury causing death for the duration of the incapacity from earning.

~~d.~~ (4) To all other dependents as defined in section 85.44 for the duration of the incapacity from earning.

b. The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury. The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 170. Section 85.34, subsection 3, Code 2007, is amended to read as follows:

3. PERMANENT TOTAL DISABILITY.

a. Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to two hundred percent of the statewide average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury. The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage. The weekly compensation is payable during the period of the employee's disability.

b. Such compensation shall be in addition to the benefits provided in sections 85.27 and 85.28. No compensation shall be payable under this subsection for any injury for which compensation is payable under subsection 2 of this section. In the event compensation has been paid to any person under any provision of this chapter, chapter 85A or chapter 85B for the same injury producing a total permanent disability, any such amounts so paid shall be deducted from the total amount of compensation payable for such permanent total disability.

Sec. 171. Section 85.45, Code 2007, is amended to read as follows:

85.45 COMMUTATION.

1. Future payments of compensation may be commuted to a present worth lump sum payment on the following conditions:

~~1.~~ a. When the period during which compensation is payable can be definitely determined.

~~2.~~ b. When it shall be shown to the satisfaction of the workers' compensation commissioner that such commutation will be for the best interest of the person or persons entitled to the compensation, or that periodical payments as compared with a lump sum payment will entail undue expense, hardship, or inconvenience upon the employer liable therefor.

~~3.~~ c. When the recipient of commuted benefits is a minor employee, the workers' compensation commissioner may order that such benefits be paid to a trustee as provided in section 85.49.

~~4.~~ d. When a person seeking a commutation is a surviving spouse, an employee with a permanent and total disability, or a dependent who is entitled to benefits as provided in section 85.31, subsection 1, ~~paragraphs "c" and "d"~~ paragraph "a", subparagraphs (3) and (4), the future payments which may be commuted shall not exceed the number of weeks which shall be indicated by probability tables designated by the workers' compensation commissioner for death and remarriage, subject to the provisions of chapter 17A.

2. Future payments of compensation shall not be commuted to a present worth lump sum payment when the employee is an inmate as set forth in section 85.59.

Sec. 172. Section 86.8, Code 2007, is amended to read as follows:

86.8 DUTIES.

1. The commissioner shall:

~~1.~~ a. Adopt and enforce rules necessary to implement this chapter and chapters 85, 85A, 85B, and 87.

~~2.~~ b. Prepare and distribute the necessary blanks relating to computation, adjustment, and settlement of compensation.

~~3.~~ c. Prepare and publish statistical reports and analyses regarding the cost, occurrence, and sources of employment injuries.

~~4.~~ d. Administer oaths and examine books and records of parties subject to the workers' compensation laws.

~~5.~~ e. Provide a seal for the authentication of orders and records and for other purposes as required.

2. Subject to the approval of the director of the department of workforce development, the commissioner may enter into contracts with any state agency, with or without reimbursement, for the purpose of obtaining the services, facilities, and personnel of the agency and with the consent of any state agency or political subdivision of the state, accept and use the services, facilities, and personnel of the agency or political subdivision, and employ experts and consultants or organizations in order to expeditiously, efficiently, and economically effectuate the purposes of this chapter. The agreements under this ~~paragraph~~ subsection are subject to approval by the executive council if approval is required by law.

Sec. 173. Section 88.6, subsection 8, Code 2007, is amended to read as follows:

8. CONFIDENTIALITY. Notwithstanding chapter 22, records prepared or obtained by the commissioner relating to an enforcement action conducted pursuant to this chapter shall be kept confidential until the enforcement action is complete.

a. For purposes of this subsection, an enforcement action is complete when any of the following occurs:

~~a.~~ (1) An inspection file is closed without the issuance of a citation.

~~b.~~ (2) A citation or noncompliance notice resulting from an inspection becomes a final order of the employment appeal board and all applicable courts pursuant to sections 88.8 and 88.9, and abatement is verified.

~~c.~~ (3) A determination and any subsequent action is final in an occupational safety and health discrimination case.

b. A citation or noncompliance notice shall remain a confidential record until received by the appropriate employer.

c. This subsection shall not affect the discovery rights of any party to a contested case.

Sec. 174. Section 88.9, subsections 1 and 3, Code 2007, are amended to read as follows:

1. AGGRIEVED PERSONS.

a. Judicial review of any order of the appeal board issued under section 88.8, subsection 3, may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of the Iowa administrative procedure Act, chapter 17A, petitions for judicial review may be filed in the district court of the county in which the violation is alleged to have occurred or where the employer has its principal office and may be filed within sixty days following the issuance of such order. The appeal board's copy of the testimony shall be available to all parties for examination at all reasonable times, without cost, and for the purpose of judicial review of the appeal board's orders.

b. The commissioner may obtain judicial review or enforcement of any final order or decision of the appeal board by filing a petition in the district court of the county in which the alleged violation occurred or in which the employer has its principal office. The judicial review provisions of chapter 17A shall govern such proceedings to the extent applicable.

c. Notwithstanding section 10A.601, subsection 7, and chapter 17A, the commissioner has the exclusive right to represent the appeal board in any judicial review of an appeal board decision under this chapter in which the commissioner does not appeal the appeal board decision, except as provided by section 88.17.

3. DISCRIMINATION AND DISCHARGE.

a. (1) A person shall not discharge or in any manner discriminate against an employee be-

cause the employee has filed a complaint or instituted or caused to be instituted a proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by the employee on behalf of the employee or others of a right afforded by this chapter.

(2) A person shall not discharge or in any manner discriminate against an employee because the employee, who with no reasonable alternative, refuses in good faith to expose the employee's self to a dangerous condition of a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a real danger of death or serious injury; provided the employee, where possible, has first sought through resort to regular statutory enforcement channels, unless there has been insufficient time due to the urgency of the situation, or the employee has sought and been unable to obtain from the person, a correction of the dangerous condition.

b. (1) An employee who believes that the employee has been discharged or otherwise discriminated against by a person in violation of this subsection may, within thirty days after the violation occurs, file a complaint with the commissioner alleging discrimination.

(2) Upon receipt of the complaint, the commissioner shall conduct an investigation as the commissioner deems appropriate. If, upon investigation, the commissioner determines that the provisions of this subsection have been violated, the commissioner shall bring an action in the appropriate district court against the person. In any such action, the district court has jurisdiction to restrain violations of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to the employee's former position with back pay.

(3) Within ninety days of the receipt of a complaint filed under this subsection, the commissioner shall notify the complainant of the commissioner's determination under this subsection.

Sec. 175. Section 96.3, subsection 7, Code 2007, is amended to read as follows:

7. RECOVERY OF OVERPAYMENT OF BENEFITS.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Sec. 176. Section 96.4, subsections 4 and 6, Code 2007, are amended to read as follows:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

6. a. An otherwise eligible individual shall not be denied benefits for any week because the individual is in training with the approval of the director, nor shall the individual be denied benefits with respect to any week in which the individual is in training with the approval of the director by reason of the application of the provision in subsection 3 of this section relating to availability for work, and an active search for work or the provision of section 96.5, subsection 3, relating to failure to apply for or a refusal to accept suitable work. However, an employer's account shall not be charged with benefits so paid.

b. (1) An otherwise eligible individual shall not be denied benefits for a week because the individual is in training approved under 19 U.S.C. § 2296(a), as amended by section 2506 of the federal Omnibus Budget Reconciliation Act of 1981, because the individual leaves work which is not suitable employment to enter the approved training, or because of the application of subsection 3 of this section or section 96.5, subsection 3, or a federal unemployment insurance law administered by the department relating to availability for work, active search for work, or refusal to accept work.

(2) For purposes of this paragraph, "suitable employment" means work of a substantially equal or higher skill level than an individual's past adversely affected employment, as defined in 19 U.S.C. § 2319(l), if weekly wages for the work are not less than eighty percent of the individual's average weekly wage.

Sec. 177. Section 96.6, subsection 3, Code 2007, is amended to read as follows:

3. APPEALS.

a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

Sec. 178. Section 96.9, subsection 2, Code Supplement 2007, is amended to read as follows:

2. ACCOUNTS AND DEPOSITS.

a. The state treasurer shall be ex officio treasurer and custodian of the fund and shall administer such fund in accordance with the directions of the department. The director of the department of administrative services shall issue warrants upon the fund pursuant to the order of the department and such warrants shall be paid from the fund by the treasurer.

b. The treasurer shall maintain within the fund three separate accounts:

~~a.~~ (1) A clearing account.

~~b.~~ (2) An unemployment trust fund account.

~~c.~~ (3) A benefit account.

c. All moneys payable to the unemployment compensation fund and all interest and penal-

ties on delinquent contributions and reports shall, upon receipt thereof by the department, be forwarded to the treasurer who shall immediately deposit them in the clearing account, but the interest and penalties on delinquent contributions and reports shall not be deemed to be a part of the fund. Refunds of contributions payable pursuant to section 96.14 shall be paid by the treasurer from the clearing account upon warrants issued by the director of the department of administrative services under the direction of the department. After clearance thereof, all other moneys in the clearing account, except interest and penalties on delinquent contributions and reports, shall be immediately deposited with the secretary of the treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act as amended, any provisions of law in this state relating to the deposit, administration, release or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding. Interest and penalties on delinquent contributions and reports collected from employers shall be transferred from the clearing account to the special employment security contingency fund. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund for the payment of benefits. Except as herein otherwise provided, moneys in the clearing and benefit account may be deposited by the treasurer, under the direction of the department, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of the treasurer's duties as custodian of the fund in an amount fixed by the governor and in form and manner prescribed by law. Premiums for said bond shall be paid from the administration fund.

d. Interest paid upon the moneys deposited with the secretary of the treasury of the United States shall be credited to the unemployment compensation fund.

Sec. 179. Section 96.11, subsections 3 and 10, Code Supplement 2007, are amended to read as follows:

3. PUBLICATIONS.

a. The director shall cause to be printed for distribution to the public the text of this chapter, the department's general rules, its annual reports to the governor, and any other material the director deems relevant and suitable and shall furnish the same to any person upon application therefor.

b. The department shall prepare and distribute to the public as labor force data, only that data adjusted according to the current population survey and other nonlabor force statistics which the department determines are of interest to the public.

10. STATE-FEDERAL COOPERATION.

a. In the administration of this chapter, the department shall cooperate with the United States department of labor to the fullest extent consistent with the provisions of this chapter, and shall take such action, through the adoption of appropriate rules, regulations, administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the Social Security Act that relate to unemployment compensation, the federal Unemployment Tax Act, the Wagner-Peyser Act, and the Federal-State Extended Unemployment Compensation Act of 1970.

b. In the administration of the provisions of section 96.29 which are enacted to conform with the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, the department shall take such action as may be necessary to insure that the provisions are so interpreted and applied as to meet the requirements of such federal Act as interpreted by the United States department of labor, and to secure to this state the full reimbursement of the federal share of extended benefits paid under this chapter that are reimbursable under the federal Act.

c. The department shall make such reports, in such form and containing such information as the United States department of labor may from time to time require, and shall comply with such provisions as the United States department of labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regula-

tions prescribed by the United States department of labor governing the expenditures of such sums as may be allotted and paid to this state under Title III of the Social Security Act for the purpose of assisting in administration of this chapter.

d. The department may make its records relating to the administration of this chapter available to the railroad retirement board, and may furnish the railroad retirement board such copies thereof as the railroad retirement board deems necessary for its purposes. The department may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law. The railroad retirement board or any other agency requiring such services and reports from the department shall pay the department such compensation therefor as the department determines to be fair and reasonable.

Sec. 180. Section 96.14, subsection 3, Code Supplement 2007, is amended to read as follows:

3. LIEN OF CONTRIBUTIONS — COLLECTION.

a. Whenever any employer liable to pay contributions refuses or neglects to pay the same, the amount, including any interest, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said employer. An assessment of the unpaid contributions, interest and penalty shall be applied as provided in section 96.7, subsection 3, paragraphs "a" and "b", and the lien shall attach as of the date the assessment is mailed or personally served upon the employer and shall continue for ten years, or until the liability for the amount is satisfied, unless sooner released or otherwise discharged. The lien may, within ten years from the date the lien attaches, be extended for up to an additional ten years by filing a notice during the ninth year with the appropriate county official of any county. However, the department may release any lien, when after diligent investigation and effort it determines that the amount due is not collectible.

b. In order to preserve the aforesaid lien against subsequent mortgagees, purchasers or judgment creditors, for value and without notice of the lien, on any property situated in a county, the department shall file with the recorder of the county, in which said property is located, a notice of said lien.

c. The county recorder of each county shall prepare and keep in the recorder's office an index to show the following data, under the names of employers, arranged alphabetically:

~~a.~~ (1) The name of the employer.

~~b.~~ (2) The name "State of Iowa" as claimant.

~~c.~~ (3) Time notice of lien was received.

~~d.~~ (4) Date of notice.

~~e.~~ (5) Amount of lien then due.

~~f.~~ (6) When satisfied.

d. The recorder shall endorse on each notice of lien the day, hour, and minute when received and shall index the notice in the index and shall record the lien in the manner provided for recording real estate mortgages, and the lien shall be effective from the time of the indexing of the lien.

e. The department shall pay a recording fee as provided in section 331.604, for the recording of the lien, or for its satisfaction.

f. Upon the payment of contributions as to which the department has filed notice with a county recorder, the department shall forthwith file with said recorder a satisfaction of said contributions and the recorder shall enter said satisfaction on the notice on file in the recorder's office and indicate said fact on the index aforesaid.

~~g.~~ The department shall, substantially as provided in this chapter and chapter 626, proceed to collect all contributions as soon as practicable after they become delinquent, except that no property of the employer is exempt from payment of the contributions.

h. If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the department and the employer adjudged in default shall pay the costs of such action. Civil actions brought un-

der this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law of this state.

i. It is expressly provided that the foregoing remedies of the state shall be cumulative and that no action taken by the department shall be construed to be an election on the part of the state or any of its officers to pursue any remedy hereunder to the exclusion of any other remedy provided by law.

j. The courts of this state shall recognize and enforce liabilities for unemployment contributions, penalties, interest, and benefit overpayments imposed by other states which extend a like comity to this state. The department may sue in the courts of any other jurisdiction which extends such comity to collect unemployment contributions, penalties, interest, and benefit overpayments due this state. The officials of other states which, by statute or otherwise, extend a like comity to this state may sue in the district court to collect for such contributions, penalties, interest, and benefit overpayments. In any such case the director, as agent for and on behalf of any other state, may institute and conduct such suit for such other state. Venue of such proceedings shall be the same as for actions to collect delinquent contributions, penalties, interest, and benefit overpayments due under this chapter. A certificate by the secretary of any such state attesting the authority of such official to collect the contributions, penalties, interest, and benefit overpayments, is conclusive evidence of such authority. The requesting state shall pay the court costs.

k. If a political subdivision or a political subdivision instrumentality becomes delinquent in the payment of contributions, any payments owed as a government employer, penalty, interest and costs for more than two calendar quarters, the amount of such delinquency shall be deducted from any further moneys due the employer by the state. Such deduction shall be made by the director of the department of administrative services upon certification of the amount due. A copy of the certification will be mailed to the employer.

l. If an amount due from a governmental entity of this state remains due and unpaid for a period of one hundred twenty days after the due date, the director shall take action as necessary to collect the amount and shall levy against any funds due the governmental entity from the state treasurer, director of the department of administrative services, or any other official or agency of this state, or against an account established by the entity in any bank. The official, agency, or bank shall deduct the amount certified by the director from any accounts or deposits or any funds due the delinquent governmental entity without regard to any prior claim and shall promptly forward the amount to the director for the fund. However, the director shall notify the delinquent entity of the director's intent to file a levy by certified mail at least ten days prior to filing the levy on any funds due the entity from any state official or agency.

Sec. 181. Section 96.16, subsection 5, Code 2007, is amended to read as follows:

5. EXPERIENCE AND TAX RATE AVOIDANCE.

a. If a person knowingly violates or attempts to violate section 96.7, subsection 2, paragraph "b", subparagraph (2) or (3), with respect to a transfer of unemployment experience, or if a person knowingly advises another person in a way that results in a violation of such subparagraph, the person shall be subject to the penalties established in this subsection. If the person is an employer, the employer shall be assigned a penalty rate of contribution of two percent of taxable wages in addition to the regular contribution rate assigned for the year during which such violation or attempted violation occurred and for the two rate years immediately following. If the person is not an employer, the person shall be subject to a civil penalty of not more than five thousand dollars for each violation which shall be deposited in the unemployment trust fund, and shall be used for payment of unemployment benefits. In addition to any other penalty imposed in this subsection, violations described in this subsection shall also constitute an aggravated misdemeanor.

b. For purposes of this subsection~~, "knowingly"~~:

(1) "Knowingly" means having actual knowledge of or acting with deliberate ignorance of

or reckless disregard for the requirement or prohibition involved. ~~For purposes of this subsection, "violates~~

(2) "Violates or attempts to violate" includes, but is not limited to, the intent to evade, misrepresentation, and willful nondisclosure.

Sec. 182. Section 96.19, subsection 18, paragraph a, subparagraphs (3) and (7), Code 2007, are amended to read as follows:

(3) (a) Any individual other than an individual who is an employee under subparagraphs (1) or (2) who performs services for remuneration for any person as an agent driver or commission driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry cleaning services for the individual's principal; as a traveling or city salesperson, other than as an agent driver or commission driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, the individual's principal (except for sideline sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations.

(b) Provided, that for purposes of ~~paragraph "a",~~ this subparagraph (3), the term "employment" shall include services performed after December 31, 1971, only if:

~~(a)~~ (i) The contract of service contemplates that substantially all of the services are to be performed personally by such individual;

~~(b)~~ (ii) The individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and

~~(c)~~ (iii) The services are not in the nature of single transaction that is not part of a continuing relationship with the person for whom the services are performed.

(7) (a) A person in agricultural labor when such labor is performed for an employing unit which during any calendar quarter in the calendar year or the preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; or on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week, employed in agricultural labor for some portion of the day ten or more individuals, excluding labor performed before January 1, 1980, by an alien referred to in this subparagraph; and such labor is not agricultural labor performed before January 1, 1980, by an individual who is an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act, 8 U.S.C. § 1184(c), 1101(a)(15)(H) (1976). For purposes of this subparagraph subdivision, "employed" shall not include services performed by agricultural workers who are aliens admitted to the United States to perform labor pursuant to section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act and who are not covered under the Federal Unemployment Tax Act.

(b) For purposes of this subparagraph, any individual who is a member of a crew furnished by a crew leader to perform agricultural labor for any other employing unit shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not otherwise in employment as defined in this subsection.

(c) For purposes of this subparagraph (7), in the case of any individual who is furnished by a crew leader to perform agricultural labor for any other employing unit and who is not treated as an employee of such crew leader as described above, such other employing unit and not the crew leader shall be treated as the employer of such individual; and such other employing unit shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader either on the crew leader's behalf or on behalf of such other employing unit for the agricultural labor performed for such other employing unit.

(d) For purposes of this ~~subsection~~ subparagraph (7), the term "crew leader" means an employing unit which furnishes individuals to perform agricultural labor for any other employing unit; pays, either on the crew leader's behalf or on behalf of such other employing unit, the individuals so furnished by the crew leader for the agricultural labor performed by them; and has not entered into a written agreement with such other employing unit under which such individual is designated as an employee of such other employing unit.

Sec. 183. Section 96.19, subsection 38, paragraph b, Code 2007, is amended to read as follows:

b. An individual shall be deemed partially unemployed in any week in which~~, while~~ either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) ~~An individual shall be deemed partially unemployed in any week in which the~~ The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

Sec. 184. Section 97A.8, subsection 3, Code 2007, is amended to read as follows:

3. EXPENSE FUND.

a. The expense fund shall be the fund to which shall be credited all money provided by the state of Iowa to pay the administration expenses of the system and from which shall be paid all the expenses necessary in connection with the administration and operation of the system. Biennially the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system. Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

b. For purposes of this subsection, investment management expenses are limited to the following:

~~a.~~ (1) Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the board of trustees in administering this chapter.

~~b.~~ (2) Fees and costs for safekeeping fund assets.

~~c.~~ (3) Costs for performance and compliance monitoring, and accounting for fund investments.

~~d.~~ (4) Any other costs necessary to prudently invest or protect the assets of the fund.

Sec. 185. Section 97B.1A, subsection 8, paragraph a, subparagraph (2), Code 2007, is amended to read as follows:

(2) Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa.

(a) A member of the general assembly covered under this chapter may terminate membership under this chapter by informing the system in writing of the member's intent to terminate membership.

(b) Temporary employees of the general assembly covered under this chapter may terminate membership by sending written notification to the system of their separation from service.

Sec. 186. Section 97B.70, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The interest dividend shall be determined within sixty days after the end of each calendar year as follows:

(1) The dividend rate for a calendar year shall be the excess of the average rate of interest earned for the year over the statutory two percent rate plus twenty-five hundredths of one percent.

(2) The average rate of interest earned and the interest dividend rate in percent shall be calculated to the nearest one hundredth, that is, to two decimal places.

(3) Interest and interest dividends calculated pursuant to this subsection shall be compounded annually.

Sec. 187. Section 99B.1, subsection 13, Code Supplement 2007, is amended to read as follows:

13. a. "Eligible applicant" means an applicant who meets all of the following requirements:

~~a.~~ (1) The applicant's financial standing and good reputation are within the standards established by the department by rule under chapter 17A so as to satisfy the director of the department that the applicant will comply with this chapter and the rules applicable to operations under it.

~~b.~~ (2) The applicant is a citizen of the United States and a resident of this state, or a corporation licensed to do business in this state, or a business that has an established place of business in this state or that is doing business in this state.

~~c.~~ (3) The applicant has not been convicted of a felony. However, if the applicant's conviction occurred more than five years before the date of the application for a license, and if the applicant's rights of citizenship have been restored by the governor, the director of the department may determine that the applicant is an eligible applicant.

b. If the applicant is an organization, then the requirements of ~~paragraphs~~ paragraph "a", ~~"b", and "c"~~ subparagraphs (1) through (3), apply to ~~its~~ the officers, directors, partners and controlling shareholders of the organization.

Sec. 188. Section 99B.7, subsection 3, paragraphs b and c, Code 2007, are amended to read as follows:

b. (1) A person or the agent of a person submitting application to conduct games pursuant to this section as a qualified organization shall certify that the receipts of all games, less reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, either will be distributed as prizes to participants or will be dedicated and distributed to educational, civic, public, charitable, patriotic or religious uses in this state and that the amount dedicated and distributed will equal at least seventy-five percent of the net receipts.

(2) (a) "Educational, civic, public, charitable, patriotic, or religious uses" means uses benefiting a society for the prevention of cruelty to animals or animal rescue league, or uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by erecting or maintaining public buildings or works, or otherwise lessening the burden of government, or uses benefiting any bona fide nationally chartered fraternal or military veterans' corporation or organization which operates in Iowa a clubroom, post, dining room, or dance hall, but does not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used for one or more of the uses stated.

(b) "Public uses" specifically includes dedication of net receipts to political parties as defined in section 43.2.

(c) "Charitable uses" includes uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm when the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense when the loss is uncompensated by insurance.

(3) Proceeds given to another charitable organization to satisfy the seventy-five percent dedication requirement shall not be used by the donee to pay any expenses in connection with the conducting of bingo by the donor organization, or for any cause, deed, or activity that would not constitute a valid dedication under this section.

c. (1) A qualified organization shall distribute amounts awarded as prizes on the day they are won. A qualified organization shall dedicate and distribute the balance of the net receipts received within a quarter and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the quarterly report required for

that quarter under section 99B.2, subsection 4, is due. The amount dedicated and distributed must equal at least seventy-five percent of the net receipts. A person desiring to hold the net receipts for a period longer than permitted under this paragraph shall apply to the department for special permission and upon good cause shown the department may grant the request.

(2) If permission is granted to hold the net receipts, the person shall, as a part of the quarterly report required by section 99B.2, report the amount of money currently being held and all expenditures of the funds. This report shall be filed even if the person no longer holds a gambling license.

Sec. 189. Section 99D.25, subsection 10, Code Supplement 2007, is amended to read as follows:

10. Veterinarians must submit daily to the commission veterinarian on a prescribed form a report of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A logbook detailing other professional services performed while on the grounds of a racetrack shall be kept by veterinarians and shall be made immediately available to the commission veterinarian or the stewards upon request.

11. A person who violates this section is guilty of a class "D" felony.

Sec. 190. Section 100.1, unnumbered paragraphs 1 and 2, Code Supplement 2007, are amended to read as follows:

The chief officer of the division of state fire marshal in the department of public safety shall be known as the state fire marshal. The fire marshal's duties shall be as follows:

~~The fire marshal's duties shall be as follows:~~

Sec. 191. Section 101.22, subsection 7, Code 2007, is amended to read as follows:

7. It is unlawful to deposit petroleum in an aboveground petroleum storage tank which has not been registered pursuant to subsections 1 through 4.

8. The state fire marshal shall furnish the owner or operator of an aboveground petroleum storage tank with a registration tag for each aboveground petroleum storage tank registered with the state fire marshal. The owner or operator shall affix the tag to the fill pipe of each registered aboveground petroleum storage tank. A person who conveys or deposits petroleum shall inspect the aboveground petroleum storage tank to determine the existence or absence of the registration tag. If a registration tag is not affixed to the aboveground petroleum storage tank fill pipe, the person conveying or depositing the petroleum may deposit the petroleum in the unregistered tank. However, the deposit is allowed only in the single instance, that the person provides the owner or operator with another notice as required by subsection 5, and that the person provides the owner or operator with an aboveground petroleum storage tank registration form. It is the owner or operator's duty to comply with registration requirements. A late registration penalty of twenty-five dollars is imposed in addition to the registration fee for a tank registered after the required date.

DIVISION III
CONFORMING AMENDMENTS TO VOLUME I RENUMBERING

Sec. 192. Section 10B.7, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Lessees of agricultural land under section 9H.4, subsection ~~2~~ 1, paragraph ~~"c"~~ "b", subparagraph (3), for research or experimental purposes, shall file a biennial report with the secretary of state on or before March 31 of each odd-numbered year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. However, a lessee required to file a biennial report pursuant to chapter 490, 490A, 496C, 497, 498, 499, 501, 501A, or 504 shall file the report required by this section in the same year as required by that chapter. The lessee may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall contain the following information for the reporting period:

Sec. 193. Section 11.36, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The auditor of state may, at the request of a department, review, during normal business hours upon reasonable notice of at least twenty-four hours, the audit working papers prepared by a certified public accountant covering the receipt and expenditure of state or federal funds provided by the department to any other entity to determine if the receipt and expenditure of those funds by the entity is consistent with the laws, rules, regulations, and contractual agreements governing those funds. Upon completion of the review, the auditor of state shall report whether, in the auditor of state's judgment, the auditor of state believes the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements governing the funds have been substantially complied with. If the auditor of state does not believe the certified public accountant's working papers adequately demonstrate that the laws, rules, regulations, and contractual agreements have been substantially complied with or believes a complete or partial reaudit is necessary based on the provisions of section 11.6, subsection 4, paragraph "a" ~~or "b"~~, subparagraph (1) or (2), the auditor of state shall notify the certified public accountant and the department of the actions the auditor of state believes are necessary to determine whether the entity is in substantial compliance with those laws, rules, regulations, and contractual agreements. The auditor of state may assist departments with actions to determine whether the entity is in substantial compliance. Departments requesting the review shall reimburse the auditor of state for the cost of the review and any subsequent assistance provided by the auditor of state.

Sec. 194. Section 49.13, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The membership of each precinct election board shall be appointed by the commissioner, not less than fifteen days before each election held in the precinct, from the election board panel drawn up as provided in section 49.15. Precinct election officials shall be registered voters of the county, or other political subdivision within which precincts have been merged across county lines pursuant to section 49.11, subsection ~~1~~ 3, paragraph "a", in which they are appointed. Preference shall be given to appointment of residents of a precinct to serve as precinct election officials for that precinct, but the commissioner may appoint other residents of the county where necessary.

Sec. 195. Section 49.16, subsection 2, Code 2007, is amended to read as follows:

2. When all or portions of two or more precincts are merged for any election as permitted by section 49.11, subsection ~~1~~ 3, paragraph "a", the commissioner may appoint the election board for the merged precinct from the election board panels of any of the precincts so merged. When any permanent precinct is divided as permitted by section 49.11, subsection ~~2~~ 3, paragraph "b", the commissioner shall so far as possible appoint the election board for each of the temporary precincts so created from the election board panel of the permanent precinct.

Sec. 196. Section 87.11, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Notwithstanding contrary provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payments by the commissioner of insurance from the security given under this section, pursuant to this chapter or chapter 85, 85A, 85B, or 86, shall be deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection ~~2~~ 1, paragraph "b".

Sec. 197. Section 96.4, subsection 3, Code 2007, is amended to read as follows:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", ~~unnumbered paragraph 1~~ subparagraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the

disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Sec. 198. Section 279.48, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The note may bear interest at a rate to be determined by the board of directors in the manner provided in section 74A.3, subsection 1, paragraph "a". Chapter 75 is not applicable.

Sec. 199. Section 331.756, subsection 12, Code Supplement 2007, is amended to read as follows:

12. Submit reports as to the condition and operation of the county attorney's office when required by the attorney general as provided in section 13.2, subsection ~~8~~ 1, paragraph "h".

Sec. 200. Section 515B.5, subsection 2, paragraph h, Code 2007, is amended to read as follows:

h. Request that all future payments of workers' compensation weekly benefits, medical expenses, or other payments under chapter 85, 85A, 85B, 86, or 87 be commuted to a present lump sum and upon the payment of which, either to the claimant or to a licensed insurer for purchase of an annuity or other periodic payment plan for the benefit of the claimant, the employer and the association shall be discharged from all further liability for the workers' compensation claim. Notwithstanding the provisions of section 85.45, any future payment of medical expenses, weekly compensation benefits, or other payment by the association under this chapter pursuant to chapter 85, 85A, 85B, 86, or 87, is deemed an undue expense, hardship, or inconvenience upon the employer for purposes of a full commutation pursuant to section 85.45, subsection ~~2~~ 1, paragraph "b", and the workers' compensation commissioner shall fix the lump sum of the probable future medical expenses and weekly compensation benefits capitalized at their present value upon the basis of interest at the rate provided in section 535.3 for court judgments and decrees.

DIVISION IV

Sec. 201. CODE EDITOR DIRECTIVE.

1. The Code editor is directed to renumber the following Code sections in accordance with established Code section hierarchy and correct internal references as necessary:

a. Sections 8.22, 15D.1, 28A.1, 28K.1, 29C.21, 29C.22, 152E.1, 221.1, 232.158, 232.171, 256.70, 261D.2, 272A.1, 272B.1, 307C.1, 321C.1, 321D.1, 457B.1, 473A.1, 505A.1, 692B.2, 818.1, 821.1, 907B.2, and 913.2, Code 2007.

b. Sections 152E.3 and 327K.1, Code Supplement 2007.

2. The Code editor is directed to number or renumber provisions within the following Code sections to eliminate unnumbered paragraphs and correct internal references as necessary:

a. Sections 2.45, 2C.12, 6A.4, 6A.22, 6B.2, 6B.3, 6B.54, 6B.56, 7C.4A, 7D.1, 7D.6, 8A.502, 8A.504, 9C.8, 9E.6A, 9H.5, 10A.106, 12B.10C, 12C.6, 12D.1, 12D.8, 15.272, 15.329, 15.343, 15E.61, 15E.111, 15E.195, 15E.207, 16.105, 17A.6, 17A.9, 17A.17, 20.1, 20.22, 21.4, 25B.2, 28.4, 28A.10, 28B.1, 28E.23, 29B.15, 29B.28, 29B.31, 29B.40, 29B.47, 29B.50, 29B.51, 29B.53, 29B.55, 29B.63, 29B.65, 29B.91, 34A.2, 34A.8, 35C.1, 37.18, 39.2, 43.24, 43.49, 43.56, 43.67, 44.4, 47.2, 48A.19, 48A.28, 49.4, 49.47, 50.29, 50.30, 53.1, 53.3, 53.45, 68B.31, 70A.1, 70A.15, 70A.25, 80.37, 85.3, 85.35, 85A.11, 85B.8, 87.4, 89.2, 89A.8, 89B.17, 91B.1, 91C.3, 91C.7, 91E.2, 92.2, 92.6, 96.3, 96.7, 96.7A, 96.13, 96.19, 96.23, 96.29, 96.40, 97.51, 97A.6, 97A.6B, 97A.8, 97A.10, 97B.1A, 97B.8A, 97B.34A, 97B.42A, 97B.48A, 97B.49G, 97B.52, 97B.53B, 99B.2, 99B.7, 99D.13, 99F.4A, 100.39, 103A.7, 103A.9, and 103A.20, Code 2007.

b. Sections 8A.311, 8A.321, 8A.376, 8A.415, 11.2, 12C.23, 15.335, 15A.9, 15E.194, 15E.305, 22.7, 39.22, 45.1, 49.8, 52.25, 68A.402, 72.5, 80B.13, 80D.3, 96.5, 99D.5, and 103A.19, Code Supplement 2007.

DIVISION V
EFFECTIVE DATES — APPLICABILITY

Sec. 202. EFFECTIVE DATES — APPLICABILITY.

1. The section of this Act, amending 2007 Iowa Acts, chapter 182, section 3, being deemed of immediate importance, takes effect upon enactment and applies retroactively to May 24, 2007.

2. The sections of this Act, amending 2007 Iowa Acts, chapter 197, sections 33, 34, 35, 36, 38, 41, 42, and 43, being deemed of immediate importance, take effect upon enactment and apply effective January 1, 2009.

3. The section of this Act, amending section 104C.2, subsection 8, as enacted by 2007 Iowa Acts, chapter 198, section 2, takes effect July 1, 2008.

4. The sections of this Act, amending 2007 Iowa Acts, chapter 198, sections 10, 11, and 18, take effect July 1, 2008.

Approved April 2, 2008

CHAPTER 1033

REAL PROPERTY TRANSFERS —
PRIVATE SEWAGE DISPOSAL SYSTEMS INSPECTIONS

S.F. 261

AN ACT requiring certain private sewage disposal system-related inspections to be conducted when certain property is sold or transferred and including an effective date provision.

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

Section 1. Section 455B.172, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 11. a. A building where a person resides, congregates, or is employed that is served by a private sewage disposal system shall have the sewage disposal system serving the building inspected prior to any transfer of ownership of the building. The requirements of this subsection shall be applied to all types of ownership transfer including at the time a seller financed real estate contract is signed. The county recorder shall not record a deed or any other property transfer or conveyance document until either a certified inspector's report is provided which documents the condition of the private sewage disposal system and whether any modifications are required to conform to standards adopted by the department or, in the event that weather or other temporary physical conditions prevent the certified inspection from being conducted, the buyer has executed and submitted a binding acknowledgment with the county board of health to conduct a certified inspection of the private sewage disposal system at the earliest practicable time and to be responsible for any required modifications to the private sewage disposal system as identified by the certified inspection. Any type of on-site treatment unit or private sewage disposal system must be inspected according to rules developed by the department. For the purposes of this subsection, "transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, "transfer" does not include any of the following:

(1) A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633 or 633A, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.

(2) A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.

(3) A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

(4) A transfer between joint tenants or tenants in common.

(5) A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

(6) A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

b. The inspection requirement of paragraph "a" does not apply to a transfer in which the transferee intends to demolish or raze the building. The department shall adopt rules pertaining to such transfers.

c. At the time of inspection, any septic tank existing as part of the sewage disposal system shall be opened and have the contents pumped out and disposed of as provided for by rule. In the alternative, the owner may provide evidence of the septic tank being properly pumped out within three years prior to the inspection by a commercial septic tank cleaner licensed by the department which shall include documentation of the size and condition of the tank and its components at the time of such occurrence.

d. If a private sewage disposal system is failing to ensure effective wastewater treatment or is otherwise improperly functioning, the private sewage disposal system shall be renovated to meet current construction standards, as adopted by the department, either by the seller or, by agreement, within a reasonable time period as determined by the county or the department, by the buyer. If the private sewage disposal system is properly treating the wastewater and not creating an unsanitary condition in the environment at the time of inspection, the system is not required to meet current construction standards.

e. Inspections shall be conducted by an inspector certified by the department.

f. Pursuant to chapter 17A, the department shall adopt certification requirements for inspectors including training, testing, and fees, and shall establish uniform statewide inspection criteria and an inspection form. The inspector certification training shall include use of the criteria and form. The department shall maintain a list of certified inspectors.

g. County personnel are eligible to become certified inspectors. A county may set an inspection fee for inspections conducted by certified county personnel. A county shall allow any department certified inspector to provide inspection services under this subsection within the county's jurisdiction.

h. Following an inspection, the inspection form and any related reports shall be provided to the county for enforcement of any follow-up mandatory system improvement and to the department for record.

i. An inspection is valid for a period of two years for any ownership transfers during that period. Title abstracts to property with private sewage disposal systems shall include documentation of the requirements in this subsection.

Sec. 2. EFFECTIVE DATE. This Act takes effect July 1, 2009.

Approved April 3, 2008

CHAPTER 1034

SURFACE WATER QUALITY —
ASSESSMENT, PROTECTION, AND IMPROVEMENT

H.F. 2400

AN ACT relating to water quality by establishing a water resources coordinating council, authorizing a marketing campaign, directing assistance to local communities for monitoring and measurement, providing for a wastewater and storm water infrastructure assessment, and creating a regional assessment program and a community-based improvement program.

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

Section 1. NEW SECTION. 466B.1 SHORT TITLE.
This chapter shall be known and may be cited as the "Surface Water Protection Act".

Sec. 2. NEW SECTION. 466B.2 DEFINITIONS.
For the purposes of this chapter, unless the context otherwise requires:
1. "Council" means the water resources coordinating council created in section 466B.3.
2. "Department" means the department of natural resources.
3. "Regional watershed" means a watershed of hydrologic unit code scale 8.
4. "Subwatershed" means a watershed of hydrologic unit code scale 12 or smaller.
5. "Watershed" means a geographic area in which surface water is drained by rivers, streams, or other bodies of water.

Sec. 3. NEW SECTION. 466B.3 WATER RESOURCES COORDINATING COUNCIL.
1. COUNCIL ESTABLISHED. A water resources coordinating council is established within the office of the governor.
2. PURPOSE. The purpose of the council shall be to preserve and protect Iowa's water resources, and to coordinate the management of those resources in a sustainable and fiscally responsible manner. In the pursuit of this purpose, the council shall use an integrated approach to water resource management, recognizing that insufficiencies exist in current approaches and practices, as well as in funding sources and the utilization of funds. The integrated approach used by the council shall attempt to overcome old categories, labels, and obstacles with the primary goal of managing the state's water resources comprehensively rather than compartmentally.
3. ACCOUNTABILITY. The success of the council's efforts shall ultimately be measured by the following outcomes:
a. Whether the citizens of Iowa can more easily organize local watershed projects.
b. Whether the citizens of Iowa can more easily access available funds and water quality program resources.
c. Whether the funds, programs, and regulatory efforts coordinated by the council eventually result in a long-term improvement to the quality of surface water in Iowa.
4. MEMBERSHIP. The council shall consist of the following members:
a. The director of the department of natural resources or the director's designee.
b. The director of the soil conservation division of the department of agriculture and land stewardship or the director's designee.
c. The secretary of agriculture or the secretary's designee.
d. The director of the department of public health or the director's designee.
e. The director of the homeland security and emergency management division of the department of public defense or the director's designee.
f. The dean of the college of agriculture at Iowa state university or the dean's designee.

g. The dean of the college of public health at the university of Iowa or the dean's designee.

h. The dean of the college of natural sciences at the university of northern Iowa, or the dean's designee.

i. The director of the department of transportation or the director's designee.

j. The director of the department of economic development or the director's designee.

k. The director of the Iowa finance authority, or the director's designee.

l. The governor, who shall be the chairperson, or the governor's designee. As the chairperson, and in order to further the coordination efforts of the council, the governor may invite representatives from any other public agency, private organization, business, citizen group, or nonprofit entity to give public input at council meetings provided the entity has an interest in the coordinated management of land resources, soil conservation, or water quality. The governor shall also invite and solicit advice from the following:

(1) The director of the Iowa water science center of the United States geological survey or the director's designee.

(2) The state conservationist from the Iowa office of the United States department of agriculture's natural resources conservation service or the state conservationist's designee.

(3) The executive director for Iowa from the United States department of agriculture's farm services agency or the executive director's designee.

(4) The state director for Iowa from the United States department of agriculture's office of rural development or the state director's designee.

(5) The director of region seven of the United States environmental protection agency or the director's designee.

(6) The corps commander from the United States army corps of engineers' Rock Island district or the commander's designee.

5. MEETINGS AND QUORUM.

a. The council shall be convened by the office of the governor at least quarterly.

b. A majority of the members fixed by statute shall constitute a quorum, and any action taken by the council must be adopted by a majority of the voting membership.

6. DUTIES AND POWERS.

a. The council shall engage in the regular coordination of water resource-related functions, including protection strategies, planning, assessment, prioritization, review, concurrence, advocacy, and education.

b. In coordinating water resource-related functions, the council may do all of the following:

(1) Consider the steps necessary to address the planning, management, and implementation of water resource improvement.

(2) Identify ways to facilitate communication and participation among all water resource stakeholders, including owners of land in Iowa whether they are residents or not.

(3) Identify inefficiencies in current programs and recommend ways to eliminate duplicative services.

(4) Improve the availability and management of water resource information.

(5) Provide incentives for, and recognition of, environmental excellence.

(6) Regularly assess and identify measurable improvements in water quality.

(7) Oversee the complete, statewide regional watershed assessment, prioritization, and planning process described in section 466B.5, including a short-term interim program and a long-term comprehensive state water quality and quantity plan updated every five years as provided in sections 466B.5 and 466B.6.

(8) Develop a protocol which identifies high-priority watersheds, including local and community-based subwatersheds, and which appropriately directs resources to those watersheds.

(9) Review best available technologies on a regular basis, so that investments of time and program resources can be prioritized and directed to projects that will best and most effectively improve water quality within regional and community subwatersheds.

(10) Review voluntary, performance-based standards for water resource management, land management, and soil conservation.

(11) Develop a protocol for assigning multiagency teams to regional watersheds and local subwatersheds and guide those teams in the coordination of citizen and agency activities within those watersheds.

(12) Engage in dialogue with, and pursue efforts to make cooperative agreements with, other states when a watershed extends beyond borders of this state.

(13) Enter into agreements and make contracts with third parties for the performance of duties imposed by this chapter.

(14) Prepare a memorandum of understanding identifying the roles and responsibilities of council members in the coordination of the implementation of community-based subwatershed improvement plans. The memorandum shall be a commitment by the agencies participating in council meetings to reach consensus regarding communications with subwatershed planning units.

Sec. 4. NEW SECTION. 466B.4 LEGISLATIVE FINDINGS AND MARKETING CAMPAIGN.

1. FINDINGS. The general assembly finds all of the following:

a. Most Iowans desire to have improved water quality throughout the state, but many Iowans do not understand the problems with local water quality.

b. Most Iowans believe that the protection of fish and wildlife benefits all Iowans.

c. The benefits of improving water quality could far outweigh the costs of implementing mechanisms to improve it.

d. Most Iowans look to some level of government for the protection of water resources rather than to themselves and their own actions. However, it is not possible or desirable for state government to take complete control and responsibility for water quality.

2. MARKETING CAMPAIGN. The water resources coordinating council shall develop a marketing campaign to educate Iowans about the need to take personal responsibility for the quality of water in their local watersheds. The emphasis of the campaign shall be that not only is everyone responsible for clean water, but that everyone benefits from it as well. The goals of the campaign shall be to convince Iowans to take personal responsibility for clean water and to equip them with the tools necessary to effect change through local water quality improvement projects.

3. CONTINGENT ON FUNDING. The duties imposed in subsection 2 are contingent upon the receipt of funding sufficient to cover the costs associated with the marketing campaign.

Sec. 5. NEW SECTION. 466B.5 REGIONAL WATERSHED ASSESSMENT, PLANNING, AND PRIORITIZATION.

1. REGIONAL WATERSHED ASSESSMENT PROGRAM. The department shall create a regional watershed assessment program. The program shall assess all the regional watersheds in the state.

a. The statewide assessment shall be conducted at the rate of approximately one-fifth of the watersheds per year, and an initial full assessment shall be completed within five years. Thereafter, the department shall review and update the assessments on a regular basis.

b. Each regional watershed assessment shall provide a summary of the overall condition of the watershed. The information provided in the summary may include land use patterns, soil types, slopes, management practices, stream conditions, and both point and nonpoint source impairments.

c. In conducting a regional watershed assessment, the department may provide opportunities for local data collection and input into the assessment process.

2. PLANNING AND PRIORITIZATION. In conducting the regional watershed assessment program, the department shall provide hydrological and geological information sufficient for the water resources coordinating council to prioritize watersheds statewide and for the various communities in those watersheds to plan remedial efforts in their local communities and subwatersheds.

3. REPORT TO COUNCIL. Upon completion of the statewide assessment, and upon updating the assessments, the department shall report the results of the assessment to the council and the general assembly, and shall make the report publicly available.

Sec. 6. NEW SECTION. 466B.6 COMMUNITY-BASED SUBWATERSHED IMPROVEMENT PLANS.

1. FACILITATION OF COMMUNITY-BASED SUBWATERSHED PLANS. After the department's completion of the initial regional watershed assessment, and after the council's prioritization of the regional watersheds, the council shall designate one or more of the agencies represented on the council to facilitate the development and implementation of local, community-based subwatershed improvement plans.

2. ASSESSMENT, PLANNING, PRIORITIZATION, AND IMPLEMENTATION. In facilitating the development of community-based subwatershed improvement plans, the agency or agencies designated by the council shall, based on the results of the regional watershed assessment program, identify critical subwatersheds within priority regional watersheds and recruit communities, citizen groups, local governmental entities, or other stakeholders to engage in the assessment, planning, prioritization, and implementation of a local community-based subwatershed improvement plan. The agency or agencies designated by the council may assist in the formation of a group of initial local community-based subwatershed improvement plans that can be implemented as pilot projects, in order to develop an effective process that can be replicated across the state.

Sec. 7. NEW SECTION. 466B.7 COMMUNITY-BASED SUBWATERSHED MONITORING.

1. MONITORING ASSISTANCE. After completion of the statewide regional watershed assessment and prioritization, and throughout the implementation of local community-based subwatershed improvement plans, the department shall assist communities with the monitoring and measurement of local subwatersheds. The monitoring and measurement shall be designed for the particular needs of individual communities.

2. DATA COLLECTION AND USE. Local communities in which the department conducts subwatershed monitoring shall use the information to support subwatershed planning activities, do local data collection, and identify priority areas needing additional resources. Local communities shall also collect data over time and use the data to evaluate the impacts of their management efforts.

Sec. 8. NEW SECTION. 466B.8 WASTEWATER AND STORM WATER INFRASTRUCTURE ASSESSMENT.

The department shall assess and prioritize communities within a watershed presenting the greatest level of risk to water quality and the health of residents. This prioritization shall include both sewered and unsewered communities.

Sec. 9. NEW SECTION. 466B.9 RULEMAKING AUTHORITY.

The department and the department of agriculture and land stewardship shall have the power and authority reasonably necessary to carry out the duties imposed by this chapter. As to the department, this includes rulemaking authority to carry out the regional watershed assessment program described in section 466B.5. As to the department of agriculture and land stewardship, this includes rulemaking authority to assist in the implementation of community-based subwatershed improvement plans.

Approved April 3, 2008

CHAPTER 1035

BRUSHY CREEK RECREATION AREA —
ADVISORY BOARD MEMBERSHIP

S.F. 2198

AN ACT relating to the appointment of the membership of the Brushy creek recreation area trails advisory board.

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

Section 1. Section 455A.8, Code 2007, is amended to read as follows:

455A.8 BRUSHY CREEK RECREATION AREA TRAILS ADVISORY BOARD.

1. The Brushy creek recreation trails advisory board shall be organized within 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 nonvoting ex officio member, the park ~~ranger~~ employee who is primarily responsible for maintenance of 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~~ seven persons appointed by the ~~legislative council~~ natural resource commission. The director shall provide the natural resource commission with nominations of prospective board members. Each person appointed by the ~~governor or legislative council~~ natural resource commission must actively participate in recreational trail activities such as hiking, bicycling, 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.

2. Each voting member of the board shall serve for terms of three years, and shall be eligible for reappointment. A vacancy on the board shall be filled for the remainder of the original term. However, a vacancy in the membership slot designated for the park ~~ranger responsible for Brushy creek~~ employee shall be ~~replaced~~ filled by the ~~ranger's~~ park employee's successor, and the person representing the state advisory board for preserves shall serve at the pleasure of the board. The department shall reimburse each member, other than the director or the director's designee and the park ~~ranger~~ employee, for actual expenses incurred by the member in performance of the duties of the board. A majority of voting members constitutes a quorum, and the affirmative vote of a majority present is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all rights and perform all duties of the board. The board shall meet as required, but at least twice a year. The board shall meet upon call of the chairperson, or upon written request of three members of the board. Written notice of the time and place of the meeting shall be given to each member.

3. The board shall advise the department and the natural resource commission regarding issues and recommendations relating to the development and maintenance of trails and related activities at or adjacent to the Brushy creek recreation area.

Approved April 8, 2008

CHAPTER 1036

TURKEY AND DEER HUNTING LICENSES —
NONRESIDENT DISABLED OR TERMINALLY ILL PERSONS

S.F. 2230

AN ACT authorizing the issuance of special nonresident turkey and deer hunting licenses to certain persons who have severe physical disabilities or a terminal illness.

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

Section 1. Section 483A.24, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. The commission shall issue a special turkey hunting license or any sex deer hunting license to a nonresident twenty-one years of age or younger who the commission finds has a severe physical disability or has been diagnosed with a terminal illness. The licenses shall be issued as follows:

a. The commission may prepare an application to be used by the person requesting the special license, which requires that the person's attending physician sign the form declaring that the person has a severe physical disability or has been diagnosed with a terminal illness and is eligible for the special license.

b. The licenses provided pursuant to this subsection shall be in addition to the number of nonresident turkey hunting licenses authorized pursuant to section 483A.7 and nonresident deer hunting licenses authorized pursuant to section 483A.8.

c. The turkey hunting licenses are valid in all zones open to turkey hunting and shall be available for issuance and use during any turkey hunting season. The deer hunting licenses are valid in all zones open to deer hunting and shall be available for issuance and use during any deer hunting season.

d. A nonresident who receives a special license pursuant to this subsection shall purchase a hunting license and the applicable nonresident turkey or deer hunting license, and pay the wildlife habitat fee, but is not required to complete the hunter safety and ethics education course if the person is accompanied and aided by a person who is at least eighteen years of age. The accompanying person must be qualified to hunt and have a hunting license. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee.

e. The commission shall adopt rules under chapter 17A for the administration of this subsection.

Approved April 8, 2008

CHAPTER 1037

WILD ANIMAL DEPREDATION MANAGEMENT
— DEER HARVESTING

S.F. 2328

AN ACT relating to the deer depredation management program, establishing a deer study advisory committee, and providing an effective date.

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

Section 1. Section 481A.10A, Code 2007, is amended to read as follows:

481A.10A FARMER ADVISORY COMMITTEE.

The director shall establish a farmer advisory committee for the purpose of providing information to the department regarding crop and tree damage caused by deer, wild turkey, and other predators. Members of the committee shall include a representative designated by each of the following organizations: the Iowa corn growers association, the Iowa farm bureau federation, the Iowa farmers union, the Iowa state horticulture society, the Iowa Christmas tree growers association, the Iowa nursery and landscape association, the department of agriculture and land stewardship, and the Iowa state university agricultural extension service. The committee shall meet with a representative of the department of natural resources on a semiannual basis. The committee shall serve without compensation or reimbursement for expenses.

Sec. 2. Section 481C.2, Code 2007, is amended to read as follows:

481C.2 DUTIES.

1. The director of the department of natural resources shall enter into a memorandum of agreement with the United States department of agriculture, animal damage control division. The wild animal depredation unit shall serve and act as the liaison to the department for the producers in the state who suffer crop ~~and~~, horticultural product, tree, or nursery damage due to wild animals.

2. The department shall issue depredation permits to any landowner who incurs crop ~~and~~, horticultural product, tree, or nursery damage of one thousand dollars or more due to wild animals.

3. The criteria for issuing depredation licenses and permits shall be established in administrative rules in consultation with the farmer advisory committee created in section 481A.10A. The administrative rules adopted pursuant to this section shall not require a producer to erect or maintain fencing at a cost exceeding one thousand dollars as a requisite for receiving a depredation license or permit or for participation in a depredation plan.

Sec. 3. NEW SECTION. 481C.2A DEER DEPREDATION MANAGEMENT PROGRAM — LICENSES AND PERMITS.

1. Deer depredation licenses shall be available for issuance as follows:

a. Deer depredation licenses shall be available for issuance to resident hunters.

b. Depredation licenses issued pursuant to this subsection shall be valid to harvest antlerless deer only. Depredation licenses that are issued to a landowner and family members as defined in section 483A.24 shall be in addition to the number of free licenses that are available for issuance to such persons under section 483A.24. A landowner or a family member may obtain one free depredation license for each deer hunting season that is established by the commission. Deer may be harvested with a rifle pursuant to a depredation license in any area and in any season where the commission authorizes the use of rifles.

c. Licenses issued pursuant to this subsection may be issued at any time to a resident hunter who has permission to hunt on the land for which the license is valid pursuant to this subsection.

d. A producer who enters into a depredation agreement with the department of natural resources shall be issued a set of authorization numbers. Each authorization number authorizes a resident hunter to obtain a depredation license that is valid only for taking antlerless deer on the land designated in the producer's depredation plan. A producer may transfer an authorization number issued to that producer to a resident hunter who has permission to hunt on the land for which the authorization number is valid. An authorization number shall be valid to obtain a depredation license in any season. The provisions of this paragraph shall be implemented by August 15, 2008. A transferee who receives an authorization number pursuant to this paragraph "d" shall be otherwise qualified to hunt deer in this state, have a hunting license, pay the wildlife habitat fee, and pay the one dollar fee for the purpose of the deer herd population management program.

2. Deer shooting permits shall be available for issuance as follows:

a. Deer shooting permits shall be available for issuance to landowners who incur crop, horticultural product, tree, or nursery damage as provided in section 481C.2 and shall be available for issuance for use on areas where public safety may be an issue.

b. Deer shooting permits issued pursuant to this subsection shall be valid and may be used outside of established deer hunting seasons.

3. Notwithstanding section 481C.2, subsection 3, a producer shall not be required to erect or maintain fencing as a requisite for receiving a deer depredation permit or for participation in a deer depredation plan pursuant to this section.

4. A person who harvests a deer with a deer depredation license or a deer shooting permit issued pursuant to this section shall utilize the deer harvest reporting system set forth in section 483A.8A and shall not be subject to different disposal or reporting requirements than are applicable to the harvest of deer pursuant to other deer hunting licenses except that any antlers on a deer taken pursuant to a shooting permit shall be delivered to the local conservation officer for disposal.

5. The department shall administer and enforce the administrative rules concerning deer depredation, including issuance of deer depredation licenses and deer shooting permits, that are established by the commission.

6. The department shall make educational materials that explain the deer depredation management program available to the general public, and available specifically to farmers and farm and commodity organizations, in both electronic and brochure formats by June 30, 2008.

7. The department shall conduct outreach programs for farmers and farm and commodity organizations that explain the deer depredation management program. The department shall develop, by rule, a master hunter program and maintain a list of master hunters who are available to assist producers in the deer depredation management program by increasing the harvest of antlerless deer on the producer's property.

Sec. 4. DEER STUDY ADVISORY COMMITTEE. A deer study advisory committee is established for the purpose of studying the best way to maintain a sustainable, socially acceptable deer population in the state while maximizing and balancing the economic value of deer hunting to Iowa's economy with the needs of the agricultural industry and public safety concerns.

1. The advisory committee shall be composed of the following members:

a. One representative from each of the following organizations or entities, to be appointed by the governor:

(1) Iowa association of county conservation boards.
(2) Iowa farm bureau federation.
(3) Iowa farmers union.
(4) Iowa conservation alliance.
(5) Iowa bow hunters association.
(6) Whitetails unlimited.
(7) Iowa hospitality association.
(8) Iowa restaurant association.

(9) Iowa meat processors association.
(10) Iowa league of cities.
(11) The department of transportation.
(12) Iowa woodland owners association.
(13) Iowa insurance institute.
(14) Iowa realtors association.
(15) Iowa chapter of the sierra club.
(16) Iowa environmental council.
(17) Iowa nursery and landscape association.

b. The director of the department of natural resources or a designee.

c. The secretary of agriculture or a designee.

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

e. Two members of the senate, one of whom is appointed by the majority leader of the senate and one of whom is appointed by the minority leader of the senate.

f. Two members of the house of representatives, one of whom is appointed by the speaker of the house of representatives and one of whom is appointed by the minority leader of the house of representatives.

2. The director of the department of natural resources or the director's designee shall serve as the chairperson of the advisory committee.

3. Legislative members of the committee are eligible for per diem and reimbursement of actual expenses as provided in section 2.10.

4. The committee shall review, analyze, and make recommendations on issues relating to the state's deer population including but not limited to the following:

a. The current status of Iowa's deer population, harvest, and population management programs.

b. The economic impact and value of Iowa's deer population.

c. The cost of damage to crops caused by deer.

d. The number and cost of motor vehicle accidents caused by deer.

e. A review of the deer management challenges and programs of other midwestern states.

f. An assessment of public opinion concerning the number of deer, and the impact and value of Iowa's deer population.

5. The advisory committee shall complete its deliberations in December 2008 and submit a final report to the governor and the general assembly summarizing the committee's activities, analyzing the issues studied, and including any other information or recommendations that the committee deems relevant and necessary by January 10, 2009.

Sec. 5. Section 483A.24C, Code 2007, is repealed.

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

Approved April 8, 2008

CHAPTER 1038

FINGERPRINTING OF CHILDREN

H.F. 2119

AN ACT relating to taking the fingerprints of a child by a governmental unit.

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

Section 1. Section 726.23, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. A parent or guardian has given written authorization for the taking of the fingerprints for use in the future in case the child becomes a runaway or a missing child. Only one set of prints shall be taken and the completed fingerprint cards and written authorizations shall be given to the parent or guardian. The fingerprints, written authorizations for fingerprinting, or notice of the fingerprints' existence shall not be recorded, stored, or kept in any manner by a law enforcement agency, except as provided in this subchapter or except at the request of the parent or guardian if the child becomes a runaway or a missing child. When the child is located or the case is otherwise disposed of, the fingerprint cards shall be returned to the parents or guardian.

Nothing in this paragraph "a" shall be construed to prohibit a governmental unit from taking the fingerprints of a child at the Iowa state fair or a county or district fair as defined in section 174.1 as long as the governmental unit complies with the requirements of this paragraph "a".

Approved April 8, 2008

CHAPTER 1039

ENTERPRISE ZONES — COUNTY DISTRESS CRITERIA

H.F. 2195

AN ACT relating to certain county distress criteria under the enterprise zone program.

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

Section 1. Section 15E.194, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The county has experienced a percentage population loss that ranks among the top twenty-five counties in the state between 1995 and 2000.

(1) For purposes of this paragraph "c", prison population shall be excluded in the population loss calculations.

(2) If a county not otherwise qualified to participate in the enterprise zone program qualifies as a result of excluding the county's prison population, a business engaged in the production of ethanol or biodiesel in the county, nothwithstanding its status as an eligible business under section 15E.193, shall not be eligible for assistance under section 15E.196.

Approved April 8, 2008

CHAPTER 1040

DEPARTMENT OF TRANSPORTATION REVENUE COLLECTION METHODS — ELECTRONIC PAYMENT STUDY

H.F. 2196

AN ACT requiring the department of transportation to study the acceptance of electronic payments at its customer service sites and sites operated by county treasurers.

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

Section 1. ELECTRONIC PAYMENTS TO DEPARTMENT OF TRANSPORTATION — STUDY. The department of transportation shall review the current methods the department employs for the collection of fees and other revenues at sites operated by county treasurers under chapter 321M and at customer service sites operated by the department. In conducting its review, the department, in cooperation with the treasurer of state, shall consider providing an electronic payment option for all of its customers. The department shall report its findings and recommendations by December 31, 2008, to the senate and house standing committees on transportation regarding the advantages and disadvantages of implementing one or more electronic payment systems.

Approved April 8, 2008

CHAPTER 1041

SCHOOL DISTRICT FINANCING ARRANGEMENTS — LOANS AND ENERGY CONSERVATION

H.F. 2364

AN ACT relating to school district financing arrangements, specifying funds into which loan proceeds shall be deposited and from which principal and interest payments shall be expended, and authorizing utilization of physical plant and equipment levy revenue to guarantee school district energy savings contracts.

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

Section 1. NEW SECTION. 279.67 LOAN PROCEEDS.

The proceeds of loans issued to school districts pursuant to section 279.48, 279.52, or 473.20 shall be deposited into either the general fund of a school district or the physical plant and equipment levy fund. The board of directors shall expend the amount of the principal and interest due each year to maturity from the same fund into which the loan proceeds were deposited.

Sec. 2. Section 298.3, subsection 7, Code 2007, is amended to read as follows:

7. Expenditures for energy conservation, including payments made pursuant to a guarantee furnished by a school district entering into a financing agreement for energy conservation measures, limited to agreements pursuant to section 473.19, 473.20, or 473.20A.

Approved April 8, 2008

CHAPTER 1042

MOTOR VEHICLE REGISTRATION FEES —
VEHICLES EQUIPPED FOR DISABLED PERSONS
OR WHEELCHAIRS

H.F. 2407

AN ACT relating to the annual registration fee for certain motor vehicles equipped for persons with disabilities or used by persons with wheelchairs.

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

Section 1. Section 321.109, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The annual registration fee for a ~~multipurpose~~ vehicle, otherwise subject to paragraph "a", with permanently installed equipment manufactured for and necessary to assist a person with a disability who is either the owner or a member of the owner's household in entry and exit of the vehicle or for such a ~~multipurpose~~ vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be sixty dollars. For purposes of this paragraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.

Approved April 8, 2008

CHAPTER 1043

COUNTY MENTAL HEALTH, MENTAL RETARDATION,
AND DEVELOPMENTAL DISABILITIES SERVICES —
RISK POOL ASSISTANCE PROCEDURES

H.F. 2423

AN ACT relating to the risk pool for county mental health, mental retardation, and developmental disabilities services by revising procedural and qualifying requirements.

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

Section 1. Section 426B.5, subsection 2, paragraph d, Code Supplement 2007, is amended to read as follows:

d. A county must apply to the risk pool board for assistance from the risk pool on or before ~~January 25~~ October 31. The risk pool board shall make its final decisions on or before ~~February 25~~ December 15 regarding acceptance or rejection of the applications for assistance and the total amount accepted shall be considered obligated.

Sec. 2. Section 426B.5, subsection 2, paragraph e, subparagraph (3), Code Supplement 2007, is amended to read as follows:

(3) ~~At the close of~~ In the fiscal year that ~~immediately preceded~~ commenced two years prior to the fiscal year of application, the county's services fund ending balance under generally accepted accounting principles was equal to or less than twenty percent of the county's actual gross expenditures for that fiscal year.

Sec. 3. Section 426B.5, subsection 2, paragraph i, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

~~A county may apply for preapproval for risk pool assistance. A county may submit a preapproval application beginning on July 1 for the fiscal year of submission and the risk pool board shall notify the county of the risk pool board's decision concerning the application within forty-five days of receiving the application. Whether for a preapproval or regular application, risk~~ Risk pool assistance shall only be made available to address one or more of the following circumstances:

Sec. 4. Section 426B.5, subsection 2, paragraph j, Code Supplement 2007, is amended to read as follows:

j. Subject to the amount available and obligated from the risk pool for a fiscal year, the department of human services shall annually calculate the amount of moneys due to eligible counties in accordance with the board's decisions and that amount is appropriated from the risk pool to the department for payment of the moneys due. The department shall authorize the issuance of warrants payable to the county treasurer for the amounts due and the warrants shall be issued on or before ~~the close of the fiscal year~~ January 1.

Approved April 8, 2008

CHAPTER 1044

SPECIALTY VEHICLE TITLES AND REGISTRATION

H.F. 2452

AN ACT relating to vehicle titles and registration plates for specialty vehicles, and providing a penalty and an effective date.

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

Section 1. Section 321.1, subsection 59, Code 2007, is amended to read as follows:

59. "Reconstructed vehicle" means every vehicle of a type required to be registered ~~hereunder~~ under this chapter materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used. "Reconstructed vehicle" does not include a street rod or replica vehicle.

Sec. 2. Section 321.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 61. "Replica vehicle" means any completed motor vehicle other than a motorcycle or motorized bicycle with a gross vehicle weight rating of less than ten thousand pounds consisting of a body, frame, and other essential parts, assembled as a reproduction of a vehicle originally manufactured by a generally recognized manufacturer of motor vehicles with the substitution or addition of essential parts to update the vehicle for purposes of safety, performance, or reliability. For purposes of vehicle registration, the model year of a replica vehicle shall be the same as the model year of the motor vehicle that it is designed to resemble.

Sec. 3. Section 321.1, subsection 74, Code 2007, is amended to read as follows:

74. "Specially constructed vehicle" means every vehicle of a type required to be registered ~~hereunder~~ under this chapter not originally constructed under a distinctive name, make, mod-

el, or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction. A "specially constructed vehicle" does not include a street rod or replica vehicle.

Sec. 4. Section 321.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 78A. "Street rod" means any car or motor truck with a gross vehicle weight rating of less than ten thousand pounds required to be registered under this chapter, manufactured by a generally recognized manufacturer of motor vehicles prior to the year 1949, which may contain a body or frame not manufactured by the original manufacturer, or any motor vehicle designed and manufactured to resemble a motor vehicle manufactured prior to the year 1949. For purposes of vehicle registration, the model year of a street rod shall be the same as the model year of the motor vehicle that it is designed to resemble.

Sec. 5. Section 321.23, subsection 1, Code 2007, is amended to read as follows:

1. a. If the vehicle to be registered is a specially constructed vehicle, reconstructed vehicle, street rod, replica vehicle, or foreign vehicle, such fact shall be stated in the application. A fee of ten dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. For a specially constructed vehicle, ~~or~~ reconstructed ~~motor~~ vehicle, street rod, or replica vehicle subject to registration, the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state.

b. The department shall cause a physical inspection to be made of all specially constructed vehicles, ~~or~~ reconstructed ~~motor~~ vehicles, street rods, and replica vehicles upon application for a certificate of title by the owner, to determine whether the motor vehicle complies with the definition of specially constructed ~~motor~~ vehicle, ~~or~~ reconstructed ~~motor~~ vehicle, street rod, or replica vehicle in this chapter and to determine that the integral component parts are properly identified and that the rightful ownership is established before issuing the owner the authority to have the motor vehicle registered and titled. The purpose of the physical inspection under this section is not to determine whether the motor vehicle is in a condition safe to operate.

c. The owner of a specially constructed vehicle, ~~or~~ reconstructed vehicle, street rod, or replica vehicle shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of the inspection. For a foreign vehicle which has been registered outside this state, the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or if the vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.

d. Upon completion of every specially constructed vehicle, reconstructed vehicle, street rod, or replica vehicle, the owner shall certify on a form prescribed by the department that such vehicle is in compliance with all equipment specifications required under this chapter.

Sec. 6. NEW SECTION. 321.115A REPLICA VEHICLES AND STREET RODS — MODEL YEAR PLATES PERMITTED — PENALTY.

1. A motor vehicle may be registered as a replica vehicle or street rod upon payment of the fee provided for in section 321.109, 321.113, 321.122, or 321.124. The owner of a vehicle registered under this section may display registration plates from or representing the model year of the motor vehicle or the model year of the motor vehicle the registered vehicle is designed to resemble, furnished by the person and approved by the department, in lieu of the current and valid Iowa registration plates issued for the vehicle, provided that the current and valid Iowa registration plates and the registration card issued for the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.

2. Truck tractors and semitrailers registered under this section shall not be used to haul loads.

3. 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 2, paragraph "b".

Sec. 7. Section 805.8A, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. For violations under sections 321.17, 321.47, 321.55, 321.98, ~~and~~ 321.115, and 321.115A, the scheduled fine is thirty dollars.

Sec. 8. EFFECTIVE DATE. This Act takes effect July 1, 2009.

Approved April 8, 2008

CHAPTER 1045

COMMERCIAL AERIAL PESTICIDE APPLICATOR LICENSING — NONRESIDENTS

H.F. 2551

AN ACT providing requirements for a nonresident of this state engaged in the aerial application of pesticides, making penalties applicable, and providing an effective date.

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

Section 1. Section 206.6, subsection 1, unnumbered paragraph 2, Code 2007, is amended by striking the paragraph.

Sec. 2. Section 206.6, subsection 5, Code 2007, is amended to read as follows:

5. ISSUE COMMERCIAL APPLICATOR LICENSE. ~~If the~~

a. The secretary ~~finds the~~ shall approve an application and issue a commercial applicator license to the applicant as follows:

(1) The applicant is qualified as found by the secretary to apply pesticides in the classifications for which the applicant has applied ~~and if the~~.

(2) The applicant ~~files the bonds or insurance~~ must furnish to the department evidence of financial responsibility as required under section 206.13~~, and if the~~.

(3) An applicant applying for a license to engage in aerial application of pesticides ~~has met~~ must meet all of the requirements of the federal aviation administration, the United States department of transportation, and any other applicable federal or state laws or regulations to operate the equipment described in the application~~, the~~. The secretary shall adopt by rule, additional requirements for issuing a license to a person who is a nonresident of this state engaged in the aerial application of pesticides, which may include but is not limited to conditions for the operation of the aircraft and the application of the pesticides under the supervision of a person who is a resident of this state and licensed as a commercial applicator under this section or as a pesticide dealer under section 206.8. The secretary shall not adopt rules concerning the operation of aircraft when not engaged in the commercial application of pesticides.

b. The secretary shall issue a commercial applicator license limited to the classifications for which the applicant is qualified, which shall expire at the end of the calendar year of issue unless it has been revoked or suspended ~~prior thereto~~ by the secretary for cause. The secretary may limit the license of the applicant to the use of certain pesticides, or to certain areas, or to

certain types of equipment if the applicant is only so qualified. If a license is not issued as applied for, the secretary shall inform the applicant in writing of the reasons.

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

Approved April 8, 2008

CHAPTER 1046

IOWA SOYBEAN ASSOCIATION BOARD —
PER DIEM COMPENSATION

H.F. 2553

AN ACT relating to per diem compensation for directors of the Iowa soybean association board.

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

Section 1. Section 185.14, Code 2007, is amended to read as follows:

185.14 COMPENSATION — MEETINGS.

Each director of the board shall receive a per diem ~~as specified in section 7E.6~~ of one hundred dollars and actual expenses in performing official board functions, notwithstanding section 7E.6. A director of the board shall not be a salaried employee of the board or any organization or agency which is receiving moneys from the board. The board shall meet at least four times each year.

Approved April 8, 2008

CHAPTER 1047

LEVEE AND DRAINAGE DISTRICTS —
REPAIR AND IMPROVEMENT PROCEDURE THRESHOLDS

H.F. 2554

AN ACT providing monetary thresholds for actions by governing boards of drainage districts.

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

Section 1. Section 468.126, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. If the estimated cost of a repair exceeds ~~fifteen~~ twenty thousand dollars, or seventy-five percent of the original total cost of the district and subsequent improvements, whichever is the

greater amount, the board shall set a date for a hearing on the matter of making the proposed repairs, and shall give notice as provided in sections 468.14 through 468.18. If a hearing is required and the estimated cost of the repair exceeds twenty-five thousand dollars, an engineer's report or a report from the soil and water conservation district conservationist shall be presented at the hearing. The requirement of a report may be waived by the board if a prior report on the repair exists and that report is less than ten years old. The board shall not divide proposed repairs into separate programs in order to avoid the notice and hearing requirements of this paragraph. At the hearing the board shall hear objections to the feasibility of the proposed repairs, and following the hearing the board shall order that the repairs it deems desirable and feasible be made. Any interested party has the right of appeal from such orders in the manner provided in this subchapter, parts 1 through 5.

Sec. 2. Section 468.126, subsection 2, Code 2007, is amended to read as follows:

2. In the case of minor repairs, or in the eradication of brush and weeds along the open ditches, not in excess of ~~fifteen~~ twenty thousand dollars where the board finds that a saving to the district will result the board may cause the repairs or eradication to be done by secondary road fund equipment, or weed fund equipment, and labor of the county and then reimburse the secondary road fund or the weed fund from the fund of the drainage district thus benefited.

Sec. 3. Section 468.126, subsection 4, paragraph a, Code 2007, is amended to read as follows:

a. When the board determines that improvements are necessary or desirable, the board shall appoint an engineer to make surveys as seem appropriate to determine the nature and extent of the needed improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed ~~fifteen~~ twenty thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done without notice. The board shall not divide proposed improvements into separate programs in order to avoid the limitation for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds the ~~fifteen~~ twenty thousand dollar or twenty-five percent limit, the board shall set a date for a hearing on the matter of constructing the proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of the proposed improvements, and shall give notice as provided in sections 468.14 through 468.18. At the hearing the board shall hear objections to the feasibility of the proposed improvements and arguments for or against a reclassification presented by or for any taxpayer of the district. Following the hearing the board shall order that the improvements it deems desirable and feasible be made, and shall also determine whether there should be a reclassification of benefits for the cost of improvements. If it is determined that a reclassification of benefits should be made, the board shall proceed as provided in section 468.38. In lieu of publishing the notice of a hearing as provided by this subsection, the board may mail a copy of the notice to each address where a landowner in the district resides by first class mail if the cost of mailing is less than publication of the notice. The mailing shall be made during the time the notice would otherwise be required to be published.

Sec. 4. Section 468.126, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. If the estimated cost of the improvements as defined in this subsection exceeds ~~twenty~~ twenty-five thousand dollars, or the original cost of the district plus the cost of subsequent improvements in the district, whichever is the greater amount, a majority of the landowners, owning in the aggregate more than seventy percent of the total land in the district, may file a written remonstrance against the proposed improvements, at or before the time fixed for hearing on the proposed improvements, with the county auditor, or auditors in case the district extends into more than one county. If a remonstrance is filed, the board shall discontinue and

dismiss all further proceedings on the proposed improvements and charge the costs incurred to date for the proposed improvements to the district. Any interested party may appeal from such orders in the manner provided in this subchapter, parts 1 through 5. However, this section does not affect the procedures of section 468.132 covering the common outlet.

Approved April 8, 2008

CHAPTER 1048

ELDER GROUP HOMES, ASSISTED LIVING FACILITIES, AND ADULT DAY SERVICES PROGRAMS — DISCLOSURE OF CERTIFICATION COMPLIANCE INFORMATION

H.F. 2609

AN ACT relating to the public release of information relating to elder group homes, assisted living facilities, and adult day services programs and providing for an effective date.

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

Section 1. Section 231B.9, Code Supplement 2007, is amended to read as follows:

231B.9 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an elder group home by the department pursuant to this chapter, including the conclusion of ~~all administrative appeals processes~~ informal review, the department's final findings with respect to compliance by the elder group home with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an elder group home that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the elder group home shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 2. Section 231C.9, Code Supplement 2007, is amended to read as follows:

231C.9 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an assisted living program by the department pursuant to this chapter, including the conclusion of ~~all administrative appeals processes~~ informal review, the department's final findings with respect to compliance by the assisted living program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an assisted living program that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the assisted living program shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

Sec. 3. Section 231D.10, Code Supplement 2007, is amended to read as follows:

231D.10 PUBLIC DISCLOSURE OF FINDINGS.

Upon completion of a monitoring evaluation or complaint investigation of an adult day services program by the department pursuant to this chapter, including the conclusion of ~~all administrative appeals processes~~ informal review, the department's final findings with respect

to compliance by the adult day services program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an adult day services program that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the adult day services program shall not be made available to the public except in proceedings involving the denial, suspension, or revocation of a certificate under this chapter.

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

Approved April 8, 2008

CHAPTER 1049

STATE JUDICIAL NOMINATING COMMISSION — APPOINTMENT OR ELECTION OF MEMBERS

H.F. 2626

AN ACT relating to the appointment or election of state judicial nominating commission members.

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

Section 1. NEW SECTION. 46.2A SPECIAL APPOINTMENT OR ELECTION OF STATE JUDICIAL NOMINATING COMMISSION MEMBERS.

1. As used in this section, "congressional district" means those districts established following the 2010 federal decennial census and described in chapter 42.[1]

2. Notwithstanding sections 46.1 and 46.2, the terms of the appointed and elected members of the state judicial nominating commission serving on December 31, 2012, shall expire on that date.

3. The terms of newly appointed and elected members of the state judicial nominating commission shall commence on January 1, 2013, based upon the number of congressional districts as enacted pursuant to chapter 42.

4. The initial term of the appointed members shall be as follows:

a. In the congressional district described as the first district, there shall be one member with a term of two years and one member with a term of six years.

b. In the congressional district described as the second district, there shall be one member with a term of two years and one member with a term of four years.

c. In the congressional district described as the third district, there shall be one member with a term of four years and one member with a term of six years.

d. In the congressional district described as the fourth district, there shall be one member with a term of two years and one member with a term of four years.

5. The initial term of the elected members shall be as follows:

a. In the congressional district described as the first district, there shall be one member with a term of two years and one member with a term of four years.

b. In the congressional district described as the second district, there shall be one member with a term of four years and one member with a term of six years.

[1] According to enrolled Act; chapter "40" may be intended

c. In the congressional district described as the third district, there shall be one member with a term of two years and one member with a term of six years.

d. In the congressional district described as the fourth district, there shall be one member with a term of four years and one member with a term of six years.

6. The appointed and elected members from each congressional district shall be gender balanced as provided in section 69.16A.

7. After the initial term is served pursuant to this section, the appointed members shall be appointed to six-year terms as provided in section 46.1, and the elected members shall be elected to six-year terms as provided in section 46.2.

8. If the number of congressional districts established following the 2010 federal decennial census and described in chapter 42[2] is not equal to four, then the procedures set out in this section are void and this section is repealed effective June 30, 2012.

Approved April 8, 2008

CHAPTER 1050

VALIDITY OF TREASURER'S DEEDS —
DEFECTS IN NOTICE OF REDEMPTION RIGHTS

H.F. 2642

AN ACT relating to issuance of a treasurer's deed after expiration of the period of redemption and including an effective and applicability date provision.

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

Section 1. Section 448.3, Code 2007, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In the event that an owner of record or a person in whose name the parcel is taxed establishes that such person was not served with notice of expiration of right of redemption in accordance with section 447.9, then the county treasurer's deed is void, subject to the provisions of sections 448.15 and 448.16. If a person entitled to service of notice under section 447.9, other than an owner of record or a person in whose name the parcel is taxed, establishes that such person was not served with notice in accordance with section 447.9, the deed is not thereby rendered invalid. However, the deed is subject to all of the right and interest of such person not served with notice, as provided in sections 448.15 and 448.16.

Sec. 2. EFFECTIVE AND APPLICABILITY DATE. This Act, being deemed of immediate importance, takes effect upon enactment and applies to treasurer's deeds issued on or after that date.

Approved April 8, 2008

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[2] According to enrolled Act; chapter "40" may be intended

CHAPTER 1051

DISPOSITION OF HUMAN REMAINS —
AUTHORIZATION AND CONSENT

S.F. 473

AN ACT allowing a competent adult to execute a written instrument designating a person to have sole responsibility and discretion concerning the final disposition of that adult's remains, including coordinating provisions, and providing applicability dates.

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

Section 1. Section 142.1, Code 2007, is amended to read as follows:

142.1 DELIVERY OF BODIES.

The body of every person dying in a public asylum, hospital, county care facility, penitentiary, or reformatory in this state, or found dead within the state, or which is to be buried at public expense in this state, except those buried under the provisions of chapter 144C or 249, and which is suitable for scientific purposes, shall be delivered to the medical college of the state university, or some osteopathic or chiropractic college or school located in this state, which has been approved under the law regulating the practice of osteopathy or chiropractic; but no such body shall be delivered to any such college or school if the deceased person expressed a desire during the person's last illness that the person's body should be buried or cremated, nor if such is the desire of the person's relatives. Such bodies shall be equitably distributed among said colleges and schools according to their needs for teaching anatomy in accordance with such rules as may be adopted by the Iowa department of public health. The expense of transporting said bodies to such college or school shall be paid by the college or school receiving the same. ~~In the event~~ If the deceased person has not expressed a desire during the person's last illness that the person's body should be buried or cremated and ~~should have~~ no ~~relatives that request~~ person authorized to control the deceased person's remains under section 144C.5 requests the person's body for burial or cremation, and if a friend objects to the use of the deceased person's body for scientific purposes, said deceased person's body shall be forthwith delivered to such friend for burial or cremation at no expense to the state or county. Unless such friend provides for burial and burial expenses within five days, the body shall be used for scientific purposes under this chapter.

Sec. 2. Section 144.34, Code 2007, is amended to read as follows:

144.34 DISINTERMENT — PERMIT.

Disinterment of a dead body or fetus shall be allowed for the purpose of autopsy or reburial only, and then only if accomplished by a funeral director. A permit for such disinterment and, thereafter, reinterment shall be issued by the state registrar according to rules adopted pursuant to chapter 17A or when ordered by the district court of the county in which such body is buried. The state registrar, without a court order, shall not issue a permit without the consent of the ~~surviving spouse or in case of such spouse's absence, death, or incapacity, the next of kin~~ person authorized to control the decedent's remains under section 144C.5. Disinterment for the purpose of reburial may be allowed by court order only upon a showing of substantial benefit to the public. Disinterment for the purpose of autopsy or reburial by court order shall be allowed only when reasonable cause is shown that someone is criminally or civilly responsible for such death, after hearing, upon reasonable notice prescribed by the court to the ~~surviving spouse or in the spouse's absence, death, or incapacity, the next of kin~~ person authorized to control the decedent's remains under section 144C.5. Due consideration shall be given to the public health, the dead, and the feelings of relatives.

Sec. 3. Section 144.56, Code 2007, is amended to read as follows:

144.56 AUTOPSY.

An autopsy or post-mortem examination may be performed upon the body of a deceased

person by a physician whenever the written consent to the examination or autopsy has been obtained ~~by any of the following persons, in order of priority stated when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or prior class:~~

~~1. The spouse.~~

~~2. An adult son or daughter.~~

~~3. Either parent.~~

~~4. An adult brother or sister.~~

~~5. A guardian of the person of the decedent at the time of the decedent's death.~~

~~6. Any other person authorized or under obligation to dispose of the body~~ from the person authorized to control the deceased person's remains under section 144C.5.

This section does not apply to any death investigated under the authority of sections 331.802 to 331.804.

Sec. 4. Section 144B.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Designee" means a person named in a declaration under chapter 144C that is contained in or attached to a durable power of attorney for health care.

Sec. 5. Section 144B.5, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A durable power of attorney for health care may include a declaration under chapter 144C that names a designee and alternate designees who may be different persons than the attorney in fact or alternate attorneys in fact who are designated in the durable power of attorney for health care.

Sec. 6. NEW SECTION. 144C.1 SHORT TITLE.

This chapter may be cited as the "Final Disposition Act".

Sec. 7. NEW SECTION. 144C.2 DEFINITIONS.

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

1. "Adult" means a person who is married or who is eighteen years of age or older.

2. "Adult day services program" means adult day services program as defined in section 231D.1.

3. "Assisted living program facility" means assisted living program facility as defined in section 231C.2.

4. "Ceremony" means a formal act or set of formal acts established by custom or authority to commemorate a decedent.

5. "Child" means a son or daughter of a person, whether by birth or adoption.

6. "Decedent" means a deceased adult.

7. "Declarant" means a competent adult who executes a declaration pursuant to this chapter.

8. "Declaration" means a written instrument, contained in or attached to a durable power of attorney for health care under chapter 144B, that is executed by a declarant in accordance with the requirements of this chapter, and that names a designee who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death.

9. "Designee" means a competent adult designated under a declaration who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death.

10. "Elder group home" means elder group home as defined in section 231B.1.

11. "Final disposition" means the burial, interment, cremation, removal from the state, or other disposition of remains.

12. "Health care facility" means health care facility as defined in section 135C.1.

13. "Health care provider" means health care provider as defined in section 144A.2.

14. "Hospital" means hospital as defined in section 135B.1.

15. "Interested person" means a decedent's spouse, parent, grandparent, adult child, adult sibling, adult grandchild, or a designee.

16. "Licensed hospice program" means a licensed hospice program as defined in section 135J.1.

17. "Reasonable under the circumstances" means consideration of what is appropriate in relation to the declarant's finances, cultural or family customs, and religious or spiritual beliefs. "Reasonable under the circumstances" may include but is not limited to consideration of the declarant's preneed funeral, burial, or cremation plan, and known or reasonably ascertainable creditors of the declarant.

18. "Remains" means the body or cremated remains of a decedent.

19. a. "Third party" means a person who is requested to dispose of remains by an adult with the right to dispose of a decedent's remains under section 144C.5 or assist with arrangements for ceremonies planned after the declarant's death.

b. "Third party" includes but is not limited to a funeral director, funeral establishment, cremation establishment, cemetery, the state medical examiner, or a county medical examiner.

Sec. 8. NEW SECTION. 144C.3 DECLARATION — DESIGNEE.

1. A declaration shall name a designee who shall have the sole responsibility and discretion for making decisions concerning the final disposition of the declarant's remains and the ceremonies planned after the declarant's death. A declaration may name one or more alternate designees and may include contact information for the designees and alternate designees.

2. A declaration shall not include directives for final disposition of the declarant's remains and shall not include arrangements for ceremonies planned after the declarant's death.

3. A designee, an alternate designee, and a third party shall act in good faith and in a manner that is reasonable under the circumstances.

4. A funeral director, funeral establishment, cremation establishment, cemetery, elder group home, assisted living program facility, adult day services program, licensed hospice program, or attorney, or any agent, owner, or employee of such an entity, shall not serve as a designee unless related to the declarant within the third degree of consanguinity.[1]

5. This section shall not be construed to permit a person who is not licensed pursuant to chapter 156 to make funeral arrangements.

Sec. 9. NEW SECTION. 144C.4 RELIANCE — IMMUNITIES.

1. A designee or third party who relies in good faith on a declaration is not subject to civil liability or to criminal prosecution or professional disciplinary action, to any greater extent than if the designee or third party dealt directly with the declarant as a fully competent and living person.

2. A designee or third party who relies in good faith on a declaration may presume, in the absence of actual knowledge to the contrary, all of the following:

a. That the declaration was validly executed.

b. That the declarant was competent at the time the declaration was executed.

3. A third party who relies in good faith on a declaration is not subject to civil or criminal liability for the proper application of property delivered or surrendered in compliance with decisions made by the designee including but not limited to trust funds held pursuant to chapter 523A.

4. A third party who has reasonable cause to question the authenticity or validity of a declaration may promptly and reasonably seek additional information from the person proffering the declaration or from other persons to verify the declaration.

5. The state medical examiner or a county medical examiner shall not be subject to civil liability or to criminal prosecution or professional disciplinary action for releasing a decedent's remains to a person who is not a designee or alternate designee.

6. This section shall not be construed to impair any contractual obligations of a designee or third party incurred in fulfillment of a declaration.

[1] See chapter 1191, §124 herein

Sec. 10. NEW SECTION. 144C.5 FINAL DISPOSITION OF REMAINS — RIGHT TO CONTROL.

1. The right to control final disposition of a decedent's remains or to make arrangements for the ceremony after a decedent's death vests in and devolves upon the following persons who are competent adults at the time of the decedent's death, in the following order:

a. A designee, or alternate designee, acting pursuant to the decedent's declaration.

b. The surviving spouse of the decedent, if not legally separated from the decedent, whose whereabouts is reasonably ascertainable.

c. A surviving child of the decedent, or, if there is more than one, a majority of the surviving children whose whereabouts are reasonably ascertainable.

d. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.

e. A surviving grandchild of the decedent, or, if there is more than one, a majority of the surviving grandchildren whose whereabouts are reasonably ascertainable.

f. A surviving sibling of the decedent, or, if there is more than one, a majority of the surviving siblings whose whereabouts are reasonably ascertainable.

g. A surviving grandparent of the decedent, or, if there is more than one, a majority of the surviving grandparents whose whereabouts are reasonably ascertainable.

h. A person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession or, if there is more than one, a majority of such surviving persons whose whereabouts are reasonably ascertainable.

i. A person who represents that the person knows the identity of the decedent and who signs an affidavit warranting the identity of the decedent and assuming the right to control final disposition of the decedent's remains and the responsibility to pay any expense attendant to such final disposition. A person who warrants the identity of the decedent pursuant to this paragraph is liable for all damages that result, directly or indirectly, from that warrant.

j. The county medical examiner, if responsible for the decedent's remains.

2. A third party may rely upon the directives of a person who represents that the person is a member of a class of persons described in subsection 1, paragraph "c", "e", "f", "g", or "h", and who signs an affidavit stating that all other members of the class, whose whereabouts are reasonably ascertainable, have been notified of the decedent's death and the person has received the assent of a majority of those members of that class of persons to control final disposition of the decedent's remains and to make arrangements for the performance of a ceremony for the decedent.

3. A third party may await a court order before proceeding with final disposition of a decedent's remains or arrangements for the performance of a ceremony for a decedent if the third party is aware of a dispute among persons who are members of the same class of persons described in subsection 1, or of a dispute between persons who are authorized under subsection 1 and the executor named in a decedent's will or a personal representative appointed by the court.

Sec. 11. NEW SECTION. 144C.6 DECLARATION OF DESIGNEE — FORM — REQUIREMENTS.

1. A declaration executed pursuant to this chapter may, but need not, be in the following form:

I hereby designate . . . . . as my designee. My designee shall have the sole responsibility for making decisions concerning the final disposition of my remains and the ceremonies to be performed after my death. This declaration hereby revokes all prior declarations. This designation becomes effective upon my death.

My designee shall act in a manner that is reasonable under the circumstances.

I may revoke or amend this declaration at any time. I agree that a third party (such as a funeral or cremation establishment, funeral director, or cemetery) who receives a copy of this declaration may act in reliance on it. Revocation of this declaration is not effective as to a third party until the third party receives notice of the revocation. My estate shall indemnify my designee

and any third party for costs incurred by them or claims arising against them as a result of their good faith reliance on this declaration.

I execute this declaration as my free and voluntary act.

2. A declaration executed pursuant to this chapter shall be in a written form that substantially complies with the form in subsection 1, is properly completed, is contained in or attached to a durable power of attorney for health care under chapter 144B, and is dated and signed by the declarant or another person acting on the declarant's behalf at the direction of and in the presence of the declarant. In addition, a declaration shall be either of the following:

a. Signed by at least two individuals who are not named therein and who, in the presence of each other and the declarant, witnessed the signing of the declaration by the declarant, or another person acting on the declarant's behalf at the direction of and in the presence of the declarant, and witnessed the signing of the declaration by each other.

b. Acknowledged before a notarial officer.

3. A declaration may include the location of an agreement for prearranged funeral services or funeral merchandise as defined in and executed under chapter 523A, cemetery lots owned by or reserved for the declarant, and special instructions regarding organ donation consistent with chapter 142C.

Sec. 12. NEW SECTION. 144C.7 REVOCATION OF DECLARATION.

1. A declaration is revocable by a declarant in a writing signed and dated by the declarant.

2. Unless otherwise expressly provided in a declaration:

a. A dissolution of marriage, annulment of marriage, or legal separation between the declarant and the declarant's spouse that occurs subsequent to the execution of the declaration constitutes an automatic revocation of the spouse as a designee.

b. A designation of a person as a designee pursuant to a declaration is ineffective if the designation is revoked by the declarant in writing subsequent to the execution of the declaration or if the designee is unable or unwilling to serve as the designee.

Sec. 13. NEW SECTION. 144C.8 FORFEITURE OF DESIGNEE'S AUTHORITY.

A designee shall forfeit all rights and authority under a declaration and all rights and authority under the declaration shall vest in and devolve upon an alternate designee, or if there is none vest in and devolve pursuant to section 144C.5, under either of the following circumstances:

1. The designee is charged with murder in the first or second degree or voluntary manslaughter in connection with the declarant's death and those charges are known to a third party.

2. The designee does not exercise the designee's authority under the declaration within twenty-four hours of receiving notification of the death of the declarant or within forty hours of the declarant's death, whichever is earlier.

Sec. 14. NEW SECTION. 144C.9 INTERSTATE EFFECT OF DECLARATION.

Unless otherwise expressly provided in a declaration:

1. It is presumed that the declarant intended to have a declaration executed pursuant to this chapter have the full force and effect of law in any state of the United States, the District of Columbia, and any other territorial possessions of the United States.

2. A declaration or similar instrument executed in another state that complies with the requirements of this chapter may be relied upon, in good faith, by the designee, an alternate designee, and a third party in this state so long as the declaration is not invalid, illegal, or unconstitutional in this state.

Sec. 15. NEW SECTION. 144C.10 EFFECT OF DECLARATION.

1. The designee designated in a declaration shall have the sole discretion pursuant to the declaration to determine what final disposition of the declarant's remains and ceremonies to be performed after the declarant's death are reasonable under the circumstances.

2. The most recent declaration executed by a declarant shall control.

3. This chapter does not prohibit a person from conducting a separate ceremony to commemorate a declarant, at the person's expense, to assist in the bereavement process.

4. The rights of a donee created by an anatomical gift pursuant to section 142C.11 are superior to the authority of a designee under a declaration executed pursuant to this chapter.

Sec. 16. NEW SECTION. 144C.11 PRACTICE OF MORTUARY SCIENCE.

This chapter shall not be construed to authorize the unlicensed practice of mortuary science as provided in chapter 156.

Sec. 17. Section 331.802, subsection 3, paragraph h, Code 2007, is amended to read as follows:

h. Death of a person if the body is not claimed by a ~~relative~~ person authorized to control the deceased person's remains under section 144C.5, or a friend.

Sec. 18. Section 331.802, subsection 8, Code 2007, is amended to read as follows:

8. Where donation of the remains of the deceased to a medical school or similar institution equipped with facilities to perform autopsies is provided by will or directed by the ~~spouse, parents or children of full age, of the deceased~~ person authorized to control the deceased person's remains under section 144C.5, any autopsy under this section shall be performed at the direction of the school or institution, and in such a manner as to further the purpose of the donation, while serving the public interest.

Sec. 19. Section 331.804, subsection 1, Code 2007, is amended to read as follows:

1. After an investigation has been completed, including an autopsy if one is performed, the body shall be prepared for transportation. The body shall be transported by a funeral director~~, if~~ chosen by a ~~relative or friend~~ person authorized to control the remains of the deceased person under section 144C.5, 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. 20. Section 331.805, subsection 3, paragraph b, Code 2007, is amended to read as follows:

b. If the ~~next of kin, guardian, or other~~ person authorized to ~~act on behalf~~ control the remains of a deceased person under section 144C.5 has requested that the body of the deceased person be cremated, a permit for cremation must be obtained from a medical examiner. 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 seventy-five dollars. The costs ~~shall be borne by the family, next of kin, guardian of the decedent, or other person~~ of the permit and other reasonable cremation expenses may be paid from the decedent's estate pursuant to section 633.425, subsection 3.

Sec. 21. Section 523I.309, Code 2007, is amended to read as follows:

523I.309 INTERMENT, RELOCATION, OR DISINTERMENT OF REMAINS.

1. ~~Any available member of the following classes of persons, in the priority listed,~~ A person authorized to control the deceased person's remains under section 144C.5 shall have the right to control the interment, relocation, or disinterment of a decedent's remains within or from a cemetery~~:~~.

~~a. The surviving spouse of the decedent, if not legally separated from the decedent.~~

~~b. The decedent's surviving adult children. If there is more than one surviving adult child, any adult child who can confirm, in writing, that all other adult children have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation,~~

~~or disinterment, unless the cemetery receives an objection to such action from another adult child of the decedent. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.~~

~~c. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.~~

~~d. A surviving adult grandchild of the decedent. If there is more than one surviving adult grandchild, any adult grandchild who can confirm, in writing, that all other adult grandchildren have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult grandchild of the decedent. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.~~

~~e. A surviving adult sibling of the decedent. If there is more than one surviving adult sibling, any adult sibling who can confirm, in writing, that all other adult siblings have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult sibling of the decedent. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.~~

~~f. A surviving grandparent of the decedent. If there is more than one surviving grandparent, any grandparent who can confirm, in writing, that all other grandparents have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another grandparent of the decedent. Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.~~

~~g. An adult person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.~~

~~h. The county medical examiner, if responsible for the decedent's remains.~~

~~A cemetery may await a court order before proceeding with the interment, relocation, or disinterment of a decedent's remains within or from a cemetery if the cemetery is aware of a dispute between an authorized person under this section and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons with the same priority under this subsection.~~

2. A person who represents that the person knows the identity of a decedent and, in order to procure the interment, relocation, or disinterment of the decedent's remains, signs an order or statement, other than a death certificate, that warrants the identity of the decedent is liable for all damages that result, directly or indirectly, from that representation.

~~3. A person may provide written directions for the interment, relocation, or disinterment of the person's own remains in a prepaid funeral or cemetery contract, or written instrument signed and acknowledged by the person. The directions may govern the inscription to be placed on a grave marker attached to any interment space in which the decedent had the right of interment at the time of death and in which interment space the decedent is subsequently interred. The directions may be modified or revoked only by a subsequent writing signed and acknowledged by the person. A person other than a decedent who is entitled to control the interment, relocation, or disinterment of a decedent's remains under this section shall faithfully carry out the directions of the decedent to the extent that the decedent's estate or the person controlling the interment, relocation, or disinterment is financially able to do so.~~

~~4. A cemetery shall not be liable for carrying out the written directions of a decedent or the directions of any person entitled to control the interment, relocation, or disinterment of the decedent's remains.~~

~~5.~~ 3. In the event of a dispute concerning the right to control the interment, relocation, or disinterment of a decedent's remains, the dispute may be resolved by a court of competent jurisdiction. A cemetery or entity maintaining a columbarium shall not be liable for refusing to accept the decedent's remains, relocate or disinter, inter or otherwise dispose of the decedent's remains, until the cemetery or entity maintaining a columbarium receives a court order or other suitable confirmation that the dispute has been resolved or settled.

~~6.~~ 4. a. If good cause exists to relocate or disinter remains interred in a cemetery, the remains may be removed from the cemetery pursuant to a disinterment permit as required under section 144.34, with the written consent of the cemetery, the current interment rights owner and the person entitled ~~by this section~~ to control the interment, relocation, or disinterment of the decedent's remains under section 144C.5.

b. If the consent required ~~by this subsection~~ pursuant to paragraph "a" is not refused but cannot otherwise be obtained, the remains may be relocated or disinterred by permission of the district court of the county in which the cemetery is located upon a finding by the court that clear and convincing evidence of good cause exists to relocate or disinter the remains. Before the date of application to the court for permission to relocate or disinter remains under this subsection, notice must be given to the cemetery in which the remains are interred, each person whose consent is required for relocation or disinterment of the remains under ~~subsection 1~~ paragraph "a", and any other person that the court requires to be served.

c. For the purposes of this subsection, personal notice must be given not later than the eleventh day before the date of hearing on an application to the court for permission to relocate or disinter the remains, or notice by certified mail or restricted certified mail must be given not later than the sixteenth day before the date of ~~application~~ hearing.

d. This subsection does not apply to the removal of remains from one interment space to another interment space in the same cemetery to correct an error, or relocation of the remains by the cemetery from an interment space for which the purchase price is past due and unpaid, to another suitable interment space.

~~7.~~ 5. A person who removes remains from a cemetery shall keep a record of the removal, and provide a copy to the cemetery, that includes all of the following:

a. The date the remains are removed.

b. The name of the decedent and age at death if those facts can be conveniently obtained.

c. The place to which the remains are removed.

d. The name of the cemetery and the location of the interment space from which the remains are removed.

~~8.~~ 6. A cemetery may disinter and relocate remains interred in the cemetery for the purpose of correcting an error made by the cemetery after obtaining a disinterment permit as required by section 144.34. The cemetery shall provide written notice describing the error to the commissioner and to the person who has the right to control the interment, relocation, or disinterment of the remains erroneously interred, by restricted certified mail at the person's last known address and sixty days prior to the disinterment. The notice shall include the location where the disinterment will occur and the location of the new interment space. A cemetery is not civilly or criminally liable for an erroneously made interment that is corrected in compliance with this subsection unless the error was the result of gross negligence or intentional misconduct.

~~9.~~ 7. Relocations and disinterments of human remains shall be done in compliance with sections 144.32 and 144.34. Relocations of human remains held in a columbarium shall be in compliance with the laws regulating the entity maintaining the columbarium.

Sec. 22. APPLICABILITY DATES.

1. This Act applies to all declarations executed on or after the effective date of this Act.

2. The section of this Act enacting section 144C.5 applies to all deaths occurring on or after the effective date of this Act, except that section 144C.5, subsection 1, paragraph "a", applies only to a designee or alternate designee designated in a declaration that is executed on or after the effective date of this Act.

Approved April 11, 2008

CHAPTER 1052

EMERGENCY CARE OR ASSISTANCE LIABILITY
AND AUTOMATED EXTERNAL DEFIBRILLATORS

S.F. 505

AN ACT relating to civil liability for damages relating to the use of an automated external defibrillator in sudden cardiac arrest emergencies.

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

Section 1. Section 613.17, Code 2007, is amended to read as follows:

613.17 EMERGENCY ASSISTANCE IN AN ACCIDENT.

1. A person, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter unless such acts or omissions constitute recklessness or willful and wanton misconduct.

a. For purposes of this ~~section~~ subsection, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation.

b. ~~The~~ For purposes of this subsection, operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator, or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance ~~for purposes of this section~~.

c. For purposes of this ~~section~~ subsection, a person rendering emergency care or assistance includes a person involved in a workplace rescue arising out of an emergency or accident.

2. The following persons or entities, while acting reasonably and in good faith, who render emergency care or assistance relating to the preparation for and response to a sudden cardiac arrest emergency, shall not be liable for any civil damages for acts or omissions arising out of the use of an automated external defibrillator, whether occurring at the place of an emergency or accident or while such persons are in transit to or from the emergency or accident or while such persons are at or being moved to or from an emergency shelter:

a. A person or entity that acquires an automated external defibrillator.

b. A person or entity that owns, manages, or is otherwise responsible for the premises on which an automated external defibrillator is located if the person or entity maintains the automated external defibrillator in a condition for immediate and effective use at all times, subject to standards developed by the department of public health by rule.

c. A person who retrieves an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

d. A person who uses, attempts to use, or fails to use an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

e. A person or entity that provides instruction in the use of an automated external defibrillator.

Approved April 11, 2008

CHAPTER 1053

ABSENTEE BALLOT APPLICATIONS

S.F. 2089

AN ACT relating to applications for absentee ballots.

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

Section 1. Section 53.2, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. The state commissioner shall prescribe a form for absentee ballot applications. However, if a registered voter submits an application on a sheet of paper no smaller than three by five inches in size that includes all of the information required in this section, the prescribed form is not required.

b. Absentee ballot applications may include instructions to send the application directly to the county commissioner of elections. However, no absentee ballot application shall be preaddressed or printed with instructions to send the applications to anyone other than the appropriate commissioner.

c. No absentee ballot application shall be preaddressed or printed with instructions to send the ballot to anyone other than the voter.

Sec. 2. Section 53.2, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Each application shall contain the name and signature of the registered voter, the registered voter's date of birth, the address at which the voter is registered to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the registered voter. If insufficient information has been provided, either on the prescribed form or on an application created by the applicant, the commissioner shall, by the best means available, obtain the additional necessary information.

Sec. 3. Section 53.3, Code 2007, is amended to read as follows:

53.3 ~~RECEIPT REQUIRED~~ REQUIREMENTS FOR CERTAIN ABSENTEE BALLOT APPLICATIONS — PRESCRIBED FORM — RECEIPT.

1. When an application for an absentee ballot is solicited by, or collected for return to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall provide the applicant with the form prescribed by the state commissioner.

2. a. When an application for an absentee ballot is solicited by, and returned to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall issue to the applicant a receipt for the completed application.

b. The receipt shall contain the following information:

~~1.~~ (1) The name of the applicant.

~~2.~~ (2) The date and time the completed application was received from the applicant.

~~3.~~ (3) The name and date of the election for which the application is being completed.

~~4.~~ (4) The name of the political party, candidate, or committee for whom the person is soliciting and returning the application for the absentee ballot.

~~5.~~ (5) The name of the person acting as an actual or implied agent for the political party, candidate, or committee.

~~6.~~ (6) A statement that the application will be delivered to the appropriate commissioner within seventy-two hours of the date and time the completed application was received from the applicant or no later than five p.m. on the Friday before the election, whichever is earlier.

~~7.~~ (7) A statement that an absentee ballot will be mailed to the applicant within twenty-four hours after the ballot for the election is available.

c. The commissioner shall make receipt forms required by this section available for photocopying at the expense of the political party, candidate, or committee.

Approved April 11, 2008

CHAPTER 1054

GIFT TO IOWA'S FUTURE RECOGNITION DAY

S.F. 2108

AN ACT relating to the designation of a gift to Iowa's future recognition day.

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

Section 1. NEW SECTION. 1C.15 GIFT TO IOWA'S FUTURE RECOGNITION DAY.

The governor of this state is hereby authorized and requested to issue annually a proclamation designating the first Monday in April as Gift to Iowa's Future Recognition Day to recognize, celebrate, and honor those public-spirited individuals and corporations who have donated land or a conservation easement to benefit Iowa's parks, trails, fish and wildlife habitat, natural areas, open spaces, and public recreation areas and for other public uses and benefits. The department of natural resources shall maintain a registry to record the names of and suitably honor all persons who have donated land or a conservation easement for public use as described in this section.

Approved April 11, 2008

CHAPTER 1055

REAL ESTATE TRANSACTIONS —
CLOSING PROTECTION LETTER COVERAGE

S.F. 2117

AN ACT relating to coverage of closing protection letters in real estate transactions and providing an effective date.

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

Section 1. Section 16.93, subsection 1, Code 2007, is amended to read as follows:

1. The authority through the title guaranty division may issue a closing protection letter to a person to whom a proposed title guaranty is to be issued, upon the request of the person,

if the division issues a commitment for title guaranty or title guaranty certificate. The closing protection letter shall conform to the terms of coverage and form of the instrument as approved by the division board and may indemnify a person to whom a proposed title guaranty is to be issued against loss of settlement funds due to only the following acts of the division's named participating attorney, ~~or~~ participating abstractor, or closer:

a. Theft of settlement funds.

b. Failure by the participating attorney, ~~or~~ participating abstractor, or closer to comply with written closing instructions of the person to whom a proposed title guaranty is to be issued relating to title certificate coverage when agreed to by the participating attorney, ~~or~~ participating abstractor, or closer.

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

Approved April 11, 2008

CHAPTER 1056

REGULATION OF CARNIVAL AND FAIR SAFETY — AMUSEMENT RIDE INSPECTIONS

S.F. 2157

AN ACT relating to amusement ride safety inspection fees and special inspectors authorized by the division of labor services in the department of workforce development and providing an effective date.

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

Section 1. Section 88A.3, Code 2007, is amended to read as follows:

88A.3 RULES.

The commissioner shall adopt ~~and issue~~ rules for the safe installation, repair, maintenance, use, operation, and inspection of amusement devices, amusement rides, concession booths, and related electrical equipment at carnivals and fairs to the extent necessary for the protection of the public. The rules shall be based ~~upon~~ on generally accepted engineering standards and shall be concerned with, but not necessarily limited to, engineering force stresses, safety devices, and preventive maintenance. ~~Whenever such~~ If standards are available in suitable form ~~they~~, the standards may be incorporated by reference. The rules shall provide for the reporting of accidents and injuries incurred from the operation of amusement devices or rides, concession booths, or related electrical equipment.

The commissioner may modify or repeal any rule adopted under the provisions of this chapter.

Sec. 2. Section 88A.4, Code 2007, is amended to read as follows:

88A.4 PERMIT AND INSPECTION FEES — ~~NONLIABILITY~~ AND SPECIAL INSPECTORS.

Annual inspection fees under this chapter shall be as follows:

1. Permit fees.

a. One through ten rides, or devices or concessions, ~~twenty~~ thirty dollars.

b. Eleven or more rides, or devices or concessions, ~~thirty~~ forty dollars.

2. Mechanical and electrical inspection fees for amusement rides and devices.

a. For rides which are designed for seventy-five pounds or less per passenger unit, ~~sixty~~ seventy-five dollars for each inspection.

b. For rides which are designed for seventy-five pounds or more and for which the manufacturer's recommended assembly time is less than forty work hours, ~~ninety~~ one hundred ten dollars for each inspection.

c. For rides for which the manufacturer's recommended assembly time is forty work hours or more, ~~one hundred twenty~~ two hundred fifty dollars for each inspection.

3. Electrical inspection of concession booths, and amusement devices fees, ~~thirty-five~~ forty dollars each.

~~4. Special inspectors authorization fee, twenty-five dollars each. The special inspectors authorization shall allow a person to perform inspections only on rides, devices, and concession booths of an operator who makes the request for the special inspectors authorization. The failure of a special inspector to inform the commissioner of violations shall not subject the commissioner to liability for any damages incurred.~~

Sec. 3. EFFECTIVE DATE. The portion of the section of this Act amending section 88A.4, subsections 1 through 3, takes effect January 1, 2009.

Approved April 11, 2008

CHAPTER 1057

CULTURAL AFFAIRS —
RECORDS, PROGRAMS, AND COMMITTEES

S.F. 2176

AN ACT relating to cultural affairs by providing for the preservation of electronic records, establishing local cultural committees, and creating a civil war sesquicentennial advisory committee.

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

DIVISION I
ONLINE RESEARCH CENTER

Section 1. Section 303.2, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Establish, maintain, and administer a digital collection of historical manuscripts, documents, records, reports, images, and artifacts and make the collection available to the public through an online research center.

DIVISION II
CULTURE, HISTORY, AND ARTS TEAMS PROGRAM

Sec. 2. NEW SECTION. 303.3E CULTURE, HISTORY, AND ARTS TEAMS PROGRAM.

1. The department of cultural affairs shall establish and administer a statewide program facilitating the promotion of culture, history, and arts in Iowa. The program's purpose shall be

to encourage cooperation and collaboration among the various state and local organizations working in these areas to improve Iowa's quality of life.

2. The department shall implement the program by working with the local organizations to establish local committees. Each committee shall:

a. Include representatives from local organizations dedicated to promoting culture, history, and arts.

b. Gather and disseminate information on the cultural, historical, and arts opportunities in the regions.

c. Enhance communication among the local organizations.

d. Assist the staff members of local organizations in obtaining technical and professional training.

3. The department shall assist local organizations in the delivery of technical services, professional training, and programming opportunities by working with these committees.

DIVISION III
CIVIL WAR SESQUICENTENNIAL ADVISORY COMMITTEE

Sec. 3. NEW SECTION. 303.19 AMERICAN CIVIL WAR SESQUICENTENNIAL ADVISORY COMMITTEE.

1. ESTABLISHMENT AND PURPOSE. A civil war sesquicentennial advisory committee is established within the historical division of the department of cultural affairs for the purpose of advising and assisting the division in its efforts to commemorate the sesquicentennial of Iowa's involvement in the American civil war.

2. MEMBERSHIP AND QUALIFICATIONS. The committee shall consist of twenty members appointed by the administrator of the historical division. Each member shall be from an academic institution, a museum, or a civic organization or otherwise be someone with an interest in the preservation of Iowa's civil war heritage. Membership of the committee shall reflect multicultural diversity, and shall be appointed pursuant to the requirements of sections 69.16 and 69.16A. Vacancies shall be filled by an appointment by the administrator of the historical division in the same manner as other appointments.

3. EXPENSES AND REIMBURSEMENT. The members of the committee are not entitled to receive per diem compensation but are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties.

4. DUTIES AND AUTHORITY. The committee shall, for the period beginning in 2010 and ending in 2016, advise and assist the historical division as it plans, coordinates, and implements activities and programs relating to the commemoration of the sesquicentennial of Iowa's involvement in the American civil war.

a. The activities and programs of the division may include but are not limited to creating interpretive and educational materials such as exhibitions, literature and films, planning and promoting special events, designing logos and advertising campaigns, and producing commemorative items and memorabilia. The division shall have the authority to sell or offer for sale any of the materials, or other goods or services produced pursuant to this section, notwithstanding section 23A.2.

b. The division may hold copyrights or trademarks in the materials created during the commemoration, including but not limited to the interpretive materials and memorabilia it designs and produces. In addition, the division, at its discretion, may license the rights to the materials. For the purposes of this section, section 22.2 shall not be interpreted to prevent the division's exclusive ability to license the use, reproduction, or dissemination of the materials produced for the commemoration.

c. The division may adopt, in consultation with the committee and pursuant to chapter 17A, any rules necessary for the licensing of materials created during the commemoration.

5. DISSOLUTION. The committee shall complete its duties no later than June 30, 2017, but may complete its duties and dissolve itself prior to that date.

6. REPEAL. This section is repealed June 30, 2017.

DIVISION IV
ELECTRONIC RECORDS ARCHIVE

Sec. 4. Section 305.9, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Establish, maintain, and administer an archive of records created and maintained in electronic format in order to preserve and provide public access to state government records identified as having permanent historical value by the commission.

Approved April 11, 2008

CHAPTER 1058

ADMINISTRATION AND REGULATION
OF MISCELLANEOUS HEALTH-RELATED ACTIVITIES

S.F. 2177

AN ACT relating to health-related activities and regulation by the department of public health.

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

DIVISION I
GENERAL PROVISIONS

Section 1. Section 135.11, subsection 6, Code Supplement 2007, is amended by striking the subsection.

Sec. 2. Section 135.11, subsection 13, Code Supplement 2007, is amended to read as follows:

13. Establish and maintain ~~such~~ divisions ~~in the department~~ as are necessary for the proper enforcement of the laws administered by ~~it, including a division of contagious and infectious diseases, a division of venereal diseases, a division of housing, a division of sanitary engineering, and a division of vital statistics, but the various services of the department shall be so consolidated as to eliminate unnecessary personnel and make possible the carrying on of the functions of the department under the most economical methods~~ the department.

Sec. 3. Section 135.22B, subsection 6, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The individual has a ~~diagnosed~~ diagnosis of brain injury ~~as defined in section 135.22~~ that meets the diagnosis eligibility criteria for the brain injury services waiver.

Sec. 4. Section 135.37, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 6. As necessary to avoid duplication and promote coordination of public health inspection and enforcement activities, the department may enter into agreements with local boards of health to provide for inspection and enforcement of tattooing establishments in accordance with the rules and criteria implemented under this section.

Sec. 5. Section 135I.2, Code 2007, is amended to read as follows:

135I.2 APPLICABILITY.

This chapter applies to all swimming pools and spas owned or operated by local or state gov-

ernment, or commercial interests or private entities including, but not limited to, facilities operated by cities, counties, public or private school corporations, hotels, motels, camps, apartments, condominiums, and health or country clubs. This chapter does not apply to facilities intended for single family use or to a swimming pool or spa operated by a homeowners' association representing seventy-two or fewer dwelling units if the association's bylaws, which also apply to a rental agreement relative to any of the dwelling units, include an exemption from the requirements of this chapter, provide for inspection of the swimming pool or spa by an entity other than the department or local board of health, and assume any liability associated with operation of the swimming pool or spa. This chapter does not apply to a swimming pool or spa used exclusively for therapy under the direct supervision of qualified medical personnel. To avoid duplication and promote coordination of inspection activities, the department may enter into written agreements ~~pursuant to chapter 28E~~ with a local board of health to provide for inspection and enforcement in accordance with this chapter.

Sec. 6. Section 135M.4, subsection 1, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated. However, a donated prescription drug bearing an expiration date that is six months or less after the date the prescription drug was donated may be accepted and distributed if the drug is in high demand and can be dispensed for use prior to the drug's expiration date.

Sec. 7. Section 136C.9, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. Specific licenses issued upon application to a person named in the license to use, manufacture, produce, transfer, receive, acquire, or possess quantities of or equipment using radioactive material. Applicants requesting radioactive materials in quantities of concern, as identified by the United States nuclear regulatory commission, shall submit fingerprints to the United States nuclear regulatory commission for a background check of all individuals authorized for unescorted access to such material.

Sec. 8. Section 136C.15, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. The radiation machine meets the criteria for ~~the American college of radiology~~ a mammography accreditation program approved by the United States food and drug administration. The department shall make copies of those criteria available to the public and may by rule adopt modified criteria. The department may accept an evaluation report issued by ~~the American college of radiology~~ such an approved accreditation program as evidence that a radiation machine meets those criteria. If at any time the department determines that it will not accept any evaluation reports issued by ~~the American college of radiology~~ such an approved accreditation program as evidence that a radiation machine meets those criteria, the department shall promptly notify each person who has registered a radiation machine under this paragraph.

Sec. 9. Section 136C.15, subsections 4, 5, 6, and 10, Code 2007, are amended to read as follows:

4. To obtain authorization from the department to use a radiation machine for mammography, the person who owns or leases the radiation machine or an authorized agent of the person shall apply to the department for mammography authorization on an application form provided by the department and shall provide all of the information required by the department as specified on the application form. A person who owns or leases more than one radiation machine used for mammography shall obtain authorization for each radiation machine. The department shall process and respond to an application within thirty days after the date of receipt of the application. Upon determining to grant mammography authorization for a radiation machine, the department shall issue a certificate of registration specifying the mammography

authorization ~~for each authorized radiation machine~~. A mammography authorization is effective for three years.

5. ~~No later than sixty days after initial mammography authorization of a radiation machine under this section, the department shall inspect the radiation machine. After that initial inspection, the~~ The department shall annually inspect ~~the~~ each authorized radiation machine and may inspect the radiation machine more frequently. The department shall make reasonable efforts to coordinate the inspections under this section with the department's other inspections of the facility in which the radiation machine is located.

6. After each satisfactory inspection by the department, the department shall issue a ~~certificate of radiation machine~~ written proof of inspection or a similar document identifying the facility and radiation machine inspected and providing a record of the date the radiation machine was inspected. ~~The facility shall post the certificate or other document near the inspected radiation machine.~~

10. If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography. An application for reinstatement of a mammography authorization shall be filed and processed in the same manner as an application for mammography authorization under subsection 4, except that the department shall not issue a reinstated certificate of ~~mammography~~ registration specifying the mammography authorization until the department inspects the radiation machine and determines that it meets the standards set forth in subsection 2. The department shall conduct an inspection required under this subsection no later than sixty days after receiving a proper application for reinstatement of a mammography authorization.

Sec. 10. Section 136D.3, Code 2007, is amended to read as follows:

136D.3 APPLICATION OF CHAPTER.

1. This chapter does not apply to a phototherapy device used by or under the supervision of a licensed physician trained in the use of phototherapy devices. A tanning device used by a tanning facility must comply with all applicable federal laws and regulations.

2. This chapter shall not supersede or duplicate the authority and programs of any other agency of the state or the United States. To avoid duplication and promote coordination of radiation protection activities, the department may enter into written agreements ~~pursuant to chapter 28E~~ with other state or federal agencies, with local boards of public health, or with private organizations or individuals, to administer this chapter.

Sec. 11. Section 139A.35, Code 2007, is amended to read as follows:

139A.35 MINORS.

A minor ~~who seeks diagnosis or treatment for a sexually transmitted disease or infection~~ shall have the legal capacity to act and give consent to provision of medical care ~~and service for the~~ or services to the minor for the prevention, diagnosis, or treatment of a sexually transmitted disease or infection by a hospital, clinic, or health care provider. Such medical ~~diagnosis and treatment~~ care or services shall be provided by or under the supervision of a physician licensed to practice medicine and surgery, osteopathy, or osteopathic medicine and surgery, a physician assistant, or an advanced registered nurse practitioner. Consent shall not be subject to later disaffirmance by reason of such minority. The consent of another person, including but not limited to the consent of a spouse, parent, custodian, or guardian, shall not be necessary.

Sec. 12. NEW SECTION. 139A.41 CHLAMYDIA AND GONORRHEA TREATMENT.

Notwithstanding any other provision of law to the contrary, a physician, physician assistant, or advanced registered nurse practitioner who diagnoses a sexually transmitted chlamydia or gonorrhea infection in an individual patient may prescribe, dispense, furnish, or otherwise provide prescription oral antibiotic drugs to that patient's sexual partner or partners without examination of that patient's partner or partners. If the infected individual patient is unwilling or unable to deliver such prescription drugs to a sexual partner or partners, a physician, physi-

cian assistant, or advanced registered nurse practitioner may dispense, furnish, or otherwise provide the prescription drugs to the department or local disease prevention investigation staff for delivery to the partner or partners.

Sec. 13. Section 144.28, subsection 1, Code Supplement 2007, is amended to read as follows:

1. a. ~~The~~ For the purposes of this section, "nonnatural cause of death" means the death is a direct or indirect result of physical, chemical, thermal, or electrical trauma, or drug or alcohol intoxication or other poisoning.

b. Unless there is a nonnatural cause of death, the medical certification shall be completed and signed 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~~.

c. If there is a nonnatural cause of death, the county or state medical examiner shall be notified and shall conduct an inquiry.

d. If the decedent was an infant or child and the cause of death is not known, a medical examiner's inquiry shall be conducted and an autopsy performed as necessary to exclude a nonnatural cause of death.

e. If upon inquiry into ~~the~~ a death, the county or state medical examiner determines that a preexisting natural disease or condition was the likely cause of death and that the death does not affect the public interest as described in section 331.802, subsection 3, the ~~county~~ medical examiner may elect to defer to the physician in charge of the patient's preexisting condition the certification of the cause of death.

f. When an inquiry is required by the county or state medical examiner, the medical examiner shall investigate the cause and manner of death and shall complete and sign the medical certification within seventy-two hours after determination of the cause and manner of death.

DIVISION II
ANIMALS FOR SCIENTIFIC RESEARCH CHAPTER REPEAL

Sec. 14. Section 135.1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

For the purposes of chapter 155 and Title IV, subtitle 2, excluding chapters 142B~~, 145B,~~ and 146, unless otherwise defined:

Sec. 15. Section 135.11, subsection 14, Code Supplement 2007, is amended to read as follows:

14. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125 and 155, and Title IV, subtitle 2, excluding chapters 142B~~, 145B,~~ and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 16. Section 162.20, subsection 5, paragraph c, Code 2007, is amended to read as follows:

c. The transfer of a dog or cat to ~~an institution as defined in section 145B.1,~~ a research facility as defined in section 162.2~~,~~ or a person licensed by the United States department of agriculture as a class B dealer pursuant to 9 C.F.R. subchapter A, part 2. However, a class B dealer who receives an unsterilized dog or cat from a pound or animal shelter shall either sterilize the dog or cat or transfer the unsterilized dog or cat to ~~an institution or~~ a research facility provided in this paragraph. The class B dealer shall not transfer a dog to ~~an institution or~~ a research facility~~,~~ if the dog is a greyhound registered with the national greyhound association and the dog raced at a track associated with pari-mutuel racing~~,~~ unless the class B dealer receives written approval of the transfer from a person who owned an interest in the dog while the dog was racing.

Sec. 17. Section 717.1A, subsection 7, Code 2007, is amended to read as follows:

7. ~~An institution, as defined in section 145B.1, or a~~ 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. 18. Section 717.2, subsection 3, Code 2007, is amended to read as follows:

3. This section does not apply to ~~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. 19. Section 717A.1, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. A location where an animal is maintained for educational or scientific purposes, including ~~an institution as defined in section 145B.1,~~ a research facility as defined in section 162.2, an exhibition, or a vehicle used to transport the animal.

Sec. 20. Section 717B.2, subsection 11, Code 2007, is amended to read as follows:

11. ~~An institution, as defined in section 145B.1, or a~~ 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. 21. Section 717B.3, subsection 2, Code 2007, is amended to read as follows:

2. This section does not apply to ~~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. 22. Section 717B.3A, subsection 2, paragraph k, Code 2007, is amended to read as follows:

k. ~~An institution, as defined in section 145B.1, or a~~ 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. 23. Section 717D.3, subsection 2, paragraph k, Code 2007, is amended to read as follows:

k. ~~An institution, as defined in section 145B.1, or a~~ 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. 24. Chapter 145B, Code 2007, is repealed.

DIVISION III
COUNCIL ON CHEMICALLY EXPOSED INFANTS AND CHILDREN CHAPTER REPEAL

Sec. 25. Chapter 235C, Code 2007, is repealed.

Approved April 11, 2008

CHAPTER 1059

PROFESSIONAL LICENSING AND REGULATION
BY THE DEPARTMENT OF COMMERCE BANKING DIVISION

S.F. 2179

AN ACT making specified changes relating to professional licensing and regulation under the purview of the banking division of the department of commerce.

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

Section 1. Section 103A.10, subsection 3, Code Supplement 2007, is amended to read as follows:

3. Provisions of the state building code relating to the manufacture and installation of factory-built structures shall apply throughout the state. A factory-built structure approved by the commissioner shall be deemed to comply with all building regulations applicable to its manufacture and installation and shall be exempt from any other state or local building regulations. Except with respect to manufactured homes, as defined in section 103A.51, subsection 4, a provision of this chapter relating to the manufacture or installation of factory-built structures shall not alter or supersede any provision of chapter 542B concerning the practice of professional engineering or chapter 544A concerning the practice of architecture.

Sec. 2. Section 542.4, subsection 5, Code 2007, is amended to read as follows:

5. a. ~~A member of the~~ The board shall maintain the confidentiality of information relating to the following:

~~a. Criminal history or prior misconduct of the applicant.~~

~~b.~~ (1) ~~Information relating to the~~ The contents of the examination.

~~c.~~ (2) ~~Information relating to the~~ The examination results other than final score except for information about the results of the examination given to the person examined.

b. A member of the board who willfully communicates or seeks to communicate such information in a manner which violates confidentiality requirements, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Sec. 3. Section 542B.32, Code 2007, is amended to read as follows:

542B.32 DISCLOSURE OF CONFIDENTIAL INFORMATION.

1. ~~A member of the~~ The board shall not disclose information relating to the following:

~~1. Criminal history or prior misconduct of the applicant.~~

~~2.~~ a. ~~Information relating to the~~ The contents of the examination.

~~3.~~ b. ~~Information relating to the~~ The examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Sec. 4. Section 543B.52, Code 2007, is amended to read as follows:

543B.52 DISCLOSURE OF CONFIDENTIAL INFORMATION.

1. ~~A member of the~~ The commission shall not disclose information relating to the following:

~~1. Criminal history or prior misconduct of the applicant.~~

~~2.~~ a. ~~Information relating to the~~ The contents of the examination.

~~3.~~ b. ~~Information relating to the~~ The examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

2. A member of the commission who willfully communicates or seeks to communicate such

information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Sec. 5. Section 543D.4, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The provisions of section 272C.2, subsection 4, shall only apply to a certified real estate appraiser or an associate real estate appraiser to the extent consistent with the policies adopted by the appraisal qualifications board of the appraisal foundation.

Sec. 6. Section 544A.8, unnumbered paragraph 4, Code 2007, is amended to read as follows:

In lieu of examination, the board may grant registration by reciprocity. A person applying to the board for registration by reciprocity shall furnish satisfactory evidence that the person ~~meets both of the following requirements:~~ holds qualifications determined by the board to be substantially equivalent to the requirements for initial registration in accordance with section 546.10, subsection 8.

Sec. 7. Section 544A.8, subsections 1 and 2, Code 2007, are amended by striking the subsections.

Sec. 8. Section 544A.9, Code 2007, is amended to read as follows:

544A.9 REGISTRATION.

When the applicant has complied with the requirements as set forth in section 544A.8, ~~to the satisfaction of at least four members of the board,~~ and has paid the fees prescribed by the board, the ~~secretary~~ executive officer shall enroll the applicant's name and address in the roster of registered architects and issue to the applicant a certificate of registration, signed by the officers of the board, which certificate shall entitle the applicant to practice as an architect in the state of Iowa.

Sec. 9. Section 544A.13, unnumbered paragraph 3, Code 2007, is amended to read as follows:

Proceedings for the revocation of a certificate shall be initiated by filing written charges against the accused with the board. ~~Upon the filing of charges 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 a~~ A time and place for the hearing of the charges shall be fixed by the board if the board determines that a hearing is warranted. If personal service or service through counsel cannot be effected, service may be by publication. At the hearing, the accused has the right to be represented by counsel, to introduce evidence, and to examine and cross-examine witnesses. The board may subpoena witnesses, administer oaths to witnesses, and employ counsel. ~~The board shall make a written report of its findings, which shall be filed with the secretary of state, and which is conclusive.~~

Sec. 10. Section 544A.15, subsection 1, Code 2007, is amended to read as follows:

1. It is unlawful for a person to engage in or to offer to engage in the practice of architecture in this state or use in connection with the person's name the title "architect", "registered architect", or "architectural designer", or to imply that the person provides or offers to provide professional architectural services, or to otherwise assume, use, or advertise any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is an architect or is engaged in the practice of architecture unless the person is qualified by registration as provided in this chapter. However, the board may by rule authorize a person to offer to perform architectural services in this state prior to registration in this state if the person is registered in good standing to practice architecture in at least one other state or jurisdiction, the person holds a certificate from a national certification council recognized by the board, the person makes such disclosures as the board may require by rule, and the person becomes duly registered in this state prior to otherwise practicing architecture in this state as defined in section 544A.16, subsection 8.

Sec. 11. Section 544A.27, Code 2007, is amended to read as follows:

544A.27 DISCLOSURE OF CONFIDENTIAL INFORMATION.

1. ~~A member of the~~ The board shall not disclose information relating to the following:

~~1. Criminal history or prior misconduct of the applicant.~~

~~2.~~ a. ~~Information relating to the~~ The contents of the examination.

~~3.~~ b. ~~Information relating to the~~ The examination results other than final score except for information about the results of an examination which is given to the person who took the examination.

2. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Approved April 11, 2008

CHAPTER 1060

MODIFICATION OF CHILD CUSTODY
OR PHYSICAL CARE ORDERS — ACTIVE MILITARY DUTY

S.F. 2214

AN ACT relating to modification of a child custody order during the time a parent is serving active duty.

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

Section 1. NEW SECTION. 598.41C MODIFICATION OF CHILD CUSTODY OR PHYSICAL CARE — ACTIVE DUTY.

1. If an application for modification of a decree or a petition for modification of an order regarding child custody or physical care is filed prior to or during the time a parent is serving active duty in the military service of the United States, the court may only enter an order or decree temporarily modifying the existing child custody or physical care order or decree if there is clear and convincing evidence that the modification is in the best interest of the child. Upon the parent's completion of active duty, the court shall reinstate the custody or physical care order or decree that was in effect immediately preceding the period of active duty. If an application for modification of a decree or a petition for modification of an order is filed after a parent completes active duty, the parent's absence due to active duty does not constitute a substantial change in circumstances, and the court shall not consider a parent's absence due to that active duty in making a determination regarding the best interest of the child.

2. As used in this section, "active duty" means active military duty pursuant to orders issued under Title 10 of the United States Code. However, this section shall not apply to active guard and reserve duty or similar full-time military duty performed by a parent when the child remains in actual custody of the parent.

Approved April 11, 2008

CHAPTER 1061

INDIGENT DEFENSE AND
APPOINTMENTS OF GUARDIANS AD LITEM

S.F. 2217

AN ACT relating to providing legal representation to an eligible indigent person and the appointment of a guardian ad litem.

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

Section 1. Section 13B.4, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The state public defender shall file a notice with the clerk of the district court in each county served by a public defender designating which public defender office shall receive notice of appointment of cases. The state public defender may also designate a nonprofit organization which has a contract with the state public defender to provide legal services to eligible indigent persons ~~prior to July 1, 2004. Except as otherwise provided, in~~. In each county in which the state public defender files a designation, the state public defender's designee shall be appointed by the court to represent all eligible ~~indigents~~ persons or to serve as guardian ad litem for eligible children in juvenile court in all ~~of the~~ cases and proceedings specified in the designation. The appointment shall not be made if the state public defender notifies the court that the state public ~~defender~~ defender's designee will not provide ~~legal representation~~ services in certain cases as identified in the designation by the state public defender.

Sec. 2. Section 13B.9, subsection 1, paragraph c, Code 2007, is amended by striking the paragraph and inserting in lieu thereof the following:

c. Serve as guardian ad litem for each child in all cases in which the local public defender office is the state public defender's designee. The local public defender shall be responsible for determining who shall perform the duties of the guardian ad litem as defined in section 232.2 and shall be responsible for assuring the court that the duties of the guardian ad litem have been fulfilled.

Sec. 3. Section 13B.9, subsection 4, Code 2007, is amended to read as follows:

4. a. 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. 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. As used in this subsection, "successor designee" may include another local public defender office or a nonprofit organization that has contracted with the state public defender under section 13B.4, subsection 3.

b. If a conflict of interest arises in any case, subsection 1 does not affect the local public defender's obligation to withdraw as counsel or as guardian ad litem.

Sec. 4. Section 814.11, subsection 2, Code 2007, is amended to read as follows:

2. 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 notifies the court that the state appellate defender is unable to handle the case ~~due to a conflict of interest or because of a temporary overload of cases~~.

Sec. 5. Section 814.11, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In a juvenile case in which a petition on appeal is required, the trial attorney shall continue representation throughout the appeal without an additional appointment order unless the court grants the attorney permission to withdraw from the case.

Sec. 6. Section 814.11, subsections 3 and 4, Code 2007, are amended to read as follows:

3. If the state appellate defender is unable to handle the case or withdraws from the case, or 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,~~ including a juvenile case in which a petition on appeal is not required or a juvenile case in which the trial attorney has withdrawn from 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, if the state public defender consents to the appointment of the noncontract attorney. The order of appointment shall include a specific finding that no contract attorney ~~was~~ is available and the state public defender consents to the appointment.

Sec. 7. Section 815.10A, subsection 2, Code 2007, is amended to read as follows:

2. Claims for compensation and reimbursement submitted by an attorney appointed after June 30, 2004, are not considered timely unless the claim is submitted to the state public defender within forty-five days of ~~the~~ a withdrawal order, sentencing, acquittal, or dismissal ~~of,~~ whichever is earliest, in a criminal case or the withdrawal order, final ruling, or dismissal ~~of,~~ whichever is earliest, in any other type of case.

Sec. 8. Section 815.11, Code Supplement 2007, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE — FUND CREATED.

Costs incurred for legal representation by a court-appointed attorney under chapter 229A, 665, 822, or 908, or section 232.141, subsection 3, paragraph "d", or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 815.10 on behalf of an indigent shall be paid from moneys appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals and deposited in an account to be known as the indigent defense fund. Costs incurred representing an indigent defendant in a contempt action, or representing an indigent juvenile in a juvenile court proceeding ~~under chapter 600~~, are also payable from the fund. However, costs incurred in any administrative proceeding or in any other proceeding under this chapter or chapter 598, 600, 600A, 633, 633A, 814, or 915 or other provisions of the Code or administrative rules are not payable from the fund.

Approved April 11, 2008

CHAPTER 1062

PROVIDERS OF MUNICIPAL CABLE OR VIDEO SERVICES — CERTIFICATE OF FRANCHISE AUTHORITY APPLICATIONS

S.F. 2248

AN ACT modifying provisions relating to the application for a certificate of franchise authority applicable to the provision of cable or video services by an existing provider.

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

Section 1. Section 477A.1, subsection 12, Code Supplement 2007, is amended to read as follows:

12. "Municipality" means a ~~county or~~ city.

Sec. 2. Section 477A.2, subsection 2, paragraph b, Code Supplement 2007, is amended to read as follows:

b. Upon expiration of a franchise, a person may choose to renegotiate a franchise agreement with a municipality or may choose to obtain a certificate of franchise authority under this chapter. An application for a certificate of franchise authority pursuant to this subsection may be filed within sixty days prior to the expiration of a municipal franchise agreement. A certificate of franchise authority obtained pursuant to an application filed prior to the expiration of a municipal franchise agreement shall take effect upon the expiration date of the municipal franchise agreement.

Approved April 11, 2008

CHAPTER 1063

IDENTITY THEFT AND CONSUMER CREDIT REPORTS — SECURITY FREEZE

S.F. 2277

AN ACT relating to offenses against identity by establishing a procedure to secure credit information and providing a penalty.

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

Section 1. NEW SECTION. 714F.1 DEFINITIONS.

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

1. "Consumer" means an individual who is a resident of this state.

2. "Consumer credit report" means a consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

3. "Consumer reporting agency" means the same as defined in 15 U.S.C. § 1681a(f). A consumer reporting agency does not include any of the following:

a. A check service or fraud prevention service company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers, or similar methods of payment.

b. A deposit account information service company that issues reports regarding account closures due to fraud, overdrafts, automated teller machine abuse, or similar negative information regarding a consumer to inquiring financial institutions for use only in reviewing the consumer's request for a deposit account at the inquiring financial institution.

c. Any person or entity engaged in the practice of assembling and merging information contained in a database of one or more consumer reporting agencies and does not maintain a permanent database of credit information from which new consumer reports are produced.

4. "Identification information" means as defined in section 715A.8.

5. "Identity theft" means as used in section 715A.8.

6. "Normal business hours" means Sunday through Saturday, between the hours of 6:00 a.m. and 9:30 p.m., central standard time or central daylight saving time.

7. "Proper identification" means the same as defined in 15 U.S.C. § 1681h(a)(1).

8. "Security freeze" means a notice placed in a consumer credit report, at the request of the consumer and subject to certain exceptions, that prohibits a consumer reporting agency from releasing the consumer credit report or score relating to the extension of credit.

Sec. 2. NEW SECTION. 714F.2 SECURITY FREEZE.

A consumer may submit by certified mail to a consumer reporting agency a written request for a security freeze. The consumer must submit proper identification and the applicable fee with the request. Within five business days after receiving the request, the consumer reporting agency shall commence the security freeze. Within ten business days after commencing the security freeze, the consumer reporting agency shall send a written confirmation to the consumer of the security freeze, a personal identification number or password, other than the consumer's social security number, for the consumer to use in authorizing the suspension or removal of the security freeze, including information on how the security freeze may be temporarily suspended.

Sec. 3. NEW SECTION. 714F.3 TEMPORARY SUSPENSION.

1. A consumer may request that a security freeze be temporarily suspended to allow the consumer reporting agency to release the consumer credit report for a specific time period. The consumer reporting agency may develop procedures to expedite the receipt and processing of requests which may involve the use of telephones, facsimile transmissions, the internet, or other electronic media. The consumer reporting agency shall comply with the request within three business days after receiving the consumer's written request, or within fifteen minutes after the consumer's request is received by the consumer reporting agency through facsimile, the internet, or other electronic contact method chosen by the consumer reporting agency, or the use of a telephone, during normal business hours. The consumer's request shall include all of the following:

a. Proper identification.

b. The personal identification number or password provided by the consumer reporting agency.

c. Explicit instructions of the specific time period designated for suspension of the security freeze.

d. Payment of the applicable fee.

2. A consumer reporting agency need not remove a security freeze within the timeframes provided in subsection 1 if the consumer fails to meet the requirements of subsection 1, or the ability of the consumer reporting agency to remove the security freeze within fifteen minutes is prevented by one of the following:

a. An act of God, including a fire, earthquake, hurricane, storm, or similar natural disaster or phenomenon.

b. Unauthorized or illegal acts by a third party, including terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting operations, or similar occurrences.

c. Operational interruption, including electrical failure, unanticipated delay in equipment or replacement part delivery, computer hardware or software failures inhibiting response time, or similar disruption.

d. Governmental action, including emergency orders or regulations, judicial law enforcement action, or similar directives.

e. Regularly scheduled maintenance, during other than normal business hours, of the consumer reporting agency's systems, or updates to the consumer reporting agency's systems.

f. Commercially reasonable maintenance of, or repair to, the consumer reporting agency's systems that is unexpected or unscheduled.

g. Receipt of a removal request outside of normal business hours.

Sec. 4. NEW SECTION. 714F.4 REMOVAL.

A security freeze remains in effect until the consumer requests that the security freeze be removed. A consumer reporting agency shall remove a security freeze within three business days after receiving a request for removal that includes proper identification of the consumer, the personal identification number or password provided by the consumer reporting agency, and payment of the applicable fee.

Sec. 5. NEW SECTION. 714F.5 FEES.

1. A consumer reporting agency shall not charge any fee to a consumer who is the victim of identity theft for commencing a security freeze, temporary suspension, or removal if with the initial security freeze request, the consumer submits a valid copy of the police report concerning the unlawful use of identification information by another person.

2. A consumer reporting agency may charge a fee not to exceed ten dollars to a consumer who is not the victim of identity theft for each security freeze, removal, or for reissuing a personal identification number or password if the consumer fails to retain the original number. The consumer reporting agency may charge a fee not to exceed twelve dollars for each temporary suspension of a security freeze.

Sec. 6. NEW SECTION. 714F.6 THIRD PARTIES.

If a third party requests a consumer credit report that is subject to a security freeze, the consumer reporting agency may advise the third party that a security freeze is in effect. If the consumer does not expressly authorize the third party to have access to the consumer credit report through a temporary suspension of the security freeze, the third party shall not be given access to the consumer credit report but may treat a credit application as incomplete.

Sec. 7. NEW SECTION. 714F.7 MISREPRESENTATION OF FACT.

A consumer reporting agency may suspend or remove a security freeze upon a material misrepresentation of fact by the consumer. However, the consumer reporting agency shall send notice to the consumer in writing prior to suspending or removing the security freeze.

Sec. 8. NEW SECTION. 714F.8 EXCEPTIONS.

A security freeze shall not apply to the following persons or entities:

1. A person or person's subsidiary, affiliate, agent, or assignee with which the consumer has or prior to assignment had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship. "Reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

2. A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under a temporary suspension for purposes of facilitating the extension of credit or another permissible use.

3. A person acting pursuant to a court order, warrant, or subpoena.

4. Child support enforcement officials when investigating a child support case pursuant to Title IV-D or Title XIX of the federal Social Security Act.

5. The department of human services or its agents or assignees acting to investigate fraud under the medical assistance program.

6. The department of revenue or local taxing authorities; or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties and unpaid court orders, or to fulfill any of their other statutory or other responsibilities.

7. A person's use of credit information for prescreening as provided by the federal Fair Credit Reporting Act.

8. A person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

9. A consumer reporting agency for the sole purpose of providing a customer with a copy of the consumer credit report upon the consumer's request.

10. A person's use of a consumer credit report in connection with the business of insurance.

Sec. 9. NEW SECTION. 714F.9 WRITTEN CONFIRMATION.

After a security freeze is in effect, a consumer reporting agency may post a name, date of birth, social security number, or address change in a consumer credit report provided written

confirmation is sent to the consumer within thirty days of posting the change. For an address change, written confirmation shall be sent to both the new and former addresses. Written confirmation is not required to correct spelling and typographical errors.

Sec. 10. NEW SECTION. 714F.10 WAIVER VOID.

A waiver by a consumer of the provisions of this chapter is contrary to public policy, and is void and unenforceable.

Sec. 11. NEW SECTION. 714F.11 ENFORCEMENT.

A person who violates this chapter violates section 714.16, subsection 2, paragraph "a". All powers conferred upon the attorney general to accomplish the objectives and carry out the duties prescribed in section 714.16 are also conferred upon the attorney general to enforce this chapter, including but not limited to the power to issue subpoenas, adopt rules, and seek injunctive relief and a monetary award for civil penalties, attorney fees, and costs. Additionally, the attorney general may seek and recover the greater of five hundred dollars or actual damages for each customer injured by a violation of this chapter.

Approved April 11, 2008

CHAPTER 1064

EDUCATIONAL ASSISTANCE FOR CHILDREN OF PERSONS
WHO DIE DURING ACTIVE MILITARY SERVICE

S.F. 2289

AN ACT concerning state educational assistance to children of deceased veterans and the war orphans educational assistance fund, and including an effective date and retroactive applicability provision.

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

Section 1. Section 35.8, Code 2007, is amended to read as follows:

35.8 WAR ORPHANS EDUCATIONAL ASSISTANCE FUND.

A war orphans educational assistance fund is created as a separate fund in the state treasury under the control of the department of veterans affairs. Any money appropriated for the purpose of assisting in the education of orphaned children of veterans, as defined in section 35.1, or the education of a child as provided in section 35.9, subsection 2, shall be deposited in the war orphans educational assistance fund. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert, but shall remain available for expenditure for purposes of this section in succeeding fiscal years.

Sec. 2. Section 35.9, subsection 2, Code 2007, is amended to read as follows:

2. a. Upon application by a child who ~~has lived in the state of Iowa for two years preceding application for state educational assistance~~ is less than thirty-one years of age, and who is the child of a person who died on or after September 11, 2001, during active federal military service while serving in the armed forces or during active federal military service in the Iowa national guard or other military component of the United States, and who at the time of entering into active military service had maintained the person's residence in the state for a period of

at least six months immediately before entering into active military service, the department shall provide state educational assistance in ~~the~~ an amount of ~~five thousand five hundred dollars per year~~ no more than the highest resident undergraduate tuition rate established per year for an institution of higher learning under the control of the state board of regents less the amount of any state and federal education benefits, grants, or scholarships received by the child, or the amount of the child's established financial need, whichever is less, to defray the expenses of tuition~~, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for the child or children incident to attendance in this state~~ at ~~a community college established under chapter 260C or at an institution of higher education governed by the state board of regents~~ any postsecondary educational institution in this state.

b. A child eligible to receive state educational assistance under this subsection shall begin postsecondary education prior to reaching age twenty-six, shall not receive more than ~~twenty-seven thousand five hundred dollars under this subsection~~ an amount equal to five times the highest resident undergraduate tuition rate established per year for an institution of higher learning under the control of the state board of regents during the child's lifetime, and shall, to remain eligible for assistance, meet the academic progress standards of the postsecondary educational institution. Payments for state educational assistance for a child under this subsection shall be made to the applicable postsecondary educational institution. The college student aid commission may, if requested, assist the department in administering this subsection.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to July 1, 2007, and is applicable on and after that date.

Approved April 11, 2008

CHAPTER 1065

UNIFORM FINANCE PROCEDURES FOR STATE BOND ISSUANCE

S.F. 2301

AN ACT making revisions and modifications to uniform finance procedures for bonds issued by the state.

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

Section 1. Section 12A.1, Code Supplement 2007, is amended to read as follows:

12A.1 DEFINITIONS.

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

1. "Authorizing ~~document~~ documents" means ~~the~~ a resolution of the issuer, an indenture of trust, or any other instrument setting forth the terms and conditions of ~~obligations~~ bonds issued in accordance with the provisions of this chapter.

2. "Bonds" means bonds, including refunding bonds, notes, and other obligations issued by an issuer.

~~2.~~ 3. "Enabling legislation" means legislation enabling the issuance by an issuer of ~~obligations~~ bonds in accordance with the provisions of this chapter.

~~3.~~ 4. "Issuer" means the state, a department or public or quasi-public agency or instrumentality of the state, or an authority of the state, authorized ~~to issue obligations~~ and enabled to issue ~~the obligations~~ bonds in accordance with the provisions of this chapter.

~~4. "Obligations" means notes, bonds, including refunding bonds, and other evidences of indebtedness of an issuer.~~

Sec. 2. Section 12A.2, Code Supplement 2007, is amended to read as follows:

12A.2 PROVISIONS APPLICABLE.

An issuer may issue ~~obligations~~ bonds in accordance with the provisions of this chapter if enabling legislation enacted on or after July 1, 2007, provides that the ~~obligations~~ bonds shall or may be issued in accordance with the provisions of this chapter. This chapter establishes the terms, conditions, and procedures applicable to the issuance of ~~obligations~~ bonds by an issuer enabled to issue ~~obligations~~ bonds under this chapter.

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

12A.3 ~~LIMITED~~ SPECIAL OBLIGATIONS.

~~Obligations~~ Bonds issued under this chapter are payable solely out of the moneys, assets, or revenues pledged to the payment of the ~~obligations~~ bonds pursuant to the enabling legislation and any bond reserve funds established in accordance with this chapter, ~~all of which may be deposited with trustees or depositories in accordance with the authorizing documents and pledged by the issuer to the payment thereof~~ and are not an obligation, indebtedness, or debt of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations. ~~Obligations~~ Bonds issued under this chapter shall contain a statement that the ~~obligations~~ bonds are issued pursuant to this chapter or the enabling legislation; are payable solely from the moneys, assets, and revenues pledged for their payment and any bond reserve funds established; ~~and that such obligations~~ do not constitute an obligation, indebtedness, or debt of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations; and that the issuer and the state have no obligation to satisfy any deficiency or default of any payment of the bonds using any moneys, assets, or revenues other than those specifically pledged in the enabling legislation for payment of the bonds, and any bond reserve funds established by the issuer. The issuer shall not pledge the credit or taxing power of ~~this~~ the state or any political subdivision of ~~this~~ the state ~~or make obligations issued pursuant to this chapter~~; create an obligation, indebtedness, or debt of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations; or make its bonds payable out of any moneys except those pledged in the enabling legislation and any bond reserve funds established by the issuer.

Sec. 4. Section 12A.4, Code Supplement 2007, is amended to read as follows:

12A.4 GENERAL POWERS.

1. An issuer may issue ~~obligations~~ bonds under this chapter and do all things necessary with respect to the issuance of the ~~obligations~~ bonds. An issuer shall have all of the powers necessary to issue and secure ~~obligations~~ bonds and carry out the purposes for which the ~~obligations~~ bonds are to be issued, including the power to secure credit enhancement or support and to enter into agreements providing interest rate protection, as deemed appropriate by the issuer. The issuer may issue ~~obligations~~ bonds in principal amounts consistent with the enabling legislation and which the issuer determines are necessary to provide sufficient funds for the purposes for which the ~~obligations~~ bonds are issued, and to provide for the payment of capitalized interest on the ~~obligations~~ bonds, the establishment of reserves to secure the ~~obligations~~ bonds, the payment of the costs of issuance of the ~~obligations~~ bonds, the payment of other expenditures of the issuer incident to and necessary or convenient to carry out the issue, and the payment of all other expenditures necessary or convenient to carry out the purposes for which the ~~obligations~~ bonds are issued.

2. The proceeds of ~~obligations~~ bonds issued by the issuer and not required for immediate disbursement may be deposited with a trustee or depository or the treasurer of state as provided in the authorizing documents. Proceeds shall be invested or reinvested as directed by the treasurer of state and specified in the authorizing documents without regard to any limitation otherwise provided by law.

3. ~~Obligations~~ Bonds shall be issued as follows:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and subject to such other terms and conditions as prescribed in the authorizing documents.

b. Sold at prices, at public or private sale, and in a manner, as prescribed by the issuer. Chapters 73A, 74, 74A, 75, and 76 do not apply to the sale, issuance, or retirement of the ~~obligations~~ bonds if this chapter is utilized.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by the authorizing documents.

4. ~~Obligations~~ Bonds issued under this chapter are investment securities and negotiable instruments within the meaning of and for purposes of the uniform commercial code, chapter 554. ~~Obligations~~ Bonds are securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in ~~obligations~~ bonds of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

5. ~~Obligations~~ Bonds must be authorized by ~~a trust indenture, resolution, or other instrument of the issuer~~ the authorizing documents. ~~A trust indenture, resolution, or other instrument authorizing the issuance of obligations~~ The authorizing documents may, however, delegate to an officer of a board or of a governing body of an issuer the power to negotiate and fix the details of an issue of ~~obligations~~ bonds.

6. A resolution, trust agreement, or any other instrument by which a pledge is created shall not be required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.

7. Subject to the terms of the authorizing documents, the proceeds of ~~obligations~~ bonds may be expended for administrative expenses.

8. An issuer may issue ~~obligations~~ bonds for the purpose of refunding any ~~obligations~~ bonds then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding ~~obligations~~ bonds. Until the proceeds of ~~obligations~~ bonds issued for the purpose of refunding outstanding ~~obligations~~ bonds are applied to the purchase or retirement of outstanding ~~obligations~~ bonds or the redemption of outstanding ~~obligations~~ bonds, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this chapter, the authorizing documents, and any applicable escrow agreement. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding ~~obligations~~ bonds to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments ~~may~~ shall be returned to the issuer. All refunding ~~obligations~~ bonds shall be issued and secured and subject to the provisions of this chapter in the same manner and to the same extent as other ~~obligations~~ bonds issued pursuant to this chapter.

Sec. 5. Section 12A.5, Code Supplement 2007, is amended to read as follows:

12A.5 RESERVE FUNDS.

1. An issuer may create and establish one or more special funds, to be known as bond reserve funds, to secure one or more issues of ~~obligations~~ bonds. The issuer shall pay into each bond reserve fund any moneys appropriated and made available by the state for the purpose of that reserve fund, any proceeds of the sale of ~~obligations~~ bonds to the extent provided in the authorizing documents, and any other moneys which may be legally available from any other sources and which the issuer determines to deposit in the reserve fund. All moneys held in a bond reserve fund, except as otherwise provided in this chapter, shall be used ~~as required~~ solely for the payment of the principal of ~~obligations~~ bonds secured in whole or in part by the fund

~~or of the sinking fund~~ or other payments with respect to the ~~obligations~~ bonds, the purchase or redemption of the ~~obligations~~ bonds, the payment of interest on the ~~obligations~~ bonds, or the payments of any redemption premium required to be paid when the ~~obligations~~ bonds are redeemed prior to maturity, all in accordance with the authorizing documents.

2. ~~Moneys~~ Except as otherwise specified in the authorizing documents, moneys in a bond reserve fund shall not be withdrawn at any time in an amount that will reduce the amount of the fund to less than the bond reserve fund requirement established for the fund, except for the purpose of ~~making, with respect to obligations secured in whole or in part by the fund, payment when due of principal, interest, redemption premiums, and the sinking fund and other payments with respect to the obligations for which other moneys are not available, all in accordance with the authorizing documents~~ making payment as described in subsection 1. For the purposes of this chapter, "bond reserve fund requirement" means, as of any particular date of computation, the amount of moneys, provided in the authorizing documents with respect to which the fund is established. Any income or interest earned by, or incremental to, a bond reserve fund due to its investment may be transferred to other funds or accounts as provided in the authorizing documents to the extent the transfer does not reduce the amount of that bond reserve fund below its bond reserve fund requirement.

3. The issuer shall not at any time issue ~~obligations~~ bonds, secured in whole or in part by a bond reserve fund if, upon the issuance of the ~~obligations~~ bonds, the amount in the bond reserve fund for the ~~obligations~~ bonds will be less than the bond reserve fund requirement for the fund, unless the issuer at the time of issuance of the ~~obligations~~ bonds deposits in the fund from the proceeds of the ~~obligations~~ bonds issued or from other legally available sources an amount which, together with the amount then in the fund, will not be less than the bond reserve fund requirement for the fund.

~~4. In order to assure maintenance of bond reserve funds, an issuer shall, on or before January 1 of each calendar year, make and deliver to the governor the issuer'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 issuer pursuant to this subsection shall be deposited by the issuer in the applicable bond reserve fund.~~

Sec. 6. Section 12A.6, Code Supplement 2007, is amended to read as follows:

12A.6 PLEDGE OF FUNDS.

1. ~~Amounts~~ Any amounts authorized to be pledged as security for ~~obligations shall~~ bonds may be held in separate and distinct funds in the state treasury, unless otherwise specified in the authorizing documents. Moneys ~~in a fund~~ so held shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for debt service on the ~~obligations~~ bonds and other amounts as set forth in the authorizing documents. The treasurer of state ~~shall~~ may act as custodian of the funds and disburse moneys contained in the funds as directed by the authorizing documents.

2. Moneys in any fund pledged as security for ~~obligations~~ bonds are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds shall be credited to the applicable fund.

Sec. 7. Section 12A.7, Code Supplement 2007, is amended to read as follows:

12A.7 ~~RESOLUTION~~ AUTHORIZING DOCUMENTS PROVISIONS.

~~Authorizing document provisions, which shall be a part of the contract with the holders of the obligations to be issued,~~ The authorizing documents may contain the following provisions:

1. Pledging or assigning the revenue of a project with respect to which the ~~obligations~~ bonds are to be issued or the revenue of other property or facilities.

2. Setting aside reserves or sinking funds, and their regulation, investment, and disposition.

3. Limitations on the use of a project, property, or facilities.

4. Limitations on the purpose to which or the investments in which the proceeds of sale of an issue of ~~obligations~~ bonds then or thereafter to be issued may be applied and pledging the proceeds to secure the payment of the ~~obligations or an issue of the obligations~~ bonds.

5. Limitations on the issuance of additional ~~obligations~~ bonds, the terms upon which additional ~~obligations~~ bonds may be issued and secured, and the refunding of outstanding ~~obligations~~ bonds.

6. The procedure, if any, by which the terms of any contract with the holder of ~~an obligation~~ a bond may be amended or abrogated, the amount of ~~obligations~~ bonds may be specified for which the holders must consent to amendment or abrogation, and the manner in which the consent may be given.

7. Defining the acts or omissions to act which constitute a default in the duties of the issuer to holders of ~~obligations and providing the~~ bonds, specifying any rights and remedies of the holders in the event of a default, and restricting the individual right of action by holders.

8. Other matters relating to the ~~obligations~~ bonds as may be provided by the issuer.

Sec. 8. Section 12A.8, Code Supplement 2007, is amended to read as follows:

12A.8 ~~OBLIGATIONS~~ BONDS SECURED BY ~~TRUST AGREEMENT~~ AUTHORIZING DOCUMENTS.

~~Obligations issued under this chapter may be secured by a trust agreement by and between the issuer and an incorporated trustee, which may be a trust company or bank having the powers of a trust company in this state or another state. The trust agreement or the resolution providing for the issuance of the obligations~~ The authorizing documents may pledge or assign the revenue to be received for payment of the ~~obligations~~ bonds or the proceeds of any contract pledged. A pledge or assignment made by the issuer pursuant to this chapter is valid and binding from the time that the pledge or assignment is made, and the revenue pledged and thereafter received by the issuer is immediately subject to the lien of the pledge or assignment without physical delivery or any further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the issuer irrespective of whether the parties have notice of the lien. ~~The trust agreement or resolution by which a pledge is created or an assignment made shall be filed in the records of the issuer. The trust agreement or resolution providing for the issuance of the obligations may contain provisions for protecting and enforcing the rights and remedies of the holders of an obligation as are reasonable and proper, not in violation of law, or provided for in this chapter. A bank or trust company incorporated under the laws of this state or another state which acts as depository of proceeds of the obligations, revenue, or other moneys shall furnish the indemnifying obligations or pledge securities as and to the extent required by the issuer. The trust agreement or resolution may set forth the rights and remedies of the holders of an obligation and of the trustee, and may restrict the individual right of action by holders of an obligation.~~ The ~~trust agreement or resolution~~ authorizing documents may contain other provisions the issuer deems reasonable and proper for the security of the ~~obligation~~ bond holders.

Sec. 9. Section 12A.10, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

12A.10 STATE LAW.

The state reserves the right at any time to alter, amend, repeal, or otherwise change the structure, organization, programs, or activities of any issuer, including the power to terminate the issuer, except that a law shall not be enacted that impairs any obligation made pursuant to any contract entered into by the issuer with or on behalf of the holders of the bonds to the extent that any such law would contravene Article I, section 21, of the Constitution of the State of Iowa or Article I, section 10, of the Constitution of the United States.

Sec. 10. Section 12A.11, Code Supplement 2007, is amended to read as follows:

12A.11 PROVISIONS CONTROLLING.

The powers granted issuers under this chapter are in addition to the powers of each issuer

contained elsewhere in the Code. Nothing in this chapter limits the powers of an issuer to issue ~~obligations~~ bonds under any other applicable provisions of the Code or to otherwise carry out its responsibilities as otherwise set forth in the Code.

Sec. 11. NEW SECTION. 12A.13 COORDINATION.
Issuers of bonds issued under this chapter shall be subject to the provisions of section 12.30.

Sec. 12. Section 12A.9, Code Supplement 2007, is repealed.

Approved April 11, 2008

CHAPTER 1066

UNIFORM ACT — INSTITUTIONAL FUNDS MANAGEMENT

S.F. 2316

AN ACT creating the Iowa uniform prudent management of institutional funds Act and including an applicability provision.

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

Section 1. NEW SECTION. 540A.101 SHORT TITLE.
This chapter may be cited as the "Uniform Prudent Management of Institutional Funds Act".

Sec. 2. NEW SECTION. 540A.102 DEFINITIONS.
For purposes of this chapter, unless the context otherwise requires:
1. "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.
2. "Endowment fund" means an institutional fund or any part of an institutional fund, not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument. "Endowment fund" does not include assets that an institution designates as an endowment fund for its own use.
3. "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.
4. "Institution" means any of the following:
a. A person, other than an individual, organized and operated exclusively for charitable purposes.
b. A government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose.
c. A trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.
5. "Institutional fund" means a fund held by an institution exclusively for charitable purposes. "Institutional fund" does not include any of the following:
a. Program-related assets.
b. A fund held for an institution by a trustee that is not an institution.
c. A fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.
6. "Person" means an individual, corporation, business trust, estate, trust, partnership, lim-

ited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

7. "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

8. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 3. NEW SECTION. 540A.103 STANDARD OF CONDUCT — MANAGING AND INVESTING INSTITUTIONAL FUND.

1. Subject to the intent of a donor expressed in a gift instrument, an institution shall consider the charitable purposes of the institution and the purposes of the institutional fund in managing and investing an institutional fund.

2. In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

3. All of the following shall apply to an institution managing and investing an institutional fund:

a. An institution may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution.

b. An institution shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

4. Subject to the intent of a donor expressed in a gift instrument, an institution may pool two or more institutional funds for purposes of management and investment.

5. Except as otherwise provided by a gift instrument, all of the following rules shall apply:

a. In managing and investing an institutional fund, the following factors, if relevant, shall be considered:

(1) General economic conditions.

(2) The possible effect of inflation or deflation.

(3) The expected tax consequences, if any, of investment decisions or strategies.

(4) The role that each investment or course of action plays within the overall investment portfolio of the fund.

(5) The expected total return from income and the appreciation of investments.

(6) Other resources of the institution.

(7) The needs of the institution and the fund to make distributions and to preserve capital.

(8) An asset's special relationship or special value, if any, to the charitable purposes of the institution.

b. Management and investment decisions about an individual asset shall be made in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

c. Except as otherwise provided by law, an institution may invest in any kind of property or type of investment consistent with this section.

d. An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

e. Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

f. A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

Sec. 4. NEW SECTION. 540A.104 APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND — RULES OF CONSTRUCTION.

1. Subject to the intent of a donor expressed in the gift instrument and to subsection 4, an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, all of the following factors:

a. The duration and preservation of the endowment fund.

b. The purposes of the institution and the endowment fund.

c. General economic conditions.

d. The possible effect of inflation or deflation.

e. The expected total return from income and the appreciation of investments.

f. Other resources of the institution.

g. The investment policy of the institution.

2. In order to limit the authority to appropriate for expenditure or accumulate under subsection 1, a gift instrument must specifically state the limitation.

3. Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income", "interest", "dividends", or "rents, issues, or profits", or "to preserve the principal intact", or words of similar import do all of the following:

a. Create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund.

b. Do not otherwise limit the authority to appropriate for expenditure or accumulate under subsection 1.

4. a. If a gift instrument uses the terms or phrases described in subsection 3, the gift instrument may also contain language substantially similar to the following: "A direction or authorization herein to use only "income", "interest", "dividends", or "rents, issues, or profits", or to "preserve the principal intact" or words of similar import, does not limit the expenditures from the endowment fund only to income, interest, dividends, or rents, issues, or profits. Expenditures may also come from other assets in the endowment fund. All expenditures from the endowment fund created hereunder shall be prudent in light of the uses, benefits, purposes, and duration of the endowment fund. In determining the amounts to be expended annually or to be accumulated, account shall be taken of the following factors: the duration and preservation of the endowment fund, the purposes of the endowment fund; general economic conditions; the possible effect of inflation or deflation; the expected total return from income and the appreciation of investments; other recourses available to carry out the charitable purposes of this gift; and the governing investment policies. Because these factors govern expenditures and accumulations from the endowment fund created hereunder, terms such as those in the first sentence of this subsection shall be interpreted, absent other express language to the contrary, as creating an endowment fund of permanent duration and such words do not limit the authority to expend or accumulate funds in accordance with the factors listed above."

b. The absence of the foregoing language or words of similar import in a gift instrument does not invalidate the gift instrument or any gift, or portion of a gift, thereunder.

Sec. 5. NEW SECTION. 540A.105 DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS.

1. Subject to any specific limitation set forth in a gift instrument or in law, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in doing all of the following:

a. Selecting an agent.

b. Establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund.

c. Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

2. In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.

3. An institution that complies with subsection 1 is not liable for the decisions or actions of an agent to which the function was delegated.

4. By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.

5. An institution may delegate management and investment functions to its committees, officers, or employees as authorized by the laws of this state.

Sec. 6. NEW SECTION. 540A.106 RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE.

1. If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification shall not allow a fund to be used for a purpose other than a charitable purpose of the institution.

2. The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or if, because of circumstances not anticipated by the donor, the restriction will defeat or substantially impair the accomplishment of the purposes of the institutional fund. The institution shall notify the attorney general of the application, and the attorney general shall be given an opportunity to be heard. Any modification must be made in accordance with the donor's probable intention.

3. If a particular charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, or impossible to fulfill, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. The institution shall notify the attorney general of the application and the attorney general shall be given the opportunity to be heard. If the donor or the donor's designee having the right to enforce the restrictions under subsection 5 provides the institution with an address, then the institution shall also notify the donor or such designee of the application by United States mail addressed to the last address so provided and the donor or such designee shall have an opportunity to be heard.

4. If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, or impossible to fulfill, the institution may release or modify the restriction, in whole or part, sixty days after notifying the attorney general, if all of the following conditions are met:

a. The institutional fund subject to the restriction has a total value of less than fifty thousand dollars.

b. More than twenty years have elapsed since the fund was established.

c. The institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.

5. a. A donor whose aggregate gifts to an endowment fund exceeds one hundred thousand dollars may maintain an action in the district court of the county in which the institution's principal office is located to enforce restrictions respecting the purposes of the fund established by the donor in a gift instrument. A gift made in property shall be valued at fair market value on the date of the gift.

b. A donor may designate in a gift instrument or other record signed by the donor and delivered to the institution one or more persons, by name or by description, whether or not born

at the time of such designation, to enforce the restrictions respecting the purposes of the fund during the donor's lifetime if the donor is judicially declared incompetent.

c. A donor may designate in a gift instrument or other record signed by the donor and delivered to the institution one or more persons, by name or by description, whether or not born at the time of such designation, to enforce the restrictions respecting the purposes of the fund for fifty years beginning on the date of the donor's death. If the donor prevails in any action in district court to enforce restrictions respecting the purposes of the fund in a gift instrument, the district court may order the institution to reimburse the donor's costs, including reasonable counsel fees, incurred in connection with the action, if the court finds that the institution acted in bad faith or with gross negligence.

d. The provisions in this subsection 5 may be altered by contrary provisions in a gift instrument.

6. Nothing in subsection 5 affects the authority of the attorney general to enforce any restriction in a gift instrument.

7. This section does not limit the application of the judicial power of cy pres or the right of an institution to modify a restriction on the management, investment, purpose, or use of a fund as may be permitted under the gift instrument or by law.

Sec. 7. NEW SECTION. 540A.107 REVIEWING COMPLIANCE.

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken and not by hindsight.

Sec. 8. NEW SECTION. 540A.108 ELECTRONIC SIGNATURES.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101 of that Act, 15 U.S.C. § 7001(a), or authorize electronic delivery of any of the notices described in section 103 of that Act, 15 U.S.C. § 7003(b).

Sec. 9. NEW SECTION. 540A.109 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed with consideration given to the need to promote uniformity of the law with respect to the uniform prudent management of institutional funds Act among states which enact this law.

Sec. 10. Sections 540A.1, 540A.2, 540A.3, 540A.4,[1] 540A.6, 540A.7, 540A.8, and 540A.9, Code 2007, are repealed.

Sec. 11. APPLICABILITY DATE. This Act applies to institutional funds in existence on or after the effective date of this Act.

Approved April 11, 2008

[1] See chapter 1191, §138 herein

CHAPTER 1067

REGULATION OF VETERANS COMMEMORATIVE PROPERTY

S.F. 2333

AN ACT relating to the regulation of veterans commemorative property.

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

Section 1. Section 37A.1, Code 2007, is amended to read as follows:

37A.1 VETERANS COMMEMORATIVE PROPERTY — PENALTY.

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

~~a. "Cemetery" means as defined in section 523I.102, but includes pioneer cemeteries. "Cemetery" does not include religious cemeteries as defined in section 523I.102 that commenced business prior to July 1, 2005.~~

~~b.~~ a. "Department" means the Iowa department of veterans affairs.

~~c.~~ b. "Veteran" means a deceased person who served in the armed forces of the United States during a war in which the United States was engaged or served full-time in active duty in a force of an organized state militia, excluding service in the national guard when in an inactive status.

~~d.~~ c. "Veterans commemorative property" means any memorial as defined in section 523I.102, including a headstone, plaque, statue, urn, decoration, flag holder, badge, shield, item of memorabilia, or other embellishment, that ~~meets all of the following criteria:~~

~~(1) Is over seventy-five years old.~~

~~(2) Identifies~~ identifies or commemorates any veteran or group of veterans, including any veterans organization or any military unit, company, battalion, or division.

~~(3) Has been placed in a cemetery.~~

~~e.~~ d. "Veterans organization" means the grand army of the republic, sons of union veterans of the civil war, sons of confederate veterans, veterans of foreign wars, disabled American veterans, united Spanish war veterans, the Jewish war veterans of the United States, inc., the Catholic war veterans, inc., American legion, American veterans of World War II, Italian American war veterans of the United States, inc., or other corporation or association of veterans.

2. A person who owns or controls ~~a cemetery~~ property where any veterans commemorative property has been placed shall not sell, trade, or transfer any part of such veterans commemorative property unless the department authorizes the person to do so. The department may authorize the sale, trade, or transfer based upon the following criteria:

a. The veterans commemorative property is at reasonable risk of physically deteriorating so that it will become unrecognizable as identifying or commemorating the veteran or group of veterans originally identified or commemorated.

b. The veterans commemorative property is proposed to be sold, traded, or transferred to a suitable person that will preserve the current condition of the veterans commemorative property and place it in a suitable place that will commemorate the veteran or group of veterans.

c. The person needs to sell, trade, or transfer the veterans commemorative property to ensure that sufficient funds are available to suitably maintain the cemetery where the veterans commemorative property is placed, and the specific lot, plot, grave, burial place, niche, crypt, or other place of interment of such veteran or group of veterans.

d. The veterans commemorative property that is to be sold, traded, or transferred will be replaced at its original site by a fitting replacement commemorative property, monument, or marker that appropriately identifies and commemorates the veteran or group of veterans.

e. If the person reasonably believes that the veterans commemorative property to be sold, traded, or transferred was donated by a veterans organization, the veterans organization consents to the sale, trade, or transfer of the veterans commemorative property.

f. If the person is not the owner of the veterans commemorative property that is to be sold,

traded, or transferred, the person is authorized by the owner of such veterans commemorative property, or by operation of law other than this section, to sell, trade, or transfer the veterans commemorative property and to retain and use the proceeds of the sale, trade, or transfer.

3. A person who engages in the sale, trade, or transfer of veterans commemorative property without the authorization of the department pursuant to this section is guilty of a simple misdemeanor.

4. The department may adopt rules in accordance with chapter 17A to administer this chapter.

Approved April 11, 2008

CHAPTER 1068

RIGHTS OF VICTIMS OF ALLEGED SEXUAL ASSAULT

S.F. 2335

AN ACT relating to the rights of a victim of an alleged sexual assault and notification of these rights by a peace officer.

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

Section 1. Section 709.22, Code 2007, is amended to read as follows:

709.22 PREVENTION OF FURTHER SEXUAL ASSAULT — NOTIFICATION OF RIGHTS.

1. If a peace officer has reason to believe that a sexual assault as defined in section 915.40 has occurred, the officer shall use all reasonable means to prevent further violence including but not limited to the following:

~~1.~~ a. If requested, remaining on the scene of the alleged sexual assault as long as there is a danger to the victim's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit or residence when it is the scene of the alleged sexual assault, or if unable to remain on the scene, assisting the victim in leaving the ~~residence~~ scene.

~~2.~~ b. Assisting a victim in obtaining medical treatment necessitated by the sexual assault, including providing assistance to the victim in obtaining transportation to the emergency room of the nearest hospital.

~~3.~~ c. Providing a victim with immediate and adequate notice of the victim's rights. The notice shall consist of handing the victim a copy of the following statement written in English and Spanish, asking the victim to read the statement, and asking whether the victim understands the rights:

(1) "You have the right to ask the court for help with any of the following on a temporary basis:

~~a.~~ (a) Keeping your attacker away from you, your home, and your place of work.

~~b.~~ (b) The right to stay at your home without interference from your attacker.

~~c.~~ (c) The right to seek a no-contact order under section 664A.3 or 915.22, if your attacker is arrested for sexual assault.

(2) You have the right to register as a victim with the county attorney under section 915.12.

(3) You have the right to file a complaint for threats, assaults, or other related crimes.

(4) You have the right to seek restitution against your attacker for harm to you or your property.

(5) You have the right to apply for victim compensation.

(6) You have the right to contact the county attorney or local law enforcement to determine the status of your case.

(7) If you are in need of medical treatment, you have the right to request that the officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

(8) You have the right to a sexual assault examination performed at state expense.

(9) You have the right to request the presence of a victim counselor, as defined in section 915.20A, at any proceeding related to an assault including a medical examination.

(10) If you believe that police protection is needed for your physical safety, you have the right to request that the officer present remain at the scene until you and other affected parties can leave or until safety is otherwise ensured."

d. The notice shall also contain the telephone numbers of shelters, support groups, and crisis lines operating in the area.

4. 2. A peace officer is not civilly or criminally liable for actions taken in good faith pursuant to this section.

Approved April 11, 2008

CHAPTER 1069

WATER TRAILS AND LOW HEAD DAM
PUBLIC HAZARD PROGRAM

S.F. 2380

AN ACT establishing a low head dam public hazard program.

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

Section 1. NEW SECTION. 464A.11 WATER TRAILS AND LOW HEAD DAM PUBLIC HAZARD STATEWIDE PLAN.

1. The department shall establish a water trails and low head dam public hazard program.

2. In administering the water trails and low head dam public hazard program, the department shall conduct a study of waterways for recreational purposes and develop a statewide plan by January 1, 2010. Elements of the plan shall include but not be limited to:

a. Compiling an inventory of low head dams, including a listing of those low head dams, for the purposes of publicizing hazards through maps and warning signage.

b. Seeking input from the public and experts in various fields, including fisheries, rescue professionals, water recreation, river management, public utilities conservation, and landscape architecture to be used in the recreation and safety components of the plan.

c. Developing standard recommendations for local communities including signage system and placement guidelines, boating access type, placement and construction guidelines, and volunteer recommendations for communities.

d. Recommending design templates for low head dams to reduce incidents of drowning.

e. With input from stakeholders, developing criteria for prioritizing removal or modification of low head dams.

f. With input from stakeholders, developing criteria for prioritizing development of water trails.

3. The department may contract with a university or private consultant in order to assist with development of the plan.

Sec. 2. IMPLEMENTATION. The department of natural resources is not required to implement section 464A.11, as enacted in this Act, until the department is appropriated moneys necessary to carry out the section.[1]

Approved April 11, 2008

CHAPTER 1070

JOINT E911 SERVICE BOARDS —
VOTING MEMBERSHIP FOR CITIES OR TOWNSHIPS
WITH VOLUNTEER FIRE DEPARTMENTS

H.F. 247

AN ACT providing voting member representation on joint E911 service boards for cities or townships providing fire protection services through a volunteer fire department.

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

Section 1. Section 34A.3, subsection 1, paragraph a, subparagraph (1), Code 2007, is amended to read as follows:

(1) Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint E911 service board. For the purposes of this section, a township that operates a volunteer fire department providing fire protection services to the township, or a city which provides fire protection services through the operation of a volunteer fire department not financed through city government, shall be considered a political subdivision of the state having a public safety agency serving territory within the county. Each private safety agency operating within the area is entitled to nonvoting membership on the board.

Approved April 11, 2008

CHAPTER 1071

SCHOOL DIVERSITY OR DESEGREGATION PLANS
AND OPEN ENROLLMENT

H.F. 2164

AN ACT relating to voluntary diversity or court-ordered school desegregation plans under the state's open enrollment law.

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

Section 1. Section 282.18, subsection 3, Code 2007, is amended to read as follows:

3. ~~In all districts involved with voluntary or court-ordered desegregation, minority and non-~~

[1] See chapter 1178, §19 herein

~~minority pupil ratios shall be maintained according to the desegregation plan or order.~~ The superintendent of a district subject to a voluntary diversity or court-ordered desegregation plan, as recognized by rule of the state board of education, 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 diversity plan, unless the transfer is requested by a pupil whose sibling is already participating in open enrollment to another district, or unless the request for transfer is submitted to the district in a timely manner as required under subsection 2 prior to the adoption of a desegregation plan by the district. If a transfer request would facilitate a voluntary diversity 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 diversity 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 to the district court in the county in which the primary business office of the district is located. ~~By July 1, 2004, the~~ The state board of education shall adopt rules establishing definitions, guidelines, and a review process for school districts that adopt voluntary ~~desegregation~~ diversity plans. The guidelines shall include criteria and standards that school districts must follow when developing a voluntary ~~desegregation~~ diversity plan. The department of education shall provide technical assistance to a school district that is seeking to adopt a voluntary ~~desegregation~~ diversity plan. A school district implementing a voluntary ~~desegregation~~ diversity plan prior to July 1, ~~2004~~ 2008, shall have until July 1, ~~2006~~ 2009, to comply with guidelines adopted by the state board pursuant to this section.

Approved April 11, 2008

CHAPTER 1072

FAMILY INVESTMENT PROGRAM — FAMILY DEVELOPMENT AND SELF-SUFFICIENCY COUNCIL AND GRANTS

H.F. 2328

AN ACT relating to services associated with the family investment program by moving the family development and self-sufficiency council and grant program to the department of human rights and revising confidentiality provisions involving the programs.

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

Section 1. NEW SECTION. 216A.107 FAMILY DEVELOPMENT AND SELF-SUFFICIENCY — COUNCIL AND GRANT PROGRAM.

1. A family development and self-sufficiency council is established within the department of human rights. The council shall consist of the following persons:

a. The director of the department of human services or the director's designee.

b. The director of the department of public health or the director's designee.

c. The administrator of the division of community action agencies of the department of human rights or the administrator's designee.

d. The director of the school of social work at the university of Iowa or the director's designee.

e. The dean of the college of human sciences at Iowa state university or the dean's designee.

f. Two recipients or former recipients of the family investment program, selected by the other members of the council.

g. One recipient or former recipient of the family investment program who is a member of a racial or ethnic minority, selected by the other members of the council.

h. One member representing providers of services to victims of domestic violence, selected by the other members of the council.

i. The head of the department of design, textiles, gerontology, and family studies at the university of northern Iowa or that person's designee.

j. The director of the department of education or the director's designee.

k. The director of the department of workforce development or the director's designee.

l. Two persons representing the business community, selected by the other members of the council.

m. Two members from each chamber of the general assembly serving as ex officio, nonvoting members. The two members of the senate shall be appointed one each by the majority leader and the minority leader of the senate. The two members of the house of representatives shall be appointed one each by the speaker and the minority leader of the house of representatives.

2. Unless otherwise provided by law, terms of members, election of officers, and other procedural matters shall be as determined by the council.

3. The family development and self-sufficiency council shall do all of the following:

a. Identify the factors and conditions that place Iowa families at risk of dependency upon the family investment program. The council shall seek to use relevant research findings and national and Iowa-specific data on the family investment program.

b. Identify the factors and conditions that place Iowa families at risk of family instability. The council shall seek to use relevant research findings and national and Iowa-specific data on family stability issues.

c. Subject to the availability of funds for this purpose, award grants to public or private organizations for provision of family development services to families at risk of dependency on the family investment program or of family instability. Not more than five percent of any funds appropriated by the general assembly for the purposes of this lettered paragraph may be used for staffing and administration of the grants. Grant proposals for the family development and self-sufficiency grant program shall include the following elements:

(1) Designation of families to be served that meet one or more criteria for being at risk of dependency on the family investment program or of family instability, and agreement to serve clients that are referred by the department of human services from the family investment program which meet the criteria. The criteria may include but are not limited to factors such as educational level, work history, family structure, age of the youngest child in the family, previous length of stay on the family investment program, and participation in the family investment program or the foster care program while the head of a household was a child. Grant proposals shall also establish the number of families to be served under the grant.

(2) Designation of the services to be provided for the families served, including assistance regarding job-seeking skills, family budgeting, nutrition, self-esteem, methamphetamine education, health and hygiene, child rearing, child education preparation, and goal setting. Grant proposals shall indicate the support groups and support systems to be developed for the families served during the transition between the need for assistance and self-sufficiency.

(3) Designation of the manner in which other needs of the families will be provided for, including but not limited to child care assistance, transportation, substance abuse treatment, support group counseling, food, clothing, and housing.

(4) Designation of the process for training of the staff which provides services, and the appropriateness of the training for the purposes of meeting family development and self-sufficiency goals of the families being served.

(5) Designation of the support available within the community for the program and for meeting subsequent needs of the clients, and the manner in which community resources will be made available to the families being served.

(6) Designation of the manner in which the program will be subject to audit and to evaluation.

(7) Designation of agreement provisions for tracking and reporting performance measures developed pursuant to paragraph "d".

d. Develop appropriate performance measures for the grant program to demonstrate how the program helps families achieve self-sufficiency.

e. Seek to enlist research support from the Iowa research community in meeting the duties outlined in paragraphs "a" through "d".

f. Seek additional support for the funding of grants under the program, including but not limited to funds available through the federal government in serving families at risk of long-term welfare dependency, and private foundation grants.

g. Make recommendations to the governor and the general assembly on the effectiveness of programs in Iowa and throughout the country that provide family development services that lead to self-sufficiency for families at risk of welfare dependency.

4. a. The division shall administer the family development and self-sufficiency grant program. The department of human services shall disclose to the division confidential information pertaining to individuals receiving services under the grant program, as authorized under section 217.30. The division and the department of human services shall share information and data necessary for tracking performance measures of the family development and self-sufficiency grant program, for referring families participating in the promoting independence and self-sufficiency through employment job opportunities and basic skills (PROMISE JOBS) program under section 239B.17 and related activities and programs to the grant program, and for meeting federal reporting requirements. The division and the department of human services may by mutual agreement, as specified in the memorandum of agreement entered into in accordance with paragraph "b", add to or delete from the initial shared information items listed in this lettered paragraph. The initial shared information shall include but is not limited to all of the following:

(1) Family enrollments and exits to and from each of the programs.

(2) Monthly reports of individual participant activity in PROMISE JOBS components that are countable work activities according to federal guidelines applicable to those components.

(3) Aggregate grant program participant activity in all PROMISE JOBS program components.

(4) Work participation rates for grant program participants who were active family investment program participants.

(5) The average hourly wage of grant program participants who left the family investment program.

(6) The percentage of grant program participants who exited from the grant program at or after the time family investment program participation ended and did not reenroll in the family investment program for at least one year.

b. The division shall develop a memorandum of agreement with the department of human services to share outcome data and coordinate referrals and delivery of services to participants in the family investment program under chapter 239B and the grant program and other shared clients and shall provide the department of human services with information necessary for compliance with federal temporary assistance for needy families block grant state plan and reporting requirements, including but not limited to financial and data reports.

c. To the extent that the family development and self-sufficiency grant program is funded by the federal temporary assistance for needy families block grant and by the state maintenance of efforts funds appropriated in connection with the block grant, the division shall comply with all federal requirements for the block grant. The division is responsible for payment of any federal penalty imposed that is attributable to the grant program and shall receive any federal bonus payment attributable to the grant program.

d. The division shall ensure that expenditures of moneys appropriated to the department of human services from the general fund of the state for the family development and self-sufficiency grant program are eligible to be considered as state maintenance of effort expenditures under federal temporary assistance for needy families block grant requirements.

e. The commission shall consider the recommendations of the council in adopting rules pertaining to the grant program.

f. The division shall submit to the governor and general assembly on or before November 30 following the end of each state fiscal year, a report detailing performance measure and outcome data evaluating the family development and self-sufficiency grant program for the fiscal year that just ended.

Sec. 2. Section 217.30, subsection 4, paragraph d, Code 2007, is amended to read as follows:

d. ~~The~~ If approved by the director of human services or the director's designee pursuant to a written request, the department ~~may~~ shall disclose information described in subsection 1 to other state agencies or to any other person who is not subject to the provisions of chapter 17A and is providing services to recipients under chapter 239B who are participating in the promoting independence and self-sufficiency through employment job opportunities and basic skills program, if necessary for the recipients to receive the services.

Sec. 3. Section 232.69, subsection 1, paragraph b, subparagraph (5), Code Supplement 2007, is amended to read as follows:

(5) An employee or operator of a licensed child care center, registered child development home, head start program, family development and self-sufficiency grant program under section ~~217.12~~ 216A.107, or healthy opportunities for parents to experience success – healthy families Iowa program under section 135.106.

Sec. 4. Section 239B.8, subsection 2, paragraph e, Code Supplement 2007, is amended to read as follows:

e. FAMILY DEVELOPMENT. Participation in a family development and self-sufficiency grant program under section ~~217.12~~ 216A.107 or other family development program.

Sec. 5. Section 239B.8, subsection 6, Code Supplement 2007, is amended to read as follows:

6. CONFIDENTIAL INFORMATION DISCLOSURE. ~~The~~ If approved by the director of human services or the director's designee pursuant to a written request, the department ~~may~~ shall disclose confidential information described in section 217.30, subsection 1, to other state agencies or to any other entity which is not subject to the provisions of chapter 17A and is providing services to a participant family who is subject to a family investment agreement, if necessary in order for the participant family to receive the services. The department shall adopt rules establishing standards for disclosure of confidential information if disclosure is necessary in order for a participant to receive services.

Sec. 6. Section 217.11, Code 2007, and section 217.12, Code Supplement 2007, are repealed.

Sec. 7. CONTINUATION OF COUNCIL AND GRANT PROGRAM.

1. The membership of the family development and self-sufficiency council established pursuant to section 217.11, Code 2007, as of June 30, 2008, shall continue on and after that date until revised by the council in accordance with section 216A.107, as enacted by this Act.

2. The family development and self-sufficiency grants issued pursuant to sections 217.11 and 217.12 and 441 IAC ch. 165, in effect as of June 30, 2008, shall continue as provided by the terms of the grants.

3. The division of community action agencies shall administer the family development and self-sufficiency grant program in accordance with the administrative rules pertaining to the grant program in 441 IAC ch. 165, in place of the department of human services until replacement administrative rules are adopted. The commission on community action agencies 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 a later date is specified in the rules. Any rules adopted in accordance with

this subsection shall also be published as a notice of intended action as provided in section 17A.4.

Approved April 11, 2008

CHAPTER 1073

ELECTRONIC BENEFITS TRANSFER
UNDER FOOD ASSISTANCE PROGRAM

H.F. 2372

AN ACT limiting the scope of the electronic benefits transfer program maintained by the department of human services.

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

Section 1. Section 234.1, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 3A. "Food assistance program" means the benefits provided through the United States department of agriculture program administered by the department of human services in accordance with 7 C.F.R. pts. 270-283.

Sec. 2. Section 234.12A, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:
The department of human services shall maintain an electronic benefits transfer program utilizing electronic funds transfer systems for the food assistance program. The electronic benefits transfer program implemented under this section shall at a minimum provide for all of the following:

Sec. 3. Section 234.12A, subsection 3, Code 2007, is amended to read as follows:
3. For the purposes of this section, "retailer" means a business authorized by the United States department of agriculture to accept food ~~stamp~~ assistance program benefits.

Approved April 11, 2008

CHAPTER 1074

INSURANCE — MISCELLANEOUS CORRECTIONS AND REPEALS

H.F. 2383

AN ACT making nonsubstantive corrections to certain provisions relating to insurance and making repeals.

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

Section 1. Section 507B.4, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:
c. STATEMENT OF CAPITAL AND SURPLUS. In the case of a foreign company transact-

ing the business of casualty insurance in the state, or an officer, producer, or representative of such a company, issuing or publishing an advertisement, public announcement, sign, circular, or card that purports to disclose the company's financial standing and fails to exhibit: the capital actually paid in cash, and the amount of net surplus of assets over all the company's liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies; and the amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks. The amounts stated for capital and net surplus shall correspond with the latest verified statement made by the company or association to the commissioner of insurance. ~~Such a company shall not write, place, or cause to be written or placed, a policy or contract for insurance on property situated or located in this state except through a licensed producer authorized to do business in this state.~~

Sec. 2. Section 510.21, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the third-party administrator violated any of the requirements of ~~section 515.145 and~~ sections ~~510.1A~~ 510.12 through 510.20 and this section, or the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 3. Section 515.1, Code 2007, is amended to read as follows:

515.1 APPLICABILITY.

Corporations formed for the purpose of insurance, other than life insurance, shall be governed by the provisions of chapter 490, chapter 491, or chapter 504, except as modified by the provisions of this chapter. The provisions of this chapter relative to insurance companies shall apply to all such companies, partnerships, associations, or individuals, except those associations governed by the provisions of chapter 518 or 518A, companies governed by the provisions of chapter 508 or 514, societies governed by the provisions of chapter 512B, and organizations governed by the provisions of chapter 514B, whether incorporated or not.

Sec. 4. NEW SECTION. 515.11A TRANSFER OF STOCK.

Transfers of stock made by any stockholder or the stockholder's legal representative shall be subject to the provisions of chapters 491 and 492 relative to transfer of shares, and to such restrictions as the directors shall establish in their bylaws, except as hereinafter provided.

Sec. 5. Section 515.73, Code Supplement 2007, is amended to read as follows:

515.73 ADDITIONAL STATEMENTS — IMPAIRED CAPITAL.

~~Such~~ Any company desiring to transact the business of insurance under this chapter shall also file with the commissioner a certified copy of its charter or deed of settlement, together with a statement under oath of the president or vice president or other chief officer and the secretary of the company for which they may act, stating the name of the company, the place where located, the amount of its capital, with a detailed statement of the facts and items required from companies organized under the laws of this state, and a copy of the last annual report, if any, made under any law of the state by which such company was incorporated; and no agent shall be allowed to transact business for any company whose capital is impaired by liabilities as specified in this chapter to the extent of twenty percent thereof, while such deficiency shall continue.

Sec. 6. Section 515.120, Code Supplement 2007, is amended to read as follows:

515.120 BUSINESS WITH NONADMITTED INSURERS.

This chapter does not prevent a licensed resident or nonresident ~~agent~~ producer of this state, qualified to write excess and surplus lines insurance, from procuring insurance in certain non-

admitted insurers if such insurance is restricted to the type and kind of insurance authorized by this chapter, excluding insurance authorized under section 515.48, subsection 5, paragraph "a", and the ~~agent~~ producer makes oath to the commissioner of insurance in the form prescribed by the commissioner that the ~~agent~~ producer has made diligent effort to place the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of a contract of insurance in a nonadmitted insurer makes the insurer liable for, and the ~~agent~~ producer shall pay, the taxes on the premiums as if the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by ~~agents~~ producers of this state in nonadmitted insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on the form required by the commissioner of insurance. The report shall be accompanied by a remittance to cover the taxes on the premiums. ~~An agent~~ A producer who makes the oath, pays the taxes on the premiums, and files the report has not written such contracts of insurance unlawfully, and is not personally liable for the contracts.

Sec. 7. Section 515.121, Code Supplement 2007, is amended to read as follows:

515.121 ADMINISTRATIVE PENALTY.

1. An excess and surplus lines insurance ~~agent that~~ producer who fails to timely file the report required in section 515.120 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

2. The commissioner shall refuse to renew the license of ~~an agent that~~ a producer who fails to comply with the provisions of section 515.120 and this section and the ~~agent's~~ producer's right to transact new business in this state shall immediately cease until the ~~agent~~ producer has so complied.

3. The commissioner may give notice to ~~an agent~~ a producer that the ~~agent~~ producer has not timely filed the report required under section 515.120 and is in violation of this section. If the ~~agent~~ producer fails to file the required report within ten days of the date of the notice, the ~~agent~~ producer shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 8. Section 515.122, subsection 1, Code Supplement 2007, is amended to read as follows:

1. An insurance producer shall not knowingly place insurance, either directly or through an intermediary broker, ~~in~~ with insurers who are insolvent or unsound financially; and shall not place or renew insurance with nonadmitted insurers found by the commissioner of insurance to have failed or refused to furnish, in the manner provided in subsection 2, information reasonably showing the ability or willingness of the insurers to satisfy obligations undertaken with respect to insurance issued by them.

Sec. 9. Section 515.125, Code Supplement 2007, is amended to read as follows:

515.125 FORFEITURE OF POLICIES — NOTICE.

1. ~~A policy or contract of insurance, unless~~ Unless otherwise provided in section 515.127 or 515.128, a policy or contract of insurance 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 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.

3. 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. 10. Section 515.129, subsection 3, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An umbrella or excess insurance policy which has been renewed or which has been in effect for sixty or more days shall not be canceled by the insurer, except as provided in section 515.127, subsections 2 and 3, ~~except by~~ unless notice has been mailed or delivered to the insured as required by this section or unless at least one of the following conditions occurs:

Sec. 11. Section 515.130, Code Supplement 2007, is amended to read as follows:

515.130 SHORT RATES.

The commissioner of insurance shall prepare and promulgate tables of the short rates provided for in ~~sections 515.125 and 515.126~~ section 515.132, for the various kinds and classes of insurance governed by the provisions of this chapter, which, when promulgated, shall be for the guidance of all companies covered in this chapter and shall be the rate to be given in any notice therein required. No company shall discriminate unfairly between like assureds in the rate or rates so provided.

Sec. 12. Section 515.138, Code Supplement 2007, is amended to read as follows:

515.138 NOTICE OF LOSS OF PERSONAL PROPERTY BY HAIL.

In case of loss or damage to growing crops by hail, notice of such loss or damage must be given to the company by the insured by mailing a certified mail letter within ten days from the time such loss or damage occurs.

Sec. 13. Section 515.141, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The commissioner of insurance is authorized to issue a subpoena for examination under oath, to any officer, agent, or employee of any company suspected of violating any of the provisions of section 515.140.

Sec. 14. Section 515.142, Code Supplement 2007, is amended to read as follows:

515.142 TRANSFERS PENDING INVESTIGATION.

Any transfer of the stock of any company organized under this chapter, made pending any investigation ~~above required~~, shall not release the party making the transfer from any liability for losses which may have accrued previous to such transfer.

Sec. 15. Section 515.145, Code Supplement 2007, is amended to read as follows:

515.145 REVOCATION OF AUTHORITY.

If upon any examination, ~~and that of~~ or upon information obtained from any ~~other~~ witness produced ~~and~~ or examined, the commissioner determines that a company has violated section 515.140, or if any officer, agent, or employee fails to appear or submit to examination after receiving a subpoena, the commissioner shall promptly issue an order revoking the authority of the company to transact business within this state, and the company shall not be permitted to do the business of insurance in this state for one year.

Sec. 16. Section 515.146, Code Supplement 2007, is amended to read as follows:

515.146 CERTIFICATE REFUSED — ADMINISTRATIVE PENALTY.

The commissioner of insurance shall withhold the commissioner's certificate or permission

of authority to do business from a company neglecting or failing to comply with this chapter. In addition, a company organized or authorized under this chapter which fails to file the annual statement referred to in section 515.63 in the time required shall pay and forfeit an administrative penalty in an amount of five hundred dollars to be collected in the name of the state for deposit in the general fund of the state as provided in section 505.7. The company's right to transact further new business in this state shall immediately cease until the company has fully complied with this chapter. The commissioner may give notice to a company which has failed to file within the time required that the company is in violation of this section and, if the company fails to file the evidence of investment and statement within ten days of the date of the notice, the company shall forfeit and pay the additional sum of one hundred dollars for each day the failure continues, to be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 17. Section 515.153, Code Supplement 2007, is amended to read as follows:

515.153 INCRIMINATION.

The statements and declarations made or testimony given by any ~~such~~ officer, agent, or employee in the investigation before the commissioner of insurance, or upon the hearing on the petition for judicial review, as provided in sections 515.141, 515.145, and 515.152, shall not be used against the person making the same in any criminal prosecution against the person.

Sec. 18. Sections 515.62 and 515.64, Code 2007, are repealed.

Sec. 19. Section 515.107, Code Supplement 2007, is repealed.

Approved April 11, 2008

CHAPTER 1075

AUTHORIZED PUBLIC FUNDS INVESTMENTS

H.F. 2385

AN ACT relating to allowable investments by the treasurer of state and other authorized state agencies.

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

Section 1. Section 12B.10, subsection 4, paragraph a, Code 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) Obligations of the Iowa finance authority issued pursuant to chapter 16, bearing interest at market rates, provided that at the time of purchase the Iowa finance authority has an issuer credit rating within the two highest classifications or the obligations to be purchased are rated within the two highest classifications, as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A.

Sec. 2. Section 12C.9, subsection 1, Code 2007, is amended to read as follows:

1. The treasurer of state and all other state agencies authorized to invest funds and the treasurer or other designated financial officer of each political subdivision including each school corporation shall invest the proceeds of notes, bonds, refunding bonds, and other evidences of indebtedness, and funds being accumulated for the payment of principal and interest or reserves in investments set out in section 12B.10, subsection 4, paragraph "a", subparagraphs

(1) through ~~(7)~~ (9), section 12B.10, subsection 5, paragraph "a", subparagraphs (1) through (7), an investment contract, or tax-exempt bonds. The investment shall be as defined and permitted by section 148 of the Internal Revenue Code and applicable regulations under that section. An investment contract or tax-exempt bonds shall be rated within the two highest classifications as established by at least one of the standard rating services approved by the superintendent of banking by rule adopted pursuant to chapter 17A.

Approved April 11, 2008

CHAPTER 1076

ALARM SYSTEM INSTALLER OR CONTRACTOR CERTIFICATION
AND ELECTRICIAN LICENSURE

H.F. 2410

AN ACT relating to alarm system installer or contractor certification and electrician licensure provisions, and providing an effective date.

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

Section 1. Section 100C.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. An applicant for certification as an alarm system contractor or an alarm system installer shall be subject to a national criminal history check through the federal bureau of investigation. The applicant shall provide fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. Fees for the national criminal history check shall be paid by the applicant or the applicant's employer. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

Sec. 2. Section 103.22, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. Require employees of municipal ~~corporations~~ utilities, electric membership or cooperative associations, ~~public utility corporations~~ investor-owned utilities, rural water associations or districts, railroads, telecommunications companies, franchised cable television operators, or commercial or industrial companies performing manufacturing, installation, and repair work for such employer to hold licenses while acting within the scope of their employment.

3. Require any person doing work for which a license would otherwise be required under this chapter to hold a license issued under this chapter if the person is the holder of a valid license issued by any political subdivision, so long as the person makes electrical installations only in the jurisdictional limits of such political subdivision and such license issued by the political subdivision ~~meets the requirements~~ is based upon requirements that are substantially equivalent to the licensing requirements of this chapter.

Sec. 3. 2007 Iowa Acts, chapter 197, section 40, is amended to read as follows:

SEC. 40. 103.30 INSPECTIONS NOT REQUIRED.

Nothing in this chapter shall be construed to require the work of employees of municipal ~~corporations~~ utilities, railroads, electric membership or cooperative associations, ~~public util-~~

~~ity corporations~~ investor-owned utilities, rural water associations or districts, or telecommunications systems to be inspected while acting within the scope of their employment.

Sec. 4. EFFECTIVE DATE. Sections 1 and 2 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 11, 2008

CHAPTER 1077

ELECTRICIAN LICENSURE —
EXPERIENCE IN LIEU OF EXAMINATION

H.F. 2411

AN ACT providing for changes in electrician licensure requirements for specified licensure classifications, and providing an effective date.

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

Section 1. Section 103.10, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. An applicant who can provide proof acceptable to the board that the applicant has been working in the electrical business and involved in planning for, laying out, supervising, and installing electrical wiring, apparatus, or equipment for light, heat, and power ~~prior to 1990~~ since January 1, 1998, and for a total of at least sixteen thousand hours, of which at least eight thousand hours shall have been accumulated since January 1, 1998, may be granted a class B master electrician license without taking an examination. An applicant who is issued a class B master electrician license pursuant to this section shall not be authorized to plan, lay out, or supervise the installation of electrical wiring, apparatus, and equipment in a political subdivision which, prior to or after January 1, 2008, establishes licensing standards which preclude such work by class B master electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B master electrician license pursuant to this subsection.

Sec. 2. Section 103.12, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. An applicant who can provide proof acceptable to the board that the applicant has been employed as a journeyman electrician since ~~1990~~ January 1, 1998, and for a total of at least sixteen thousand hours, of which at least eight thousand hours shall have been accumulated since January 1, 1998, may be granted a class B journeyman electrician license without taking an examination. An applicant who is issued a class B journeyman electrician license pursuant to this section shall not be authorized to wire for or install electrical wiring, apparatus, and equipment in a political subdivision which, prior to or after January 1, 2008, establishes licensing standards which preclude such work by class B journeyman electricians in the political subdivision. The board shall adopt rules establishing procedures relating to the restriction of a class B journeyman electrician license pursuant to this subsection.

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

Approved April 11, 2008

CHAPTER 1078

DISASTER AID INDIVIDUAL ASSISTANCE GRANTS

H.F. 2564

AN ACT concerning the disaster aid individual assistance grant program.

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

Section 1. Section 29C.20A, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. The grant funds shall be administered by the department of human services. The department shall adopt rules to create the Iowa disaster aid individual assistance grant program. The rules shall specify the eligibility of applicants and eligible items for grant funding. ~~The rules shall be adopted no later than January 1, 2008.~~ The executive council shall use grant funds to reimburse the department of human services for its actual expenses associated with the administration of the grants.

3. To be eligible for a grant, an applicant shall have an annual household income that is less than ~~one~~ two hundred ~~thirty~~ percent of the federal poverty level based on the number of people in the applicant's household as defined by the most recently revised poverty income guidelines published by the United States department of health and human services. The amount of a grant for a household shall not exceed ~~twenty-five percent of one hundred thirty percent of the federal poverty level for a household of one~~ five thousand dollars. Expenses eligible for grant funding shall be limited to personal property, home repair, food assistance, and temporary housing assistance. An applicant for a grant shall sign an affidavit committing to refund any part of the grant that is duplicated by any other assistance, such as but not limited to insurance or assistance from community development groups, charities, the small business administration, and the federal emergency management agency.

Approved April 11, 2008

CHAPTER 1079

WORKERS' COMPENSATION —
CALCULATION OF CERTAIN WEEKLY BENEFITS

H.F. 2568

†**AN ACT** relating to the calculation of certain weekly workers' compensation benefits by requiring certain weekly workers' compensation benefits to be calculated by including an employee's shift differential pay and by changing the basis for calculating the weekly rate for certain injured inmates.

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

Section 1. Section 85.36, subsections 6 and 7, Code 2007, are amended to read as follows:

6. In the case of an employee who is paid on a daily or hourly basis, or by the output of the employee, the weekly earnings shall be computed by dividing by thirteen the earnings, including shift differential pay but not including overtime or premium pay, of the employee earned in the employ of the employer in the last completed period of thirteen consecutive calendar

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

weeks immediately preceding the injury. If the employee was absent from employment for reasons personal to the employee during part of the thirteen calendar weeks preceding the injury, the employee's weekly earnings shall be the amount the employee would have earned had the employee worked when work was available to other employees of the employer in a similar occupation. A week which does not fairly reflect the employee's customary earnings shall be replaced by the closest previous week with earnings that fairly represent the employee's customary earnings.

7. In the case of an employee who has been in the employ of the employer less than thirteen calendar weeks immediately preceding the injury, the employee's weekly earnings shall be computed under subsection 6, taking the earnings, including shift differential pay but not including overtime or premium pay, for such purpose to be the amount the employee would have earned had the employee been so employed by the employer the full thirteen calendar weeks immediately preceding the injury and had worked, when work was available to other employees in a similar occupation. If the earnings of other employees cannot be determined, the employee's weekly earnings shall be the average computed for the number of weeks the employee has been in the employ of the employer.

Sec. 2. Section 85.59, unnumbered paragraph 4, Code 2007, is amended to read as follows:

If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution, in an industry maintained in the institution, or in an industry referred to in section 904.809, while on detail to perform services on a public works project, or while performing services authorized pursuant to section 904.809, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to ~~sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the department of workforce development under section 96.19, subsection 36, and in effect at the time of the injury~~ the minimum rate as provided in this chapter.

Approved April 11, 2008

CHAPTER 1080

SUSTAINABLE NATURAL RESOURCE FUNDING
ADVISORY COMMITTEE

H.F. 2580

AN ACT providing for a sustainable natural resource funding advisory committee.

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

Section 1. SUSTAINABLE NATURAL RESOURCE FUNDING ADVISORY COMMITTEE. There is established a sustainable natural resource funding advisory committee.

1. The advisory committee shall include all of the following members:

a. (1) The director of the department of natural resources who shall be the chairperson of the advisory committee.

(2) The secretary of agriculture or the secretary's designee.

b. A commissioner of a soil and water conservation district appointed by the governor.

c. (1) A representative from each of the following interest organizations appointed by the governor:

(a) Ducks unlimited.

(b) The Iowa chapter of the sierra club.

(c) The nature conservancy.

(d) Iowa association of county conservation boards.

(e) Iowa environmental council.

(f) Iowa farm bureau federation.

(g) Iowa farmers union.

(h) Iowa land improvement contractors association.

(i) Iowa natural heritage foundation.

(j) Iowa renewable fuels association.

(k) Iowa rivers revival.

(l) Izaak Walton league of America.

(m) Pheasants forever.

(2) In making appointments, the governor may accept nominations from the interested organizations and may reappoint persons who served on the advisory committee pursuant to 2006 Iowa Acts, chapter 1185, section 43.

d. Four members of the general assembly who serve as ex officio, nonvoting members. The members shall be appointed as follows:

(1) Two members of the senate, one of whom is appointed by the majority leader of the senate after consultation with the president of the senate and one of whom is appointed by the minority leader of the senate after consultation with the president of the senate.

(2) Two members of the house of representatives appointed by the speaker of the house after consultation with the minority leader.

2. A vacancy shall be filled by the original appointing authority in the manner of the original appointment.

3. The purpose of the advisory committee is to continue the efforts of the sustainable natural resource funding advisory committee established pursuant to 2006 Iowa Acts, chapter 1185, section 43. The committee shall study how to provide one or more sustainable sources of funding for natural resources and outdoor recreation needs in Iowa. The advisory committee shall advise members of the general assembly in efforts to establish or administer sustainable funding sources.

4. The department of natural resources shall provide staffing for the advisory committee.

5. The advisory committee shall submit a report to the general assembly on or before January 9, 2009, and on January 8, 2010, which summarizes its activities, and any findings or recommendations approved by the advisory committee.

6. This section is repealed on July 1, 2010.

Approved April 11, 2008

CHAPTER 1081

DONATION OF FOOD
TO DEPARTMENT OF NATURAL RESOURCES
OR COUNTY CONSERVATION BOARDS — LIABILITY

H.F. 2581

AN ACT relating to the donation of food to the department of natural resources or county conservation boards.

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

Section 1. Section 672.1, subsection 2, Code 2007, is amended to read as follows:

2. A gleaner, or a restaurant, food establishment, food service establishment, school, manufacturer of foodstuffs, meat 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, or to the department of natural resources or a county conservation board for use in a free interpretive educational program, is not subject to criminal or civil liability arising from the condition of the food if the donor reasonably inspects the food at the time of the donation and finds the food fit for human consumption. The immunity provided by this subsection does not extend to a donor or gleaner if damages result from the negligence, recklessness, or intentional misconduct of the donor, or if the donor or gleaner has, or should have had, actual or constructive knowledge that the food is tainted, contaminated, or harmful to the health or well-being of the ultimate recipient.

Approved April 11, 2008

CHAPTER 1082

CIVIL COMMITMENT — PERIODIC REPORTING —
AUTHORIZED HEALTH CARE PRACTITIONERS

H.F. 2603

AN ACT authorizing certain advanced registered nurse practitioners and psychiatrists to file certain periodic court reports on chronic substance abusers and persons with mental illness who do not require full-time placement in a treatment facility.

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

Section 1. Section 125.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13C. "Psychiatric advanced registered nurse practitioner" means an individual currently licensed as a registered nurse under chapter 152 or 152E who holds a national certification in psychiatric health care and who is registered with the board of nursing as an advanced registered nurse practitioner.

Sec. 2. Section 125.86, subsection 2, Code 2007, is amended to read as follows:

2. No more than sixty days after entry of a court order for treatment of a respondent under section 125.84, subsection 3, and thereafter at successive intervals not to exceed ninety days for as long as involuntary treatment continues, the administrator of the facility or the psychiatrist or psychiatric advanced registered nurse practitioner treating the patient shall report to

the court which entered the order. The report shall be submitted in the manner required by section 125.84, shall state whether in the opinion of the chief medical officer or the psychiatrist or psychiatric advanced registered nurse practitioner the respondent's condition has improved, remains unchanged, or has deteriorated, and shall indicate the further length of time the respondent will require treatment by the facility. If the respondent fails or refuses to submit to treatment as ordered by the court, the administrator of the facility shall at once notify the court, which shall order the respondent committed for treatment as provided by section 125.84, subsection 3, unless the court finds that the failure or refusal was with good cause, and that the respondent is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If the administrator of the facility reports to the court that the respondent requires full-time custody, care, and treatment in a facility, and the respondent is willing to be admitted voluntarily to the facility for these purposes, the court may enter an order approving the placement upon consultation with the administrator of the facility in which the respondent is to be placed. If the respondent is unwilling to be admitted voluntarily to the facility, the procedure for determining involuntary commitment, as provided in section 125.84, subsection 3, shall be followed.

Sec. 3. Section 125.86, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. A psychiatric advanced registered nurse practitioner treating a patient previously hospitalized under this chapter may complete periodic reports pursuant to this section on the patient if the patient has been recommended for treatment on an outpatient or other appropriate basis pursuant to section 125.84, subsection 3, and if a psychiatrist licensed pursuant to chapter 148, 150, or 150A personally evaluates the patient on at least an annual basis.

b. An advanced registered nurse practitioner who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications set forth in the definition of a mental health professional in section 228.1 on July 1, 2008, may complete periodic reports pursuant to paragraph "a".

Sec. 4. Section 229.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Psychiatric advanced registered nurse practitioner" means an individual currently licensed as a registered nurse under chapter 152 or 152E who holds a national certification in psychiatric health care and who is registered with the board of nursing as an advanced registered nurse practitioner.

Sec. 5. Section 229.15, subsection 2, Code 2007, is amended to read as follows:

2. Not more than sixty days after the entry of a court order for treatment of a patient pursuant to a report issued under section 229.14, subsection 1, paragraph "c", and thereafter at successive intervals as ordered by the court but not to exceed ninety days so long as that court order remains in effect, the medical director of the facility or the psychiatrist or psychiatric advanced registered nurse practitioner treating the patient shall report to the court which entered the order. The report shall state whether the patient's condition has improved, remains unchanged, or has deteriorated, and shall indicate if possible the further length of time the patient will require treatment by the facility. If at any time the patient without good cause fails or refuses to submit to treatment as ordered by the court, the medical director shall at once so notify the court, which shall order the patient hospitalized as provided by section 229.14, subsection 2, paragraph "d", unless the court finds that the failure or refusal was with good cause and that the patient is willing to receive treatment as provided in the court's order, or in a revised order if the court sees fit to enter one. If at any time the medical director reports to the court that in the director's opinion the patient requires full-time custody, care and treatment in a hospital, and the patient is willing to be admitted voluntarily to the hospital for these purposes, the court may enter an order approving hospitalization for appropriate treatment upon consultation with the chief medical officer of the hospital in which the patient is to be hospitalized. If the patient is unwilling to be admitted voluntarily to the hospital, the procedure

for determining involuntary hospitalization, as set out in section 229.14, subsection 2, paragraph "d", shall be followed.

Sec. 6. Section 229.15, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. a. A psychiatric advanced registered nurse practitioner treating a patient previously hospitalized under this chapter may complete periodic reports pursuant to this section on the patient if the patient has been recommended for treatment on an outpatient or other appropriate basis pursuant to section 229.14, subsection 1, paragraph "c", and if a psychiatrist licensed pursuant to chapter 148, 150, or 150A personally evaluates the patient on at least an annual basis.

b. An advanced registered nurse practitioner who is not certified as a psychiatric advanced registered nurse practitioner but who meets the qualifications set forth in the definition of a mental health professional in section 228.1 on July 1, 2008, may complete periodic reports pursuant to paragraph "a".

Approved April 11, 2008

CHAPTER 1083

REGULATION OF GRAIN DEALERS
AND WAREHOUSE OPERATORS —
GRAIN INDEMNITY FUND ADMINISTRATION

H.F. 2606

AN ACT relating to the regulation of transactions involving grain, by providing for the regulation of grain dealers and warehouse operators, and providing for the administration of the grain indemnity fund.

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

Section 1. Section 203.1, subsection 7, Code Supplement 2007, is amended to read as follows:

7. "Financial institution" means ~~a~~ any of the following:

a. A bank or savings and loan association authorized by the laws of this state, any other state, ~~of Iowa~~ or ~~by the laws of~~ the United States, which is a member of the federal deposit insurance corporation ~~or the federal savings and loan insurance corporation, respectively; or the national~~.

b. A bank ~~for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233~~ or association chartered by the farm credit system under the federal Farm Credit Act, as amended, 12 U.S.C. ch. 23.

Sec. 2. Section 203.1, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 14. "Warehouse operator" means the same as defined in section 203C.1.

Sec. 3. Section 203.3, subsection 4, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an

opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer, except as provided in section 203.15, may elect to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this subsection.

Sec. 4. Section 203.3, subsection 5, paragraph b, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The grain dealer shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a grain dealer submit more than one such unqualified opinion per year. The grain dealer may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A grain dealer shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the grain dealer's financial status or compliance with this section.

Sec. 5. Section 203.11B, subsection 4, paragraph d, Code 2007, is amended to read as follows:

d. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the civil penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a grain dealer as provided in section 203.3 or the license of a warehouse operator as provided in section 203C.6.

Sec. 6. Section 203.15, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. A grain dealer ~~holding a federal or state warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., and who does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture shall not purchase grain on credit-sale contract to correct the shortage of grain.

Sec. 7. Section 203.15, subsection 5, paragraphs a and b, Code 2007, are amended to read as follows:

a. The grain dealer ~~holding a federal or state warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department of

agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., does not have a sufficient quantity or quality of grain to satisfy the warehouse operator's obligations based on an examination by the department or the United States department of agriculture.

b. The grain dealer ~~holding a state or federal warehouse license~~ who is also a warehouse operator licensed by the department under chapter 203C or the United States department of agriculture under the United States Warehouse Act, 7 U.S.C. 241 et seq., issues back to the grain dealer a warehouse receipt for purposes of providing collateral, if the grain which is the subject of the warehouse receipt was purchased on credit and is unpaid for by the grain dealer.

Sec. 8. Section 203.17, Code 2007, is amended to read as follows:

203.17 ~~STANDARDIZATION OF RECORDS AND~~ DOCUMENTS AND RECORDS.

1. The department may adopt rules specifying the form, content, ~~and~~ use, and maintenance of documents issued by a grain dealer under this chapter including but not limited to scale tickets, settlement sheets, daily position records, and credit-sale contracts. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

2. All scale ticket forms in the possession of a grain dealer shall have been permanently and consecutively numbered at the time of printing. A grain dealer shall maintain an accurate record of all scale ticket numbers. The record shall include the disposition of each numbered form, whether issued, destroyed, or otherwise disposed of.

Sec. 9. Section 203C.1, subsection 9, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

9. "Financial institution" means the same as defined in section 203.1.

Sec. 10. Section 203C.5, Code 2007, is amended to read as follows:

203C.5 RULES — DOCUMENTS AND FORMS.

1. The department shall adopt rules as it deems necessary for the efficient administration of this chapter, and may designate an employee or officer of the department to act for the department in any details connected with administration, including the issuance of licenses and approval of deficiency bonds or irrevocable letters of credit in the name of the department, but not including matters requiring a public hearing or suspension or revocation of licenses.

2. a. The department may adopt rules specifying the form, content, and use of documents issued by a warehouse operator under this chapter including but not limited to scale tickets, warehouse receipts, settlement sheets, and daily position records~~, shipping ledgers, and other documents used by licensed warehouses~~. The department may adopt rules for both printed and electronic documents, including rules for the transmission, receipt, authentication, and archiving of electronically generated or stored documents.

b. All scale ticket forms and warehouse receipt forms in the possession of a warehouse operator shall have been permanently and consecutively numbered at the time of printing. A warehouse operator shall maintain an accurate record of the numbers of these documents. The record shall include the disposition of each form, whether issued, destroyed, or otherwise disposed of. The department may by rule require this use of prenumbered forms and recording for documents other than scale tickets and warehouse receipts.

Sec. 11. Section 203C.6, subsection 4, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial state-

ment that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

Sec. 12. Section 203C.6, subsection 5, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The warehouse operator shall submit, as required by the department, a financial statement that is accompanied by an unqualified opinion based upon an audit performed by a certified public accountant licensed in this state. However, the department may accept a qualification in an opinion that is unavoidable by any audit procedure that is permitted under generally accepted accounting principles. An opinion that is qualified because of a limited audit procedure or because the scope of an audit is limited shall not be accepted by the department. The department shall not require that a warehouse operator submit more than one such unqualified opinion per year. The warehouse operator may elect, however, to submit a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by the certified public accountant in lieu of the audited financial statement specified in this paragraph. However, at any time the department may require a financial statement that is accompanied by the report of a certified public accountant licensed in this state that is based upon a review performed by a certified public accountant if the department has good cause. A warehouse operator shall submit financial statements to the department in addition to those required in this paragraph if the department determines that it is necessary to verify the warehouse operator's financial status or compliance with this subsection.

Sec. 13. Section 203D.1, subsections 3 and 9, Code 2007, are amended to read as follows:

3. "Depositor" means a person who deposits grain in a ~~state~~ licensed warehouse for storage, handling, or shipment, or who is the owner or legal holder of an outstanding warehouse receipt issued by a ~~state~~ licensed warehouse, or who is lawfully entitled to possession of the grain.

9. "Seller" means a person who sells grain which the person has produced or caused to be produced to a licensed grain dealer, but excludes a person who executes a credit sale contract as a seller as provided in section 203.15. However, "seller" does not include ~~a~~ any of the following:

a. A person licensed as a grain dealer in any jurisdiction who sells grain to a licensed grain dealer.

b. A person who sells grain that is not produced in this state unless such grain is delivered to a licensed grain dealer at a location in this state as the first point of sale.

Sec. 14. Section 203D.1, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "First point of sale" means the initial transfer of title to grain from a person who has produced or caused to be produced the grain to the first purchaser of the grain for consideration, conditional or otherwise, in any manner or by any means.

NEW SUBSECTION. 6A. "Licensed warehouse" means the same as defined in section 203C.1.

Sec. 15. Section 203D.3, subsection 3, paragraph a, subparagraph (3), unnumbered paragraph 1, Code 2007, is amended to read as follows:

For licensed warehouse operators ~~or participating federally licensed grain warehouses~~ the following:

Sec. 16. Section 203D.4, subsection 1, Code 2007, is amended to read as follows:

1. The Iowa grain indemnity fund board is established to advise the department on matters relating to the fund and to perform the duties provided it in this chapter. The board is composed of the secretary of agriculture or a designee who shall serve as president; the commissioner of insurance or a designee who shall serve as secretary; the state treasurer or a designee who shall serve as treasurer; and four representatives of the grain industry appointed by the governor, subject to confirmation by the senate, two of whom shall be representatives of producers and who shall be actively participating producers, and two of whom shall be representatives of licensed grain dealers and licensed warehouse operators and who shall be actively participating licensed grain dealers and licensed warehouse operators, each of whom shall be selected from a list of three nominations made by the secretary of agriculture. The term of membership of the grain industry representatives is three years, and the representatives are eligible for reappointment. However, only actively participating producers, and grain dealers and warehouse operators are eligible for reappointment. The grain industry representatives are entitled to a per diem as specified in section 7E.6 for each day spent in the performance of the duties of the board, plus actual expenses incurred in the performance of those duties. Four members of the board constitute a quorum, and the affirmative vote of four members is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

Sec. 17. Section 203D.6, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The filing of a petition in bankruptcy by a licensed grain dealer or licensed warehouse operator.

Sec. 18. Section 203D.6, subsection 3, paragraph d, Code 2007, is amended to read as follows:

d. That the claim derives from a covered transaction. For purposes of this paragraph, a claim derives from a covered transaction if the claimant is a seller who transferred title to the grain to ~~the~~ a licensed grain dealer other than by credit sale contract within six months of the incurrence date, or if the claimant is a depositor who delivered the grain to ~~the~~ a licensed warehouse operator.

Sec. 19. Section 203D.6, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. TIME LIMITATION ON CLAIMS.

a. A claim shall expire if five years after the board determines that the claim is eligible, the claimant has failed to do any of the following:

(1) Provide for the fund's subrogation or has failed to render all necessary assistance to aid the department and the board in securing the department's rights of subrogation as required in this section.

(2) Failed to provide necessary documentation or information required by the board in order to process the claim.

b. The fund shall not be liable for the payment of an expired claim.

Sec. 20. TIME LIMITATIONS ON CURRENT CLAIMS.

1. Notwithstanding section 203D.6, subsection 9, as enacted in this Act, a claim that the Iowa grain indemnity fund board has determined is eligible on or before the effective date of this Act, as provided in section 203D.6, shall expire if five years after the effective date of this Act, the claimant has failed to do any of the following:

a. Provide for the subrogation of the grain depositors and sellers indemnity fund created in section 203D.3, or has failed to render all necessary assistance to aid the department of agriculture and land stewardship and the Iowa grain indemnity fund board in securing the department's rights of subrogation as required in section 203D.6.

b. Provide necessary documentation or information required by the Iowa grain indemnity fund board in order to process the claim.

2. The grain depositors and sellers indemnity fund created in section 203D.3 shall not be liable for the payment of an expired claim.

Approved April 11, 2008

CHAPTER 1084

SMOKING IN PUBLIC — RESTRICTIONS AND PROHIBITIONS

H.F. 2212

AN ACT creating a smokefree air Act and providing penalties.

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

Section 1. NEW SECTION. 142D.1 TITLE — FINDINGS — PURPOSE.

1. This chapter shall be known and may be cited as the "Smokefree Air Act".

2. The general assembly finds that environmental tobacco smoke causes and exacerbates disease in nonsmoking adults and children. These findings are sufficient to warrant measures that regulate smoking in public places, places of employment, and outdoor areas in order to protect the public health and the health of employees.

3. The purpose of this chapter is to reduce the level of exposure by the general public and employees to environmental tobacco smoke in order to improve the public health of Iowans.

Sec. 2. NEW SECTION. 142D.2 DEFINITIONS.

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

1. "Bar" means an establishment where one may purchase alcoholic beverages as defined in section 123.3, for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

2. "Business" means a sole proprietorship, partnership, joint venture, corporation, association, or other business entity, either for-profit or not-for-profit, including retail establishments where goods or services are sold; professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered; and private clubs.

3. "Common area" means a reception area, waiting room, lobby, hallway, restroom, elevator, stairway or stairwell, the common use area of a multiunit residential property, or other area to which the public is invited or in which the public is permitted.

4. "Employee" means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, or a person who provides services to an employer on a voluntary basis.

5. "Employer" means a person including a sole proprietorship, partnership, joint venture, corporation, association, or other business entity whether for-profit or not-for-profit, including state government and its political subdivisions, that employs the services of one or more individuals as employees.

6. "Enclosed area" means all space between a floor and ceiling that is contained on all sides by solid walls or windows, exclusive of doorways, which extend from the floor to the ceiling.

7. "Farm tractor" means farm tractor as defined in section 321.1.

8. "Farm truck" means a single-unit truck, truck-tractor, tractor, semitrailer, or trailer used by a farmer to transport agricultural, horticultural, dairy, or other farm products, including livestock, produced or finished by the farmer, or to transport any other personal property

owned by the farmer, from the farm to market, and to transport property and supplies to the farm of the farmer.

9. "Farmer" means any of the following:

a. A person who files schedule F as part of the person's annual form 1040 or form 1041 filing with the United States internal revenue service, or an employee of such person while the employee is actively engaged in farming.

b. A person who holds an equity position in or who is employed by a business association holding agricultural land where the business association is any of the following:

(1) A family farm corporation, authorized farm corporation, family farm limited partnership, limited partnership, family farm limited liability company, authorized limited liability company, family trust, or authorized trust, as provided in chapter 9H.

(2) A limited liability partnership as defined in section 486A.101.

c. A natural person related to the person actively engaged in farming as provided in paragraph "a" or "b" when the person is actively engaged in farming. The natural person must be related as spouse, parent, grandparent, lineal ascendant of a grandparent or a grandparent's spouse, other lineal descendant of a grandparent or a grandparent's spouse, or a person acting in a fiduciary capacity for persons so related.

For purposes of this subsection: "actively engaged in farming" means participating in physical labor on a regular, continuous, and substantial basis, or making day-to-day management decisions, where such participation or decision making is directly related to raising and harvesting crops for feed, food, seed, or fiber, or to the care and feeding of livestock.

10. "Health care provider location" means an office or institution providing care or treatment of disease, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to a hospital as defined in section 135B.1, a long-term care facility, an adult day services program as defined in section 231D.1, clinics, laboratories, and the locations of professionals regulated pursuant to Title IV, subtitle III, and includes all enclosed areas of the location including waiting rooms, hallways, other common areas, private rooms, semiprivate rooms, and wards within the location.

11. "Implement of husbandry" means implement of husbandry as defined in section 321.1.

12. "Long-term care facility" means a health care facility as defined in section 135C.1, an elder group home as defined in section 231B.1, or an assisted living program as defined in section 231C.2.

13. "Place of employment" means an area under the control of an employer and includes all areas that an employee frequents during the course of employment or volunteering, including but not limited to work areas, private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter. "Place of employment" does not include a private residence, unless the private residence is used as a child care facility, a child care home, or as a health care provider location.

14. "Political subdivision" means a city, county, township, or school district.

15. "Private club" means an organization, whether or not incorporated, that is the owner, lessee, or occupant of a location used exclusively for club purposes at all times and that meets all of the following criteria:

a. Is operated solely for a recreational, fraternal, social, patriotic, political, benevolent, or athletic purpose, but not for pecuniary gain.

b. Sells alcoholic beverages only as incidental to its operation.

c. Is managed by a board of directors, executive committee, or similar body chosen by the members.

d. Has established bylaws or another document to govern its activities.

e. Has been granted an exemption from the payment of federal income tax as a club pursuant to 26 U.S.C. § 501.

16. "Public place" means an enclosed area to which the public is invited or in which the public is permitted, including common areas, and including but not limited to all of the following:

a. Financial institutions.

b. Restaurants.
c. Bars.
d. Public and private educational facilities.
e. Health care provider locations.
f. Hotels and motels.
g. Laundromats.
h. Public transportation facilities and conveyances under the authority of the state or its political subdivisions, including buses and taxicabs, and including the ticketing, boarding, and waiting areas of these facilities.
i. Aquariums, galleries, libraries, and museums.
j. Retail food production and marketing establishments.
k. Retail service establishments.
l. Retail stores.
m. Shopping malls.
n. Entertainment venues including but not limited to theaters; concert halls; auditoriums and other facilities primarily used for exhibiting motion pictures, stage performances, lectures, musical recitals, and other similar performances; bingo facilities; and indoor arenas including sports arenas.
o. Polling places.
p. Convention facilities and meeting rooms.
q. Public buildings and vehicles owned, leased, or operated by or under the control of the state government or its political subdivisions and including the entirety of the private residence of any state employee any portion of which is open to the public.
r. Service lines.
s. Private clubs only when being used for a function to which the general public is invited.
t. Private residences only when used as a child care facility, a child care home, or health care provider location.
u. Child care facilities and child care homes.
v. Gambling structures, excursion gambling boats, and racetrack enclosures.

17. "Restaurant" means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

18. "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is incidental to the sale of tobacco products.

19. "Service line" means an indoor line in which one or more individuals are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

20. "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional establishments.

21. "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other tobacco product in any manner or in any form. "Smoking" does not include smoking that is associated with a recognized religious ceremony, ritual, or activity, including but not limited to burning of incense.

22. "Sports arena" means a sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller or ice rink, bowling alley, or other similar place where members of the general public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events.

Sec. 3. NEW SECTION. 142D.3 PROHIBITION OF SMOKING — PUBLIC PLACES, PLACES OF EMPLOYMENT, AND OUTDOOR AREAS.

1. Smoking is prohibited and a person shall not smoke in any of the following:
a. Public places.
b. All enclosed areas within places of employment including but not limited to work areas,

private offices, conference and meeting rooms, classrooms, auditoriums, employee lounges and cafeterias, hallways, medical facilities, restrooms, elevators, stairways and stairwells, and vehicles owned, leased, or provided by the employer unless otherwise provided under this chapter.

2. In addition to the prohibitions specified in subsection 1, smoking is prohibited and a person shall not smoke in or on any of the following outdoor areas:

a. The seating areas of outdoor sports arenas, stadiums, amphitheaters and other entertainment venues where members of the general public assemble to witness entertainment events.

b. Outdoor seating or serving areas of restaurants.

c. Public transit stations, platforms, and shelters under the authority of the state or its political subdivisions.

d. School grounds, including parking lots, athletic fields, playgrounds, tennis courts, and any other outdoor area under the control of a public or private educational facility, including inside any vehicle located on such school grounds.

e. The grounds of any public buildings owned, leased, or operated by or under the control of the state government or its political subdivisions, including the grounds of a private residence of any state employee any portion of which is open to the public with the following exceptions:

(1) This paragraph shall not apply to the Iowa state fairgrounds, or fairgrounds as defined in section 174.1.

(2) This paragraph shall not apply to institutions administered by the department of corrections, except that smoking on the grounds shall be limited to designated smoking areas.

(3) This paragraph shall not apply to facilities of the Iowa national guard as defined in section 29A.1, except that smoking on the grounds shall be limited to designated smoking areas.

Sec. 4. NEW SECTION. 142D.4 AREAS WHERE SMOKING NOT REGULATED.

Notwithstanding any provision of this chapter to the contrary, the following areas are exempt from the prohibitions of section 142D.3:

1. Private residences, unless used as a child care facility, child care home, or a health care provider location.

2. Hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided that not more than twenty percent of the rooms of a hotel or motel rented to guests are designated as smoking rooms, all smoking rooms on the same floor are contiguous, and smoke from smoking rooms does not infiltrate into areas in which smoking is otherwise prohibited under this chapter. The status of smoking and nonsmoking rooms shall not be changed, except to provide additional nonsmoking rooms.

3. Retail tobacco stores, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter.

4. Private and semiprivate rooms in long-term care facilities, occupied by one or more individuals, all of whom are smokers and have requested in writing to be placed in a room where smoking is permitted, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter.

5. Private clubs that have no employees, except when being used for a function to which the general public is invited, provided that smoke from these locations does not infiltrate into areas in which smoking is otherwise prohibited under this chapter. This exemption shall not apply to any entity that is established for the purpose of avoiding compliance with this chapter.

6. Outdoor areas that are places of employment except those areas where smoking is prohibited pursuant to section 142D.3, subsection 2.

7. Limousines under private hire; vehicles owned, leased, or provided by a private employer that are for the sole use of the driver and are not used by more than one person in the course of employment either as a driver or passenger; privately owned vehicles not otherwise defined as a place of employment or public place; and cabs of motor trucks or truck tractors if no nonsmoking employees are present.

8. An enclosed area within a place of employment or public place that provides a smoking

cessation program or a medical or scientific research or therapy program, if smoking is an integral part of the program.

9. Farm tractors, farm trucks, and implements of husbandry when being used for their intended purposes.

10. Only the gaming floor of a premises licensed pursuant to chapter 99F exclusive of any bar or restaurant located within the gaming floor which is an enclosed area and subject to the prohibitions of section 142D.3.

11. The Iowa veterans home.

Sec. 5. NEW SECTION. 142D.5 DECLARATION OF AREA AS NONSMOKING.

1. Notwithstanding any provision of this chapter to the contrary, an owner, operator, manager, or other person having custody or control of an area otherwise exempt from the prohibitions of section 142D.3 may declare the entire area as a nonsmoking place.

2. Smoking shall be prohibited in any location of an area declared a nonsmoking place under this section if a sign is posted conforming to the provisions of section 142D.6.

Sec. 6. NEW SECTION. 142D.6 NOTICE OF NONSMOKING REQUIREMENTS — POSTING OF SIGNS.

1. Notice of the provisions of this chapter shall be provided to all applicants for a business license in this state, to all law enforcement agencies, and to any business required to be registered with the office of the secretary of state.

2. All employers subject to the prohibitions of this chapter shall communicate to all existing employees and to all prospective employees upon application for employment the smoking prohibitions prescribed in this chapter.

3. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited under this chapter shall clearly and conspicuously post in and at every entrance to the public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area, "no smoking" signs or the international "no smoking" symbol. Additionally, a "no smoking" sign or the international "no smoking" symbol shall be placed in every vehicle that constitutes a public place, place of employment, or area declared a nonsmoking place pursuant to section 142D.5 under this chapter, visible from the exterior of the vehicle. All signs shall contain the telephone number for reporting complaints and the internet site of the department of public health. The owner, operator, manager, or other person having custody or control of the public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area may use the sample signs provided on the department of public health's internet site, or may use another sign if the contents of the sign comply with the requirements of this subsection.

4. The owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited under this chapter shall remove all ashtrays from these locations.

Sec. 7. NEW SECTION. 142D.7 NONRETALIATION — NONWAIVER OF RIGHTS.

1. A person or employer shall not discharge, refuse to employ, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded under this chapter, registers a complaint, or attempts to prosecute a violation of this chapter.

2. An employee who works in a location where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other person.

Sec. 8. NEW SECTION. 142D.8 ENFORCEMENT.

1. This chapter shall be enforced by the department of public health or the department's designee. The department of public health shall adopt rules to administer this chapter, includ-

ing rules regarding enforcement. The department of public health shall provide information regarding the provisions of this chapter and related compliance issues to employers, owners, operators, managers, and other persons having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area where smoking is prohibited, and the general public via the department's internet site. The internet site shall include sample signage and the telephone number for reporting complaints. Judicial magistrates shall hear and determine violations of this chapter.

2. If a public place is subject to any state or political subdivision inspection process or is under contract with the state or a political subdivision, the person performing the inspection shall assess compliance with the requirements of this chapter and shall report any violations to the department of public health or the department's designee.

3. An owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter shall inform persons violating this chapter of the provisions of this chapter.

4. An employee or private citizen may bring a legal action to enforce this chapter. Any person may register a complaint under this chapter by filing a complaint with the department of public health or the department's designee.

5. In addition to the remedies provided in this section, the department of public health or the department's designee or any other person aggrieved by the failure of the owner, operator, manager, or other person having custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated by this chapter to comply with this chapter may seek injunctive relief to enforce this chapter.

Sec. 9. NEW SECTION. 142D.9 CIVIL PENALTIES.

1. A person who smokes in an area where smoking is prohibited pursuant to this chapter shall pay a civil penalty pursuant to section 805.8C, subsection 3, paragraph "a", for each violation.

2. A person who owns, operates, manages, or otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter and who fails to comply with this chapter shall pay a civil penalty as follows:

a. For a first violation, a monetary penalty not to exceed one hundred dollars.

b. For a second violation within one year, a monetary penalty not to exceed two hundred dollars.

c. For each violation in excess of a second violation within one year, a monetary penalty not to exceed five hundred dollars for each additional violation.

3. An employer who discharges or in any manner discriminates against an employee because the employee has made a complaint or has provided information or instituted a legal action under this chapter shall pay a civil penalty of not less than two thousand dollars and not more than ten thousand dollars for each violation.

4. In addition to the penalties established in this section, violation of this chapter by a person who owns, operates, manages, or who otherwise has custody or control of a public place, place of employment, area declared a nonsmoking place pursuant to section 142D.5, or outdoor area regulated under this chapter may result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.

5. Violation of this chapter constitutes a public nuisance which may be abated by the department of public health or the department's designee by restraining order, preliminary or permanent injunction, or other means provided by law, and the entity abating the public nuisance may take action to recover the costs of such abatement.

6. Each day on which a violation of this chapter occurs is considered a separate and distinct violation.

7. Civil penalties paid pursuant to this chapter shall be deposited in the general fund of the state, unless a local authority as designated by the department in administrative rules is in-

volved in the enforcement, in which case the civil penalties paid shall be deposited in the general fund of the respective city or county.

Sec. 10. Section 135.1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

For the purposes of chapter 155 and Title IV, subtitle 2, excluding chapters ~~142B,~~ 145B~~,~~ and 146, unless otherwise defined:

Sec. 11. Section 135.11, subsection 14, Code Supplement 2007, is amended to read as follows:

14. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125 and 155, and Title IV, subtitle 2, excluding chapters ~~142B,~~ 145B~~,~~ and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 12. Section 237A.3A, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 13. NEW SECTION. 237A.3B SMOKING PROHIBITED.

Smoking, as defined in section 142D.2, shall not be permitted in a child care facility or child care home.

Sec. 14. Section 331.427, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 9I.11, 101A.3, 101A.7, 123.36, 123.143, ~~142B.6,~~ 142D.9, 176A.8, 321.105, 321.152, 321G.7, 321I.8, section 331.554, subsection 6, sections 341A.20, 364.3, 368.21, 423A.7, 428A.8, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.329, 556B.1, 583.6, 602.8108, 904.908, and 906.17, and the following:

Sec. 15. Section 805.8C, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. For violations ~~of section 142B.6~~ described in section 142D.9, subsection 1, the scheduled fine is ~~twenty-five~~ fifty dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.1 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil penalty assessed for a violation ~~of~~ described in section ~~142B.6~~ 142D.9, subsection 1, is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

Sec. 16. Chapter 142B, Code 2007, is repealed.

Approved April 15, 2008

CHAPTER 1085

DIVISION OF CRIMINAL AND JUVENILE JUSTICE PLANNING — MISCELLANEOUS CHANGES

S.F. 2036

AN ACT relating to the division of criminal and juvenile justice planning of the department of human rights by making changes to the membership of the council, permitting access to the records of the department of workforce development, and modifying the sex offender treatment and supervision task force.

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

Section 1. Section 216A.132, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

A criminal and juvenile justice planning advisory council is established consisting of ~~twenty-two~~ twenty-three members.

Sec. 2. Section 216A.132, subsection 1, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The departments of human services, corrections, and public safety, the division on the status of African-Americans, the Iowa department of public health, the chairperson of the board of parole, the attorney general, the state public defender, the governor's office of drug control policy, and the chief justice of the supreme court shall each designate a person to serve on the council. The person appointed by the Iowa department of public health shall be from the departmental staff who administer the comprehensive substance abuse program under chapter 125.

Sec. 3. Section 216A.136, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The division shall maintain an Iowa statistical analysis center for the purpose of coordinating with data resource agencies to provide data and analytical information to federal, state, and local governments, and assist agencies in the use of criminal and juvenile justice data. Notwithstanding any other provision of state law, unless prohibited by federal law or regulation, the division shall be granted access, for purposes of research and evaluation, to criminal history records, official juvenile court records, juvenile court social records, and any other data collected or under control of the board of parole, department of corrections, department of workforce development, district departments of correctional services, department of human services, judicial branch, and department of public safety. However, intelligence data and peace officer investigative reports maintained by the department of public safety shall not be considered data for the purposes of this section. Any record, data, or information obtained by the division under this section and the division itself is subject to the federal and state confidentiality laws and regulations which are applicable to the original record, data, or information obtained by the division and to the original custodian of the record, data, or information. The access shall include but is not limited to all of the following:

Sec. 4. Section 216A.136, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Employment records maintained under section 96.11.

Sec. 5. NEW SECTION. 216A.139 SEX OFFENDER RESEARCH COUNCIL.

1. The division shall establish and maintain a council to study and make recommendations for treating and supervising adult and juvenile sex offenders in institutions, community-based programs, and in the community.

2. Members of the council shall include members of the general assembly selected by the legislative council and one representative of each of the following:

a. The department of corrections.

b. The department of human services.

c. The department of public safety.

d. The state public defender.

e. The department of public health.

f. The juvenile court appointed by the judicial branch.

g. A judicial district department of correctional services.

h. The board of parole.

i. The department of justice.

j. The Iowa county attorneys association.

k. The American civil liberties union of Iowa.

l. The Iowa state sheriffs' and deputies' association.

m. The Iowa coalition against sexual assault.

3. The council shall study the following:

a. The effectiveness of electronically monitoring sex offenders.

b. The cost and effectiveness of special sentences pursuant to chapter 903B.

c. Risk assessment models created for sex offenders.

d. Determining the best treatment programs available for sex offenders and the efforts of Iowa and other states to implement treatment programs.

e. The efforts of Iowa and other states to prevent sex abuse related crimes including child sex abuse.

f. Any other issues the council deems necessary, including but not limited to computer and internet sex-related crimes, sex offender case management, best practices for sex offender supervision, the sex offender registry, and the effectiveness of safety zones.

4. The council shall submit a report, beginning January 15, 2009, and every year thereafter by January 15, to the governor and general assembly regarding actions taken, issues studied, and council recommendations.

5. Members of the council shall receive actual and necessary expenses incurred while attending any meeting of the council and may also be eligible to receive compensation as provided in section 7E.6. All expense moneys paid to the nonlegislative members shall be paid from funds appropriated to the division. Legislative members shall receive compensation as provided in sections 2.10 and 2.12.

6. Vacancies shall be filled by the original appointing authority in the manner of the original appointments.

Sec. 6. 2005 Iowa Acts, chapter 158, section 52, is repealed.

Approved April 16, 2008

CHAPTER 1086

INTERPRETERS FOR
ASIAN AND PACIFIC ISLANDER PERSONS

S.F. 2129

AN ACT relating to the duties of the commission on the status of Iowans of Asian and Pacific Islander heritage regarding interpreter qualifications.

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

Section 1. Section 216A.155, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Adopt rules, with stakeholder input, pursuant to chapter 17A, to develop a mechanism to ensure the qualifications of interpreters for Asian and Pacific Islander persons and maintain and provide a list of those deemed qualified to Iowa courts, administrative agencies, social service agencies, and health agencies, as requested.

Approved April 16, 2008

CHAPTER 1087

EMPLOYMENT DISCRIMINATION —
PARTICIPATION IN DOMESTIC ABUSE PROCEEDINGS

S.F. 2281

AN ACT prohibiting employment discrimination against an employee witness in certain civil proceedings.

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

Section 1. Section 915.23, subsection 1, Code 2007, is amended to read as follows:

1. An employer shall not discharge an employee, or take or fail to take action regarding an employee's promotion or proposed promotion, or take action to reduce an employee's wages or benefits for actual time worked, due to the service of an employee as a witness in a criminal proceeding or as a plaintiff, defendant, or witness in a civil proceeding pursuant to chapter 236.

Approved April 16, 2008

CHAPTER 1088

ADMINISTRATION AND REGULATION
OF HEALTH-RELATED PROFESSIONS

S.F. 2338

AN ACT relating to the regulation of health-related professions.

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

DIVISION I
PROFESSIONAL LICENSURE — HEALTH-RELATED PROFESSIONS

Section 1. Section 147.1, Code Supplement 2007, is amended to read as follows:

147.1 DEFINITIONS.

~~1. As used in this chapter, 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.~~ For the purpose of this and the following chapters of this subtitle:

~~a.~~ 1. "Board" ~~shall mean~~ means one of the boards enumerated in section 147.13 or any other board established in this subtitle ~~which is~~ whose members are appointed by the governor to license applicants and impose licensee discipline as authorized by law.

~~b.~~ 2. "Department" ~~shall mean~~ means the ~~Iowa~~ department of public health.

~~c.~~ 3. "Licensed" or "certified", when applied to a physician and surgeon, podiatric physician, ~~osteopath,~~ osteopathic physician and surgeon, physician assistant, psychologist ~~or associate psychologist~~, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, respiratory care practitioner, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, social worker, massage therapist, athletic trainer, acupuncturist, nursing home administrator, hearing aid dispenser, or sign language interpreter or transliterator means a person licensed under this subtitle.

~~d.~~ 4. "Peer review" means evaluation of professional services rendered by a person licensed to practice a profession.

~~e.~~ 5. "Peer review committee" means one or more persons acting in a peer review capacity who also serve as an officer, director, trustee, agent, or member of any of the following:

~~(1)~~ a. A state or local professional society of a profession for which there is peer review.

~~(2)~~ b. Any organization approved to conduct peer review by a society as designated in paragraph "a" of this subsection.

~~(3)~~ c. The medical staff of any licensed hospital.

~~(4)~~ d. A board enumerated in section 147.13 or any other board established in this subtitle which is appointed by the governor to license applicants and impose licensee discipline as authorized by law.

~~(5)~~ e. The board of trustees of a licensed hospital when performing a function relating to the reporting required by section 147.135, subsection 3.

~~(6)~~ f. A health care entity, including but not limited to a group medical practice, that provides health care services and follows a formal peer review process for the purpose of furthering quality health care.

~~f.~~ 6. "Profession" means medicine and surgery, podiatry, ~~osteopathy,~~ osteopathic medicine and surgery, practice as a physician assistant, psychology, chiropractic, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, pharmacy, physical therapy, physical therapist assisting, occupational therapy, occupational therapy assisting, respiratory care, cosmetology arts and sciences, barbering, mortuary science, marital and family therapy, mental health counseling, social work, dietetics, massage therapy, athletic

training, acupuncture, nursing home administration, hearing aid dispensing, or sign language interpreting or transliterating.

Sec. 2. Section 147.2, Code Supplement 2007, is amended to read as follows:

147.2 LICENSE REQUIRED.

1. A person shall not engage in the practice of medicine and surgery, podiatry, ~~osteopathy,~~ osteopathic medicine and surgery, psychology, chiropractic, physical therapy, physical therapist assisting, nursing, dentistry, dental hygiene, dental assisting, optometry, speech pathology, audiology, occupational therapy, occupational therapy assisting, respiratory care, pharmacy, cosmetology arts and sciences, barbering, social work, dietetics, marital and family therapy or mental health counseling, massage therapy, mortuary science, athletic training, acupuncture, nursing home administration, hearing aid dispensing, or sign language interpreting or transliterating, or shall not practice as a physician assistant ~~as defined in the following chapters of this subtitle,~~ unless the person has obtained ~~from the department~~ a license for that purpose from the board for the profession.

2. For purposes of this section, a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3 shall be considered to have obtained a license to practice nursing ~~from the department~~.

Sec. 3. Section 147.3, Code 2007, is amended to read as follows:

147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this subtitle is not ineligible because of age, citizenship, sex, race, religion, marital status, or national origin, although the application form may require citizenship information. A board may consider the past ~~felony~~ criminal record of an applicant only if the ~~felony~~ conviction relates ~~directly~~ to the practice of the profession for which the applicant requests to be licensed. ~~Character references may be required, but shall not be obtained from licensed members of the profession.~~

Sec. 4. Section 147.4, Code 2007, is amended to read as follows:

147.4 GROUNDS FOR REFUSING.

~~The department~~ A board may refuse to grant a license to practice a profession to any person otherwise qualified upon any of the grounds for which a license may be revoked or suspended.

Sec. 5. Section 147.5, Code Supplement 2007, is amended to read as follows:

147.5 LICENSE REQUIRED — ~~EXCEPTION~~.

1. Every license to practice a profession shall be in the form of a certificate under the seal ~~of the department, signed by the director of public health~~ of the board. Such license shall be issued in the name of the ~~licensing~~ board ~~which conducts examinations for that particular profession~~.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3.

Sec. 6. Section 147.7, Code 2007, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

~~Every person licensed under this subtitle to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.~~

1. A board may require every person licensed by the board to display the license and evidence of current renewal publicly in a manner prescribed by the board.

2. This section shall not apply to a person who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact contained in section 152E.1 or pursuant to the advanced practice registered nurse compact contained in section 152E.3. A person licensed in another state and recognized for licensure in this state pursuant to either

compact shall, however, maintain a copy of a license issued by the person's home state available for inspection when engaged in the practice of nursing in this state.

Sec. 7. Section 147.8, Code 2007, is amended to read as follows:

147.8 RECORD OF LICENSES.

~~The~~ A board shall keep the following information available for public inspection for each person licensed by the board: name, ~~location, number of years of practice of the person to whom a license is issued to practice a profession~~ address of record, the number of the ~~certificate~~ license, and the date of ~~registration thereof shall be kept and made available in a manner which is open to public inspection~~ issuance of the license.

Sec. 8. Section 147.9, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

147.9 CHANGE OF ADDRESS.

Every person licensed pursuant to this chapter shall notify the board which issued the license of a change in the person's address of record within a time period established by board rule.

Sec. 9. Section 147.10, Code 2007, is amended to read as follows:

147.10 RENEWAL.

1. 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~~. Each board shall establish rules for license renewal and concomitant fees. Application for renewal shall be made ~~in writing to the department~~ to the board 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 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.~~

2. Each board may by rule establish a grace period following expiration of a license in which the license is not invalidated. Each board may assess a reasonable penalty for renewal of a license during the grace period. Failure of a licensee to renew a license within the grace period shall cause the license to become inactive or lapsed. A licensee whose license is inactive or lapsed shall not engage in the practice of the profession until the license is reactivated or reinstated.

Sec. 10. Section 147.11, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.11 REACTIVATION AND REINSTATEMENT.

1. A licensee who allows the license to become inactive or lapsed by failing to renew the license, as provided in section 147.10, may be reactivated upon payment of a reactivation fee and compliance with other terms established by board rule.

2. A licensee whose license has been revoked, suspended, or voluntarily surrendered must apply for and receive reinstatement of the license in accordance with board rule and must apply for and be granted reactivation of the license in accordance with board rule prior to practicing the profession.

Sec. 11. Section 147.12, Code Supplement 2007, is amended to read as follows:

147.12 HEALTH PROFESSION BOARDS.

1. ~~For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, the~~ The governor shall appoint, subject to confirmation by the senate, a board for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

2. If a person who has been appointed by the governor to serve on a board has ever been

disciplined in a contested case by the board to which the person has been appointed, all board ~~complaints and~~ statements of charges, settlement agreements, findings of fact, and orders pertaining to the disciplinary action shall be made available to the senate committee to which the appointment is referred at the committee's request before the full senate votes on the person's appointment.

Sec. 12. Section 147.13, subsections 6, 15, 16, 18, 19, 20, 21, 22, and 23, Code Supplement 2007, are amended to read as follows:

6. For physical ~~therapists~~ therapy and occupational ~~therapists~~ therapy, the board of physical and occupational therapy.

15. For social ~~workers~~ work, the board of social work.

16. For marital and family ~~therapists~~ therapy and mental health ~~counselors~~ counseling, the board of behavioral science.

18. For respiratory care ~~therapists~~ therapy, the board of respiratory care.

19. For massage ~~therapists~~ therapy, the board of massage therapy.

20. For athletic ~~trainers~~ training, the board of athletic training.

21. For ~~interpreters~~ interpreting, the board of sign language interpreters and transliterators.

22. For hearing ~~aids~~ aid dispensing, the board of hearing aid dispensers.

23. For nursing home ~~administrators~~ administration, the board of nursing home administrators.

Sec. 13. Section 147.14, Code Supplement 2007, is amended to read as follows:

147.14 QUORUM — COMPOSITION OF BOARDS.

1. The board members shall consist of the following:

~~1.~~ a. For barbering, three members licensed to practice barbering, and two members who are not licensed to practice barbering and who shall represent the general public. ~~A quorum shall consist of a majority of the members of the board.~~

~~2.~~ b. For medicine, five members licensed to practice medicine and surgery, two members licensed to practice osteopathic medicine and surgery, and three members not licensed to practice either medicine and surgery or osteopathic medicine and surgery, and who shall represent the general public. ~~A majority of members of the board constitutes a quorum.~~

~~3.~~ c. For nursing, four registered nurses, two of whom shall be actively engaged in practice, two of whom shall be nurse educators from nursing education programs; of these, one in higher education and one in area community and vocational-technical registered nurse education; one licensed practical nurse actively engaged in practice; and two members not registered nurses or licensed practical nurses and who shall represent the general public. The representatives of the general public shall not be members of health care delivery systems. ~~A majority of the members of the board constitutes a quorum.~~

~~4.~~ d. For dentistry, five members licensed to practice dentistry, two members licensed to practice dental hygiene, and two members not licensed to practice dentistry or dental hygiene and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~ No member of the dental faculty of the school of dentistry at the state university of Iowa shall be eligible to be appointed. Persons appointed to the board as dental hygienist members shall not be employed by or receive any form of remuneration from a dental or dental hygiene educational institution. The two dental hygienist board members and one dentist board member shall constitute a dental hygiene committee of the board as provided in section 153.33A.

~~5.~~ e. For pharmacy, five members licensed to practice pharmacy and two members who are not licensed to practice pharmacy and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~

~~6.~~ f. For optometry, five members licensed to practice optometry and two members who are not licensed to practice optometry and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~

~~7.~~ g. For psychology, five members who are licensed to practice psychology and two members not licensed to practice psychology and who shall represent the general public. Of the five members who are licensed to practice psychology, one member shall be primarily engaged in graduate teaching in psychology or primarily engaged in research psychology, ~~two~~ three members shall be persons who render services in psychology, and one member shall represent areas of applied psychology and may be affiliated with training institutions and shall devote a major part of the member's time to rendering service in psychology~~, and one member shall be primarily engaged in research psychology~~. ~~A majority of the members of the board constitutes a quorum.~~

~~8.~~ h. For chiropractic, five members licensed to practice chiropractic and two members who are not licensed to practice chiropractic and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~

~~9.~~ i. For speech pathology and audiology, five members licensed to practice speech pathology or audiology at least two of which shall be licensed to practice speech pathology and at least two of which shall be licensed to practice audiology, and two members who are not licensed to practice speech pathology or audiology and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~

~~10.~~ j. For physical therapy and occupational therapy, three members licensed to practice physical therapy, two members licensed to practice occupational therapy, and two members who are not licensed to practice physical therapy or occupational therapy and who shall represent the general public. ~~A quorum shall consist of a majority of the members of the board.~~

~~11.~~ k. For dietetics, one licensed dietitian representing the approved or accredited dietetic education programs, one licensed dietitian representing clinical dietetics ~~in hospitals~~, one licensed dietitian representing community nutrition services and two members who are not licensed dietitians and who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

~~12.~~ l. For the board of physician assistants, five members licensed to practice as physician assistants, at least two of whom practice in counties with a population of less than fifty thousand, one member licensed to practice medicine and surgery who supervises a physician assistant, one member licensed to practice osteopathic medicine and surgery who supervises a physician assistant, and two members who are not licensed to practice either medicine and surgery or osteopathic medicine and surgery or licensed as a physician assistant and who shall represent the general public. At least one of the physician members shall be in practice in a county with a population of less than fifty thousand. ~~A majority of members of the board constitutes a quorum.~~

~~13.~~ m. For behavioral science, three members licensed to practice marital and family therapy, ~~one of whom shall be employed in graduate teaching, training, or research in marital and family therapy and two of whom shall be practicing marital and family therapists;~~ all of whom shall be practicing marital and family therapists; three members licensed to practice mental health counseling, one of whom shall be employed in graduate teaching, training, or research in mental health counseling and two of whom shall be practicing mental health counselors; and three members who are not licensed to practice marital and family therapy or mental health counseling and who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

~~14.~~ n. For cosmetology arts and sciences, a total of seven members, three who are licensed cosmetologists, one who is a licensed electrologist, esthetician, or nail technologist, one who is a licensed instructor of cosmetology arts and sciences at a public or private school and who does not own a school of cosmetology arts and sciences, and two who are not licensed in a practice of cosmetology arts and sciences and who shall represent the general public.

~~15.~~ o. For respiratory care, one licensed physician with training in respiratory care, three respiratory care practitioners who have practiced respiratory care for a minimum of six years immediately preceding their appointment to the board and who are recommended by the society for respiratory care, and one member not licensed to practice medicine or respiratory care who shall represent the general public. ~~A majority of members of the board constitutes a quorum.~~

~~16.~~ p. For mortuary science, four members licensed to practice mortuary science, one member owning, operating, or employed by a crematory, and two members not licensed to practice mortuary science and not a crematory owner, operator, or employee who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

~~17.~~ q. For massage therapists, four members licensed to practice massage therapy and three members who are not licensed to practice massage therapy and who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

~~18.~~ r. For athletic trainers, three members licensed to practice athletic training, three members licensed to practice medicine and surgery, and one member not licensed to practice athletic training or medicine and surgery and who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

~~19.~~ s. For podiatry, five members licensed to practice podiatry and two members who are not licensed to practice podiatry and who shall represent the general public. ~~A majority of the members of the board shall constitute a quorum.~~

~~20.~~ t. For social work, a total of seven members, five who are licensed to practice social work, with at least one from each of three levels of licensure described in section 154C.3, subsection 1, ~~two employed by a licensee under chapter 237~~ and one employed in the area of children's social work, and two who are not licensed social workers and who shall represent the general public.

~~21.~~ u. For sign language interpreting and transliterating, four members licensed to practice interpreting and transliterating, three of whom shall be practicing interpreters and transliterators at the time of appointment to the board and at least one of whom is employed in an educational setting; and three members who are consumers of interpreting or transliterating services as defined in section 154E.1, each of whom shall be deaf. ~~A majority of members of the board constitutes a quorum.~~

~~22.~~ v. For hearing aid dispensers, three licensed hearing aid dispensers and two members who are not licensed hearing aid dispensers who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~ No more than two members of the board shall be employees of, or dispensers principally for, the same hearing aid manufacturer.

~~23.~~ w. For nursing home administrators, a total of nine members: ~~Four~~, four who are licensed nursing home administrators, one of whom is the administrator of a nonproprietary nursing home; three licensed members of any profession concerned with the care and treatment of chronically ill or elderly patients who are not nursing home administrators or nursing home owners; and two members of the general public who are not licensed under this chapter ~~147~~, have no financial interest in any nursing home, and who shall represent the general public. ~~A majority of the members of the board constitutes a quorum.~~

2. A majority of the members of a board constitutes a quorum.

Sec. 14. Section 147.19, Code Supplement 2007, is amended to read as follows:

147.19 TERMS OF OFFICE.

The board members shall serve three-year terms, which shall commence and end as provided by section 69.19. Any vacancy in the membership of a board shall be filled by appointment of the governor subject to senate confirmation. A member shall serve no more than ~~three terms or~~ nine years in total on the same board.

Sec. 15. Section 147.21, Code 2007, is amended to read as follows:

147.21 EXAMINATION INFORMATION.

1. The public members of ~~the~~ a 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.

2. A member of the board shall not disclose information relating to any of the following:

~~1. Criminal history or prior misconduct of the applicant.~~

~~2.~~ a. ~~Information relating to the~~ The contents of the examination.

~~3.~~ b. ~~Information relating to the~~ The examination results other than final score except for

information about the results of an examination which is given to the person who took the examination.

3. A member of the board who willfully communicates or seeks to communicate such information, and any person who willfully requests, obtains, or seeks to obtain such information, is guilty of a simple misdemeanor.

Sec. 16. Section 147.22, Code Supplement 2007, is amended to read as follows:

147.22 OFFICERS.

Each board shall ~~organize~~ annually ~~and shall~~ select a chairperson and a ~~secretary~~ vice chairperson from its own membership.

Sec. 17. Section 147.24, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.24 COMPENSATION.

Members of a board shall receive actual expenses for their duties as a member of the board. Each member of each board shall also be eligible to receive compensation as provided in section 7E.6, within the limits of funds available.

Sec. 18. Section 147.25, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.25 SYSTEM OF HEALTH PERSONNEL STATISTICS — FEE.

1. A board may establish a system to collect, maintain, and disseminate health personnel statistical data regarding board licensees, including but not limited to number of licensees, employment status, location of practice or place of employment, areas of professional specialization and ages of licensees, and other pertinent information bearing on the availability of trained and licensed personnel to provide services in this state.

2. In addition to any other fee provided by law, a fee may be set by the respective boards for each license and renewal of a license to practice a profession, which fee shall be based on the annual cost of collecting information for use by the board in the administration of the system of health personnel statistics established by this section. The fee shall be retained by the respective board in the manner in which license and renewal fees are retained in section 147.82.

Sec. 19. Section 147.28, Code Supplement 2007, is amended to read as follows:

147.28 NATIONAL ORGANIZATION.

Each board may maintain a membership in the national organization of the regulatory boards of its profession to be paid from board funds ~~appropriated to the board~~.

Sec. 20. Section 147.33, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.33 PROFESSIONAL SCHOOLS.

A dean of a college or university which provides instruction or training in a profession shall supply information or data related to the college or university upon request of a board.

Sec. 21. Section 147.34, Code Supplement 2007, is amended to read as follows:

147.34 EXAMINATIONS.

~~Examinations for each profession licensed under this subtitle shall be conducted at least one time per year at such time as the department may fix in cooperation with each board. Examinations may be given at the state university of Iowa at the close of each school year for professions regulated by this subtitle and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle are taught. At least one session of each board shall be held annually at the seat of government and the locations of other sessions shall be determined by the board, unless otherwise ordered by the department.~~

1. Each board shall by rule prescribe the examination or examinations required for licensure for the profession and the manner in which an applicant shall complete the examination

process. A board may develop and administer the examination, may designate a national, uniform, or other examination as the prescribed examination, or may contract for such services. Dentists shall pass an examination approved by a majority of the dentist members of the dental board.

2. When a board administers an examination, the board shall provide adequate public notice of the time and place of the examination to allow candidates to comply with the provisions of this subtitle. Administration of examinations, including location, frequency, and reexamination, may be determined by the board.

3. Applicants who fail ~~to pass~~ the examination once shall be allowed to take the examination at the next ~~scheduled~~ authorized time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. ~~Examinations may be given by a board which are prepared and scored by persons outside the state, and boards may contract for such services. A board may make an agreement with boards in other states for administering a uniform examination.~~ An applicant who has failed an examination may request in writing information from the board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board ~~administers~~ prescribes a national or uniform~~, standardized~~ examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.

Sec. 22. Section 147.36, Code Supplement 2007, is amended to read as follows:

147.36 RULES.

Each board ~~shall~~ may establish rules for any of the following:

1. The qualifications required for applicants seeking to take examinations.
2. The denial of applicants seeking to take examinations.
3. The conducting of examinations.
4. The grading of examinations and passing upon the technical qualifications of applicants, as shown by such examinations.
5. The minimum scores required for passing standardized examinations.

Sec. 23. Section 147.37, Code Supplement 2007, is amended to read as follows:

147.37 IDENTITY OF CANDIDATE CONCEALED.

~~All examinations in theory shall be in writing, and the identity of the person taking the same shall not be disclosed upon the examination papers in such a way as to enable the members of the board to know by whom written until after the papers have been passed upon. In examinations~~ The identity of the person taking an examination shall not be disclosed during the examination process and in practice the identity of the candidate shall ~~also~~ be concealed ~~as far as~~ to the extent possible.

Sec. 24. Section 147.44, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.44 AGREEMENTS.

A board may enter into a reciprocal agreement with a licensing authority of another state for the purpose of recognizing licenses issued by the other state, provided that such licensing authority imposes licensure requirements substantially equivalent to those imposed in this state. The board may establish by rule the conditions for the recognition of such licenses and the process for licensing such individuals to practice in this state.

Sec. 25. Section 147.48, Code Supplement 2007, is amended to read as follows:

147.48 TERMINATION OF AGREEMENTS.

If the requirements for a license in any state with which this state has a reciprocal agreement are changed by any law or rule of the authorities in that state so that such requirements are no longer substantially ~~as high as~~ equivalent to those existing in this state, the agreement shall be deemed terminated and licenses issued in that state shall not be recognized as a basis of

granting a license in this state until a new agreement has been negotiated. ~~The fact of such change shall be determined by the appropriate board and certified to the department for its guidance in enforcing the provisions of this section.~~

Sec. 26. Section 147.49, Code Supplement 2007, is amended to read as follows:

147.49 LICENSE OF ANOTHER STATE.

~~The department~~ A board shall, upon presentation of a license to practice a profession issued by the duly constituted authority of another state with which this state has established reciprocal relations, and subject to the rules of the board for such profession, license the applicant to practice in this state, unless under the rules of the board a practical or jurisprudence examination is required. ~~The department may, upon the recommendation of the~~ The board of medicine~~,~~ may accept in lieu of the examination prescribed in section 148.3 ~~or section 150A.3~~ a license to practice medicine and surgery or osteopathic medicine and surgery, issued by the duly constituted authority of another state, territory, or foreign country. Endorsement may be accepted ~~by the department~~ in lieu of further written examination without regard to the existence or nonexistence of a reciprocal agreement, but shall not be in lieu of the standards and qualifications prescribed by section 148.3 ~~or section 150A.3~~.

Sec. 27. Section 147.53, Code Supplement 2007, is amended to read as follows:

147.53 POWER TO ADOPT RULES.

~~The department and each~~ Each board entering into a reciprocal agreement shall adopt necessary rules, not inconsistent with law, for carrying out the reciprocal relations with other states which are authorized by this chapter.

Sec. 28. Section 147.55, Code 2007, is amended to read as follows:

147.55 GROUNDS.

A license to practice a profession shall be revoked, ~~or~~ suspended, or otherwise disciplined when the licensee is guilty of any of the following acts or offenses:

1. Fraud in procuring a license.
2. Professional ~~incompetency~~ incompetence.
3. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of a 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~~ crime related to the profession or occupation of the licensee or the conviction of any ~~felony~~ crime that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be 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, chapter 272C, or a board's enabling statute.
9. Other acts or offenses as specified by board rule.

Sec. 29. Section 147.57, Code 2007, is amended to read as follows:

147.57 DENTAL HYGIENIST AND DENTIST.

The practice of dentistry by a dental hygienist shall also be grounds for ~~the revocation~~ discipline of the dental ~~hygienist's license~~ hygienist, and the permitting of such practice by the dentist under whose supervision ~~said~~ the dental hygienist is operating shall be grounds for ~~revoking the license~~ disciplining of ~~said~~ the dentist.

Sec. 30. Section 147.73, Code 2007, is amended to read as follows:

147.73 TITLES USED BY HOLDER OF DEGREE.

Nothing in section 147.72 shall be construed:

1. As authorizing any person licensed to practice a profession under this subtitle to use or

assume any degree or abbreviation of the ~~same~~ degree unless such degree has been conferred upon ~~said~~ the person by an institution of learning accredited by the appropriate board ~~herein created, together with the director of public health~~, or by some recognized state or national accredited agency.

2. As prohibiting any holder of a degree conferred by an institution of learning accredited by the appropriate board ~~herein~~ created in this chapter, ~~together with the director of public health,~~ or by some recognized state or national accrediting agency, from using the title which such degree authorizes the holder to use, but the holder shall not use such degree or abbreviation in any manner which might mislead the public as to the holder's qualifications to treat human ailments.

Sec. 31. Section 147.74, Code Supplement 2007, is amended to read as follows:

147.74 PROFESSIONAL TITLES OR ABBREVIATIONS — FALSE USE PROHIBITED.

1. Any person who falsely claims by the use of any professional title or abbreviation, either in writing, cards, signs, circulars, ~~or~~ advertisements, the internet, or other written or electronic means, to be a practitioner of a ~~system of the healing arts~~ profession other than the one under which the person holds a license or who fails to use the ~~following~~ designations provided in this section shall be guilty of a simple misdemeanor.

2. A physician or surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "M. D."

3. An ~~osteopath or~~ osteopathic physician and surgeon may use the prefix "Dr." or "Doctor", and shall add after the person's name the letters, "D. O.", or the words ~~"osteopath" or~~ "osteopathic physician and surgeon".

4. A chiropractor may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters, "D. C." or the word, "chiropractor".

5. A dentist may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. D. S.", or "D. M. D.", or the word "dentist" or "dental surgeon". A dental hygienist may use the words "registered dental hygienist" or the letters "R. D. H." after the person's name. A dental assistant may use the words "registered dental assistant" or the letters "R. D. A." after the person's name.

6. A podiatric physician may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "D. P. M." or the words "podiatric physician".

7. A graduate of a school accredited by the board of optometry may use the prefix "Dr." or "Doctor", but shall add after the person's name the letters "O. D."

8. A physical therapist registered or licensed under chapter 148A may use the words "physical therapist" after the person's name or signify the same by the use of the letters "P. T." after the person's name. A physical therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "physical therapist". An occupational therapist registered or licensed under chapter 148B may use the words "occupational therapist" after the person's name or signify the same by the use of the letters "O. T." after the person's name. An occupational therapist with an earned doctoral degree from an accredited school, college, or university may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "occupational therapist".

9. A physical therapist assistant licensed under chapter 148A may use the words "physical therapist assistant" after the person's name or signify the same by use of the letters "P. T. A." after the person's name. An occupational therapy assistant licensed under chapter 148B may use the words "occupational therapy assistant" after the person's name or signify the same by use of the letters "O. T. A." after the person's name.

10. A psychologist who possesses a doctoral degree ~~and who claims to be a certified practicing psychologist~~ may use the prefix "Dr." or "Doctor" but shall add after the person's name the word "psychologist".

11. A speech pathologist with an earned doctoral degree in speech pathology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix

designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the words "speech pathologist". An audiologist with an earned doctoral degree in audiology obtained beyond a bachelor's degree from an accredited school, college, or university, may use the suffix designating the degree, or the prefix "Doctor" or "Dr." and add after the person's name the word "audiologist".

12. A bachelor social worker licensed under chapter 154C may use the words "licensed bachelor social worker" or the letters "L. B. S. W." after the person's name. A master social worker licensed under chapter 154C may use the words "licensed master social worker" or the letters "L. M. S. W." after the person's name. An independent social worker licensed under chapter 154C may use the words "licensed independent social worker", or the letters "L. I. S. W." after the person's name.

13. A marital and family therapist licensed under chapter 154D and this chapter may use the words "licensed marital and family therapist" after the person's name or signify the same by the use of the letters "L. M. F. T." after the person's name. A marital and family therapist licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed marital and family therapist".

14. A mental health counselor licensed under chapter 154D and this chapter may use the words "licensed mental health counselor" after the person's name. A mental health counselor licensed under chapter 154D and this chapter who possesses a doctoral degree may use the prefix "Doctor" or "Dr." in conjunction with the person's name, but shall add after the person's name the words "licensed mental health counselor".

15. A pharmacist who possesses a doctoral degree recognized by the ~~American council of pharmaceutical education~~ accreditation council for pharmacy education from a college of pharmacy approved by the board of pharmacy or a doctor of philosophy degree in an area related to pharmacy may use the prefix "Doctor" or "Dr." but shall add after the person's name the word "pharmacist" or "Pharm. D."

16. A physician assistant licensed under chapter 148C may use the words "physician assistant" after the person's name or signify the same by the use of the letters "P. A." after the person's name.

17. A massage therapist licensed under chapter 152C may use the words "licensed massage therapist" or the initials "L. M. T." after the person's name.

18. An acupuncturist licensed under chapter 148E may use the words "licensed acupuncturist" or the abbreviation "L. Ac." after the person's name.

19. A respiratory care practitioner licensed under chapter 152B and this chapter may use the title "respiratory care practitioner" or the letters "R. C. P." after the person's name.

20. An athletic trainer licensed under chapter 152D and this chapter may use the words "licensed athletic trainer" or the letters "LAT" after the person's name.

21. A registered nurse licensed under chapter 152 may use the words "registered nurse" or the letters "R. N." after the person's name. A licensed practical nurse licensed under chapter 152 may use the words "licensed practical nurse" or the letters "L. P. N." after the person's name.

22. A sign language interpreter or transliterator licensed under chapter 154E and this chapter may use the title "licensed sign language interpreter" or the letters "L. I." after the person's name.

23. No other practitioner licensed to practice a profession under any of the provisions of this subtitle shall be entitled to use the prefix "Dr." or "Doctor" unless the licensed practitioner possesses an earned doctoral degree. Such a practitioner shall reference the degree held after the person's name.

Sec. 32. Section 147.76, Code Supplement 2007, is amended to read as follows:

147.76 RULES.

The boards for the various professions shall adopt all necessary and proper rules to administer and interpret this chapter and chapters ~~147A~~ 148 through 158, except chapter 148D.

Sec. 33. Section 147.80, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.80 ESTABLISHMENT OF FEES — ADMINISTRATIVE COSTS.

1. Each board may by rule establish fees for the following based on the costs of sustaining the board and the actual costs of the service:

a. Examinations.

b. Licensure, certification, or registration.

c. Renewal of licensure, certification, or registration.

d. Renewal of licensure, certification, or registration during the grace period.

e. Reinstatement or reactivation of licensure, certification, or registration.

f. Issuance of a certified statement that a licensee is licensed in this state.

g. Issuance of a duplicate license, which shall be so designated on its face. A board may require satisfactory proof the original license issued by the board has been lost or destroyed.

h. Issuance of a renewal card.

i. Verification of licensure.

j. Returned checks.

k. Inspections.

2. Each board shall annually prepare estimates of projected revenues to be generated by the fees received by the board as well as a projection of the fairly apportioned administrative costs and rental expenses attributable to the board. Each board shall annually review and adjust its schedule of fees to cover projected expenses.

3. The board of medicine, the board of pharmacy, the dental board, and the board of nursing shall retain individual executive officers, but shall make every effort to share administrative, clerical, and investigative staff to the greatest extent possible.

Sec. 34. Section 147.82, Code Supplement 2007, is amended to read as follows:

147.82 ~~FEES~~ FEE RETENTION.

All fees collected by a board listed in section ~~147.80~~ 147.13 or by the department for the bureau of professional licensure, and fees collected pursuant to sections 124.301 and 147.80 and chapter 155A by the board of pharmacy, shall be retained by each board or by the department for the bureau of professional licensure. The moneys retained by a board shall be used for any of the board's duties, including but not limited to the addition of full-time equivalent positions for program services and investigations. Revenues retained by a board pursuant to this section shall be considered repayment receipts as defined in section 8.2. Notwithstanding section 8.33, moneys retained by a board pursuant to this section are not subject to reversion to the general fund of the state.

Sec. 35. Section 147.84, Code 2007, is amended to read as follows:

147.84 FORGERIES.

Any person who ~~shall file~~ files or ~~attempt~~ attempts to file with ~~the department~~ a board any false or forged diploma, ~~or~~ certificate or affidavit of identification or qualification, or other document shall be guilty of a fraudulent practice.

Sec. 36. Section 147.85, Code 2007, is amended to read as follows:

147.85 FRAUD.

Any person who ~~shall present~~ presents to ~~the department~~ a board a diploma or certificate of which the person is not the rightful owner, for the purpose of procuring a license, or who ~~shall~~ falsely ~~personate~~ personates anyone to whom a license has been issued by ~~said department~~ the board shall be guilty of a serious misdemeanor.

Sec. 37. Section 147.87, Code Supplement 2007, is amended to read as follows:

147.87 ENFORCEMENT.

~~The department~~ A board shall enforce the provisions of this ~~and the following chapters of this subtitle~~ chapter and its enabling statute and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of

a board shall furnish the ~~department~~ board or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 38. Section 147.88, Code Supplement 2007, is amended to read as follows:

147.88 INSPECTIONS AND INVESTIGATIONS.

The department of inspections and appeals may perform inspections and investigations as required by this subtitle, except inspections and investigations for the board of medicine, board of pharmacy, board of nursing, and the dental board. The department of inspections and appeals shall employ personnel related to the inspection and investigative functions.

Sec. 39. Section 147.89, Code Supplement 2007, is amended to read as follows:

147.89 REPORT OF VIOLATORS.

Every licensee and member of a board shall report~~, also, to the department~~ to its respective board the name of ~~every~~ any person, without ~~a~~ the required license~~, that the member or licensee has reason to believe is engaged in:~~

~~1. Practicing any profession for which a license is required.~~

~~2. Operating as an itinerant practitioner of such profession~~ if the licensee or member of the board has reason to believe the person is practicing the profession without a license.

Sec. 40. Section 147.91, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

147.91 PUBLICATIONS.

Each board shall provide access to the laws and rules regulating the board to the public upon request and shall make this information available through the internet.

Sec. 41. Section 147.92, Code 2007, is amended to read as follows:

147.92 ATTORNEY GENERAL.

Upon request of ~~the department~~ a board the attorney general shall institute in the name of the state the proper proceedings against any person charged by the ~~department~~ board with violating any provision of this or the following chapters of this subtitle.

Sec. 42. Section 147.93, Code 2007, is amended to read as follows:

147.93 PRIMA FACIE EVIDENCE.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, internet web site, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima facie evidence of engaging in the practice of such profession.

Sec. 43. Section 147.107, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. a. 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~~ dispensing 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

board of pharmacy, the board of medicine, the dental board, and the board of podiatry for their respective licensees.

b. A dentist, physician, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall ~~register~~ report the fact that they dispense prescription drugs with the practitioner's respective board at least biennially.

c. A physician, dentist, or podiatric physician who dispenses prescription drugs, other than drug samples, pursuant to this subsection, shall offer to provide the patient with a written prescription that may be dispensed from a pharmacy of the patient's choice or offer to transmit the prescription orally, electronically, or by facsimile in accordance with section 155A.27 to a pharmacy of the patient's choice.

3. A ~~physician's~~ physician assistant or registered nurse may supply when pharmacist services are not reasonably available or when it is in the best interests of the patient, on the direct order of the supervising physician, a quantity of properly packaged and labeled prescription drugs, controlled substances, or contraceptive devices necessary to complete a course of therapy. However, a remote clinic, staffed by a physician's[1] assistant or registered nurse, where pharmacy services are not reasonably available, shall secure the regular advice and consultation of a pharmacist regarding the distribution, storage, and appropriate use of such drugs, substances, and devices.

Sec. 44. Section 148.1, Code 2007, is amended to read as follows:

148.1 PERSONS ENGAGED IN PRACTICE.

For the purpose of this subtitle the following classes of persons shall be deemed to be engaged in the practice of medicine and surgery or osteopathic medicine and surgery:

1. Persons who publicly profess to be physicians ~~or~~ and surgeons, osteopathic physicians and surgeons, or who publicly profess to assume the duties incident to the practice of medicine ~~or~~ and surgery or osteopathic medicine and surgery.

2. Persons who prescribe, or prescribe and furnish, medicine for human ailments or treat the same by surgery.

3. Persons who act as representatives of any person in doing any of the things mentioned in this section.

Sec. 45. Section 148.2, Code Supplement 2007, is amended to read as follows:

148.2 PERSONS NOT ~~REQUIRED TO QUALIFY~~ ENGAGED IN PRACTICE.

Section 148.1 shall not be construed to include the following classes of persons:

1. Persons who advertise or sell patent or proprietary medicines.

2. Persons who advertise, sell, or prescribe natural mineral waters flowing from wells or springs.

3. Students of medicine ~~or~~ and surgery or osteopathic medicine and surgery who have completed at least two years' study in a medical school or a college of osteopathic medicine and surgery, approved by the board, and who prescribe medicine under the supervision of a licensed physician and surgeon or licensed osteopathic physician and surgeon, or who render gratuitous service to persons in case of emergency.

4. Licensed podiatric physicians, ~~osteopaths, osteopathic physicians and surgeons,~~ chiropractors, physical therapists, nurses, dentists, optometrists, and pharmacists who are exclusively engaged in the practice of their respective professions.

5. Physicians and surgeons or osteopathic physicians and surgeons of the United States army, navy, air force, marines, public health service, or other uniformed service when acting in the line of duty in this state, and holding a current, active permanent license in good standing in another state, district, or territory of the United States, or physicians and surgeons or osteopathic physicians and surgeons licensed in another state, when incidentally called into this state in consultation with a physician and surgeon or osteopathic physician and surgeon licensed in this state.

~~6. A graduate of a medical school who is continuing training and performing the duties of~~

[1] According to enrolled Act; the phrase "~~physician's~~ physician" probably intended

~~an intern, or who is engaged in postgraduate training deemed the equivalent of an internship in a hospital approved for training by the board.~~

Sec. 46. Section 148.2A, Code Supplement 2007, is amended to read as follows:

148.2A BOARD OF MEDICINE.

1. As used in this chapter, "board" means the board of medicine established in chapter 147.

2. Notwithstanding sections 17A.11, 69.16, 69.16A, 147.12, 147.14, and 147.19, the board may have a pool of up to ten alternate members, including members licensed to practice under this chapter and members not licensed to practice under this chapter, to substitute for board members who are disqualified or become unavailable for any other reason for contested case hearings.

a. The board may recommend, subject to approval by the governor, up to ten people to serve in a pool of alternate members.

b. A person serves in the pool of alternate members at the discretion of the board; however, the length of time an alternate member may serve in the pool shall not exceed nine years. A person who serves as an alternate member may later be appointed to the board and may serve nine years, in accordance with sections 147.12 and 147.19. A former board member may serve in the pool of alternate members.

c. An alternate member licensed under this chapter shall hold an active license and shall have been actively engaged in the practice of medicine and surgery or osteopathic medicine and surgery in the preceding three years, with the two most recent years of practice being in Iowa.

d. When a sufficient number of board members are unavailable to hear a contested case, the board may request alternate members to serve.

e. Notwithstanding section 17A.11, section 147.14, subsection 2, and section 272C.6, subsection 5:

(1) An alternate member is deemed a member of the board only for the hearing panel for which the alternate member serves.

(2) A hearing panel containing alternate members must include at least six people.

(3) The majority of a hearing panel containing alternate members shall be members of the board.

(4) The majority of a hearing panel containing alternate members shall be members licensed to practice under this chapter.

(5) A decision of a hearing panel containing alternate members is considered a final decision of the board.

f. An alternate member shall not receive compensation in excess of that authorized by law for a board member.

Sec. 47. NEW SECTION. 148.2B EXECUTIVE DIRECTOR.

The salary of the executive director of the board shall be established by the governor with approval of the executive council pursuant to section 8A.413, subsection 2, under the pay plan for exempt positions in the executive branch of government.

Sec. 48. Section 148.3, Code Supplement 2007, is amended to read as follows:

148.3 ~~REQUIREMENTS FOR~~ LICENSE TO PRACTICE.

1. An applicant for a license to practice medicine and surgery or osteopathic medicine and surgery shall present to the board all of the following:

~~1.~~ a. ~~Present a~~ A diploma issued by a medical college or college of osteopathic medicine and surgery approved by the board, or present other evidence of equivalent medical education approved by the board. The board may accept, in lieu of a diploma from a medical college approved by ~~them~~ the board, all of the following:

~~a.~~ (1) A diploma issued by a medical college or college of osteopathic medicine and surgery which has been neither approved nor disapproved by the board.

~~b.~~ (2) A valid standard certificate issued by the educational commission for foreign medical graduates or similar accrediting agency.

~~2.~~ b. ~~Pass~~ Evidence of having passed an examination prescribed by the board which shall include subjects which determine the applicant's qualifications to practice medicine and surgery or osteopathic medicine and surgery and which shall be given according to the methods deemed by the board to be the most appropriate and practicable. However, ~~the federation licensing examination~~ one or more examinations as prescribed by the board or any other national standardized examination which the board approves may be administered to any or all applicants in lieu of or in conjunction with other examinations which the board prescribes. The board may establish necessary achievement levels on all examinations for a passing grade and adopt rules relating to examinations.

~~3.~~ c. ~~Present to the board satisfactory~~ Satisfactory evidence that the applicant has successfully completed one year of postgraduate internship or resident training in a hospital approved for such training by the board. ~~Beginning July 1, 2006, an~~ An applicant who holds a valid certificate issued by the educational commission for foreign medical graduates shall submit satisfactory evidence of successful completion of two years of such training.

2. An application for a license shall be made to the board of medicine. All license and renewal fees shall be paid to and collected by the board and transmitted to the board.

3. The board shall give priority to the processing of applications for licensure submitted by physicians and surgeons and osteopathic physicians and surgeons whose practice will primarily involve provision of service to underserved populations, including but not limited to minorities or low-income persons, or who live in rural areas.

4. The issuance of reciprocal agreements pursuant to section 147.44 is not required and is subject to the discretion of the board.

Sec. 49. Section 148.5, Code Supplement 2007, is amended to read as follows:

148.5 RESIDENT PHYSICIAN LICENSE.

A physician, who is a graduate of a medical school or college of osteopathic medicine and surgery and is serving as a resident physician who is not otherwise licensed to practice medicine and surgery or osteopathic medicine and surgery in this state, shall be required to obtain from the board a license to practice as a resident physician. The license shall be designated "Resident Physician License" and shall authorize the licensee to serve as a resident physician only, under the supervision of a licensed practitioner of medicine and surgery or osteopathic medicine and surgery, in an institution approved for such training by the board. A license shall be valid for a duration as determined by the board. The fee for each license shall be set by the board to cover the administrative costs of issuing the license. The board shall determine in each instance those eligible for a license, whether or not examinations shall be given, and the type of examinations. Requirements of the law pertaining to regular permanent licensure shall not be mandatory for a resident physician license except as specifically designated by the board. The granting of a resident physician license does not in any way indicate that the person licensed is necessarily eligible for regular permanent licensure, or that the board in any way is obligated to license the individual.

Sec. 50. Section 148.6, Code Supplement 2007, is amended to read as follows:

148.6 ~~REVOCATION~~ LICENSEE DISCIPLINE — CRIMINAL PENALTY.

1. The board, after due notice and hearing in accordance with chapter 17A, may issue an order to discipline a licensee for any of the grounds set forth in section 147.55, chapter 272C, or this subsection. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars.

2. Pursuant to this section, the board may discipline a licensee who is guilty of any of the following acts or offenses:

a. Knowingly making misleading, deceptive, untrue or fraudulent representation in the practice of the physician's profession.

b. Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a

criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication of guilt is either 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 shall be conclusive evidence.

c. Violating a statute or law of this state, another state, or the United States, without regard to its designation as either felony or misdemeanor, which statute or law relates to the practice of medicine.

d. Having the license to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ revoked or suspended, or having 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 prima facie evidence.

e. Knowingly aiding, assisting, procuring, or advising a person to unlawfully practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~.

f. Being adjudged mentally incompetent by a court of competent jurisdiction. Such adjudication shall automatically suspend a license for the duration of the license unless the board orders otherwise.

g. Being guilty of a willful or repeated departure from, or the failure to conform to, the minimal standard of acceptable and prevailing practice of medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ in which proceeding actual injury to a patient need not be established; or the committing by a physician of an act contrary to honesty, justice, or good morals, whether the same is committed in the course of the physician's practice or otherwise, and whether committed within or without this state.

h. Inability to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ with reasonable skill and safety by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or other type of material or as a result of a mental or physical condition. The board may, upon probable cause, compel a physician to submit to a mental or physical examination by designated physicians or to submit to alcohol or drug screening within a time specified by the board.

A person licensed to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~,~~ ~~or osteopathy~~ who makes application for the renewal of a license, as required by section 147.10, gives consent to submit to a mental or physical examination as provided by this lettered paragraph when directed in writing by the board. All objections shall be waived as to the admissibility of the examining physicians' testimony or examination reports on the grounds that they constitute privileged communication. The medical testimony or examination reports shall not be used against a physician in another proceeding and shall be confidential, except for other actions filed against a physician to revoke or suspend a license. ~~Failure of a physician to submit to an examination or to submit to alcohol or drug screening shall constitute admission to the allegations made against the physician and the finding of fact and decision of the board may be entered without the taking of testimony or presentation of evidence. At reasonable intervals, a physician shall be afforded an opportunity to demonstrate that the physician can resume the competent practice of medicine with reasonable skill and safety to patients.~~

i. Willful or repeated violation of lawful rule or regulation adopted by the board or violating a lawful order of the board, previously entered by the board in a disciplinary or licensure hearing, or violating the terms and provisions of a consent agreement or informal settlement between a licensee and the board.

3. A person violating the provisions of section 147.2, 147.84, or 147.85, shall upon conviction be guilty of a class "D" felony.

Sec. 51. Section 148.7, Code Supplement 2007, is amended to read as follows:

148.7 PROCEDURE FOR ~~SUSPENSION OR REVOCATION~~ LICENSEE DISCIPLINE.

A proceeding for the revocation or suspension of a license to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ or to discipline a person licensed to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ shall be substantially in accord with the following procedure:

1. The board may, upon its own motion or upon ~~verified~~ receipt of a complaint in writing,

~~and shall, if such complaint is filed by the director of public health, issue an order fixing the time and place for hearing~~ order an investigation. The board may, upon its own motion, order a hearing. A written notice of the time and place of the hearing together with a statement of the charges shall be served upon the licensee at least ten days before the hearing in the manner required for the service of notice of the commencement of an ordinary action or by restricted certified mail.

2. ~~If the licensee has left the state, the notice and statement of the charges shall be so served at least twenty days before the date of the hearing, wherever the licensee may be found.~~ If the whereabouts of the licensee is unknown, service may be had by publication as provided in the rules of civil procedure upon filing the affidavit required by the rules. In case the licensee fails to appear, either in person or by counsel at the time and place designated in the notice, the board shall proceed with the hearing as ~~hereinafter~~ provided in this section.

3. a. The hearing shall be before a member or members designated by the board or before an administrative law judge appointed by the board according to the requirements of section 17A.11, subsection 1. The presiding board member or administrative law judge may issue subpoenas, administer oaths, and take or cause depositions to be taken in connection with the hearing. The presiding board member or administrative law judge shall issue subpoenas at the request and on behalf of the licensee. ~~The hearing shall be open to the public.~~

b. The administrative law judge shall be an attorney vested with full authority of the board to schedule and conduct hearings. The administrative law judge shall prepare and file with the board the administrative law judge's findings of fact and conclusions of law, together with a complete written transcript of all testimony and evidence introduced at the hearing and all exhibits, pleas, motions, objections, and rulings of the administrative law judge.

4. Disciplinary hearings held pursuant to section 272C.6, subsection 1, shall be heard by the board, or by a panel of not less than six members, at least three of whom are board members, and the remaining appointed pursuant to section 148.2A, with no more than three of the six being public members. Notwithstanding chapters 17A and 21, a disciplinary hearing shall be open to the public at the discretion of the licensee.

~~4.~~ 5. A ~~stenographic~~ record of the proceedings shall be kept. The licensee shall have the opportunity to appear personally and by an attorney, with the right to produce evidence ~~in~~ on the licensee's own behalf, to examine and cross-examine witnesses, and to examine documentary evidence produced against the licensee.

~~5.~~ 6. If a person refuses to obey a subpoena issued by the presiding member or administrative law judge or to answer a proper question during the hearing, the presiding member or administrative law judge may invoke the aid of a court of competent jurisdiction or judge of this court in requiring the attendance and testimony of the person and the production of papers. A failure to obey the order of the court may be punished by the court as a civil contempt may be punished.

~~6.~~ 7. Unless the hearing is before the entire board, a transcript of the proceeding, together with exhibits presented, shall be considered by the entire board at the earliest practicable time. The licensee and the licensee's attorney shall have the opportunity to appear personally to present the licensee's position and arguments to the board. The board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it.

~~7.~~ 8. If a majority of the members of the board vote in favor of finding the licensee guilty of an act or offense specified in section 147.55 or 148.6, the board shall prepare written findings of fact and its decision imposing one or more of the following disciplinary measures:

a. Suspend the licensee's license to practice the profession for a period to be determined by the board.

b. Revoke the licensee's license to practice the profession.

c. Suspend imposition of judgment and penalty or impose the judgment and penalty, but suspend enforcement and place the physician on probation. The probation ordered may be vacated upon noncompliance. The board may restore and reissue a license to practice medicine and surgery~~,~~ or osteopathic medicine and surgery, ~~or osteopathy,~~ but may impose a disciplinary or corrective measure which the board might originally have imposed. A copy of the

board's order, findings of fact, and decision, shall be served on the licensee in the manner of service of an original notice or by certified mail return receipt requested.

~~8.~~ 9. Judicial review of the board's action may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

~~9.~~ 10. The board's order revoking or suspending a license to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ or to discipline a licensee shall remain in force and effect until the appeal is finally determined and disposed of upon its merit.

Sec. 52. Section 148.9, Code Supplement 2007, is amended to read as follows:

148.9 REINSTATEMENT.

Any person whose license has been suspended~~, revoked, or placed on probation~~ may apply to the board for reinstatement at any time and the board may hold ~~hearings~~ a hearing on any such petition and may order reinstatement and impose terms and conditions thereof and issue a certificate of reinstatement ~~to the director of public health who shall thereupon issue a license as directed by the board~~.

Sec. 53. Section 148.10, Code Supplement 2007, is amended to read as follows:

148.10 TEMPORARY ~~CERTIFICATE~~ LICENSE.

1. The board may, in its discretion, issue a temporary ~~certificate~~ license authorizing the licensee to practice medicine and surgery or osteopathic medicine and surgery 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 license, which shall be substantially equivalent to those required for licensure under this chapter ~~or chapter 150A, as the case may be~~. The board shall determine in each instance those eligible for ~~this~~ the license, whether or not examinations shall be given, and the type of examinations. No requirements of the law pertaining to regular permanent licensure are mandatory for ~~this~~ the temporary license except as specifically designated by the board. The granting of a temporary license does not in any way indicate that the person so licensed is necessarily eligible for regular licensure or that the board in any way is obligated to so license the person.

2. The temporary ~~certificate~~ license shall be issued for a period not to exceed one year and may be renewed, but a person shall not practice medicine and surgery or osteopathic medicine and surgery in excess of three years while holding a temporary ~~certificate~~ license. The fee for ~~this~~ the license and the fee for renewal of ~~this~~ the license shall be set by the board. The fees shall be based on the administrative costs of issuing and renewing the licenses.

Sec. 54. Section 148.11, Code Supplement 2007, is amended to read as follows:

148.11 SPECIAL LICENSE TO PRACTICE MEDICINE AND SURGERY OR OSTEOPATHIC MEDICINE AND SURGERY.

1. Whenever the need exists, the board may issue a special license. The special license shall authorize the licensee to practice medicine and surgery or osteopathic medicine and surgery under the policies and standards applicable to the health care services of a medical or osteopathic medical school academic staff member or as otherwise specified in the special license.

2. A person applying for a special license shall:

a. Be a physician in a professional specialty.

b. Present a diploma issued by a medical or osteopathic medical college.

c. Present evidence of an unrestricted license to practice medicine and surgery or osteopathic medicine and surgery which has been issued by a foreign state or territory or an alien country.

d. Present a letter of recommendation from the dean of a medical or osteopathic medical school in this state indicating that the applicant has been invited to serve on the academic staff of the medical or osteopathic medical school.

e. Present letters of recommendation from universities, other educational institutions, or research facilities that indicate the noteworthy professional attainment by the applicant.

f. Present biographical background information concerning the applicant's education and qualifications.

3. The board shall establish a fee for initial issuance and renewal of a special license ~~shall be established in an amount sufficient to cover the costs of issuing the special license. If the special license is extended beyond one year, an annual renewal fee shall be established in an amount sufficient to cover the costs of renewing the special license~~. The board shall establish rules for granting and renewing a special license consistent with those for permanent licenses.

~~4. Notwithstanding the provisions of chapter 17A, the board may cancel a special license at any time without hearing. However, when such license is proposed to be canceled, the board shall promptly notify the licensee by certified mail sent to the last known address of the licensee. Thirty days after the service of such notice, the special license shall be canceled.~~

~~5.~~ 4. A special license issued under this section shall automatically expire upon the special licensee discontinuing service on the academic staff of a medical or osteopathic medical school in this state. An expired special license shall not be renewed. However, a former special licensee may reapply for a special license.

Sec. 55. Section 148.12, Code Supplement 2007, is amended to read as follows:

148.12 VOLUNTARY AGREEMENTS.

The board, after due notice and hearing, may issue an order to revoke, suspend, or restrict a license to practice medicine and surgery~~,~~ or osteopathic medicine and surgery, ~~or osteopathy,~~ or to issue a restricted license on application if the board determines that a physician licensed to practice medicine and surgery~~,~~ or osteopathic medicine and surgery, ~~or osteopathy,~~ or an applicant for licensure has entered into a voluntary agreement to restrict the practice of medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ in another state, district, territory, country, or an agency of the federal government. A certified copy of the voluntary agreement shall be considered prima facie evidence.

Sec. 56. NEW SECTION. 148.14 BOARD OF MEDICINE INVESTIGATORS.

The board of medicine may appoint investigators, who shall not be members of the board, and whose compensation shall be determined pursuant to chapter 8A, subchapter IV. Investigators appointed by the board have the powers and status of peace officers when enforcing this chapter and chapter 272C.

Sec. 57. NEW SECTION. 148C.13 INVESTIGATORS FOR PHYSICIAN ASSISTANTS.

1. The board may appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provisions of law relating to physician assistants. The amount of compensation for the investigators shall be determined pursuant to chapter 8A, subchapter IV.

2. Investigators authorized by the board have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 58. Section 151.2, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Licensed physicians and surgeons, licensed ~~osteopaths, and licensed osteopaths and surgeons,~~ osteopathic physicians and surgeons, and physical therapists who are exclusively engaged in the practice of their respective professions.

Sec. 59. Section 151.3, Code Supplement 2007, is amended to read as follows:

151.3 LICENSE.

Every applicant for a license to practice chiropractic shall do all of the following:

1. Present satisfactory evidence that the applicant possesses a preliminary education equal to the requirements for graduation from an accredited high school or other secondary school.

2. Present a diploma issued by a college of chiropractic approved by the board.

3. Pass an examination prescribed by the board ~~in the subjects of anatomy, physiology, nutrition and dietetics, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic, including a clinical demonstration of vertebral palpation, nerve tracing, and adjusting~~.

Sec. 60. Section 151.4, Code Supplement 2007, is amended to read as follows:

151.4 APPROVED COLLEGE.

1. A college of chiropractic shall not be approved by the board as a college of recognized standing unless the college~~:~~

~~a. Requires~~ requires for graduation or for the receipt of any chiropractic degree the completion of a course of study covering a period of four academic years ~~totaling not less than four thousand sixty-minute hours in actual resident attendance~~.

~~b. Gives an adequate course of study in the subjects enumerated in subsection 3 of section 151.3 and including practical clinical instruction.~~

~~c. Publishes in a regularly issued catalogue the requirements for graduation and degrees as herein specified.~~

2. An approved college of chiropractic may include but is not limited to offerings of courses of study in procedures for withdrawing a patient's blood, performing or utilizing laboratory tests, and performing physical examinations for diagnostic purposes. A chiropractor, employed by an approved college of chiropractic and who has been trained to withdraw blood may withdraw blood and instruct, and supervise a student in the withdrawing of blood.

Sec. 61. Section 151.5, Code 2007, is amended to read as follows:

151.5 OPERATIVE SURGERY — DRUGS.

A license to practice chiropractic shall not authorize the licensee to practice operative surgery~~, osteopathy, nor~~ or administer or prescribe ~~any drug or medicine included in materia medica~~ prescription drugs or controlled substances which can only be prescribed by persons authorized by law.

Sec. 62. Section 151.8, subsection 1, Code Supplement 2007, is amended to read as follows:

1. A chiropractor shall not use in the chiropractor's practice the procedures otherwise authorized by law unless the chiropractor has received training in their use by a college of chiropractic offering courses of instructions approved by the board or by curriculum taught on a postgraduate level approved by the board.

Sec. 63. Section 151.9, subsection 8, Code 2007, is amended to read as follows:

8. Willful or repeated violations of the provisions of this ~~Act~~ chapter or chapter 272C.

Sec. 64. Section 151.12, Code Supplement 2007, is amended to read as follows:

151.12 TEMPORARY CERTIFICATE.

1. The board may, in its discretion, issue a temporary certificate for one year authorizing the certificate holder to practice chiropractic if, in the opinion of the board, a need exists and the person possesses the qualifications prescribed by the board for the certificate, which shall be substantially equivalent to those required for licensure under this chapter. ~~The board shall determine in each instance those eligible for this certificate, whether or not examinations shall be given, the type of examinations, and the duration of the certificate.~~ No requirements of the law pertaining to regular permanent licensure are mandatory for ~~this~~ the temporary certificate except as specifically designated by the board. The granting of a temporary certificate does not in any way indicate that the person is eligible for regular licensure or that the board is obligated to issue the person a regular license.

2. ~~The temporary certificate shall be issued for one year and at the discretion of the board may be renewed, but a person shall not practice chiropractic in excess of three years while holding a temporary certificate. The fee for this certificate shall be set by the board, and if extended beyond one year, a renewal fee per year shall be set by the board.~~ The fee for the temporary certificate shall be based on the administrative costs of issuing the certificates.

Sec. 65. Section 154D.1, Code Supplement 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 7. "Temporary license" means a license to practice marital and family therapy or mental health counseling under direct supervision of a qualified supervisor as de-

termined by the board by rule to fulfill the postgraduate supervised clinical experience requirement in accordance with this chapter.

NEW SUBSECTION. 8. "Temporary licensed marital and family therapist" means a person licensed to practice marital and family therapy under supervision in accordance with section 154D.7.

NEW SUBSECTION. 9. "Temporary licensed mental health counselor" means a person licensed to practice mental health counseling under supervision in accordance with section 154D.7.

Sec. 66. Section 154D.2, Code 2007, is amended to read as follows:

154D.2 LICENSURE — MARITAL AND FAMILY THERAPY — MENTAL HEALTH COUNSELING.

~~1.~~ An applicant for a license to practice marital and family therapy or mental health counseling shall be granted a license by the board when the applicant satisfies all of the following requirements:

~~a.~~ 1. Possesses a master's degree in marital and family therapy or mental health counseling, as applicable, consisting of at least ~~forty-five credit~~ sixty semester hours, or its equivalent, from a nationally accredited institution or from a program approved by the board.

~~b.~~ 2. Has at least two years of supervised clinical experience or its equivalent as approved by the board. Standards for supervision, including the required qualifications for supervisors, shall be determined by the board by rule.

~~c.~~ 3. Passes an examination ~~administered~~ approved by the board.

~~d. Has not failed the examination required in paragraph "c" within six months of the date of the current application.~~

~~2. An applicant for a license to practice mental health counseling shall be granted a license by the board when the applicant satisfies all of the following requirements:~~

~~a. Possesses a master's degree in counseling consisting of at least forty-five credit hours, or its equivalent, from a nationally accredited institution or from a program approved by the board.~~

~~b. Has at least two years of supervised clinical experience or its equivalent in assessing mental health needs and problems and in providing appropriate mental health services as approved by the board. Standards for supervision, including the required qualifications for supervisors, shall be determined by the board by rule.~~

~~c. Passes an examination administered by the board.~~

Sec. 67. Section 154D.3, Code 2007, is amended to read as follows:

154D.3 BOARD ORGANIZATION AND AUTHORITY.

1. In addition to duties and responsibilities provided in chapters 147 and 272C, the board shall adopt rules relating to:

a. Standards required for licensees engaging in the professions covered by this chapter.

b. Standards for professional conduct of persons licensed under this chapter.

c. The administration of this chapter.

d. The status of active and inactive licensure, and guidelines for reentry of inactive licensees.

e. Educational activities which fulfill continuing education requirements for license renewals.

~~2. A separate subcommittee is established within the board for each of the professions under the board's jurisdiction. The chairperson of the board shall appoint to the subcommittee for each profession those members of the board who represent that profession. The chairperson shall appoint two of the public members of the board to serve on a subcommittee. Each subcommittee shall, by majority vote, rule on all license applications within the subcommittee's assigned profession, approve and administer the grading of the examination given to applicants for licenses to practice that profession, and otherwise coordinate the board's administration of all matters pertinent to regulation of the practice of the profession.~~

~~3.~~ 2. The board may establish subcommittees. A decision or recommendation of a subcommittee shall not become effective without approval of the board. The board may initiate action relating to either of the professions within its jurisdiction.

~~4. Members attending meetings of the board's subcommittees shall be reimbursed on the same basis as members attending board meetings up to a maximum of six subcommittee meetings per calendar year.~~

Sec. 68. Section 154D.4, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. A person who practices marital and family therapy or mental health counseling under the supervision of a person licensed under this chapter as part of a clinical experience as described in section 154D.2, subsection ~~1, paragraph "b", or section 154D.2, subsection 2, paragraph "b"~~ 2.

Sec. 69. Section 154D.5, Code 2007, is amended to read as follows:

154D.5 SEXUAL CONDUCT WITH CLIENT.

1. The license of a marital and family therapist or a mental health counselor shall be revoked if the board finds that the licensee engaged in sexual activity ~~or genital contact~~ with a client ~~while acting or purporting to act within the licensee's scope of practice, whether or not the client consented to the sexual activity or genital contact~~ as determined by board rule.

2. The revocation shall be in addition to any other penalties provided by law.

Sec. 70. NEW SECTION. 154D.7 TEMPORARY LICENSE — MARITAL AND FAMILY THERAPY — MENTAL HEALTH COUNSELING — FEES.

Any person who has fulfilled all of the requirements for licensure under this chapter, except for having completed the postgraduate supervised clinical experience requirement as determined by the board by rule, may apply to the board for a temporary license. The license shall be designated "temporary license in marital and family therapy" or "temporary license in mental health counseling" and shall authorize the licensee to practice marital and family therapy or mental health counseling under the supervision of a qualified supervisor as determined by the board by rule. The license shall be valid for three years and may be renewed at the discretion of the board. The fee for a temporary license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required.

Sec. 71. NEW SECTION. 154F.1 DEFINITIONS.

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

1. "Audiologist" means a person who engages in the practice of audiology.

2. "Board" means the board of speech pathology and audiology established pursuant to section 147.14, subsection 9.

3. The "practice of audiology" means the application of principles, methods, and procedures for measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to hearing and disorders of hearing and associated communication disorders for the purpose of nonmedically evaluating, identifying, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals, including the determination and use of appropriate amplification.

4. The "practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, rehabilitation, or remediation related to the development and disorders of speech, fluency, voice, or language for the purposes of nonmedically evaluating, preventing, ameliorating, modifying, or remediating such disorders and conditions in individuals or groups of individuals.

5. "Speech pathologist" means a person who engages in the practice of speech pathology.

Sec. 72. NEW SECTION. 154F.2 APPLICABILITY.

1. Nothing contained in this chapter shall be construed to apply to:

a. Licensed physicians and surgeons, licensed osteopathic physicians and surgeons, licensed physician assistants and registered nurses acting under the supervision of a physician, persons conducting hearing tests under the direct supervision of a licensed physician and surgeon, licensed osteopathic physician and surgeon, or students of medicine or surgery or osteopathic medicine and surgery pursuing a course of study in a medical school or college of osteopathic medicine and surgery approved by the board of medicine while performing functions incidental to their course of study.

b. Hearing aid fitting, the dispensing or sale of hearing aids, and the providing of hearing aid service and maintenance by a hearing aid dispenser or holder of a temporary permit as defined and licensed under chapter 154A.

c. Students enrolled in an accredited college or university pursuing a course of study leading to a degree in speech pathology or audiology while receiving clinical training as a part of the course of study and acting under the supervision of a licensed speech pathologist or audiologist provided they use the title "trainee" or similar title clearly indicating training status.

d. Nonprofessional aides who perform their services under the supervision of a speech pathologist or audiologist as appropriate and who meet such qualifications as may be established by the board for aides if they use the title "aide", "assistant", "technician", or other similar title clearly indicating their status.

e. Audiometric tests administered pursuant to the United States Occupational Safety and Health Act of 1970 or chapter 88, and in accordance with regulations issued thereunder, by employees of a person engaged in business, including the state of Iowa, its various departments, agencies, and political subdivisions, solely to employees of such employer, while acting within the scope of their employment.

f. Persons certified by the department of education as speech clinicians or hearing clinicians and employed by a school district or area education agency while acting within the scope of their employment.

2. A person exempted from the provisions of this chapter by this section shall not use the title "speech pathologist" or "audiologist" or any title or device indicating or representing in any manner that the person is a speech pathologist or is an audiologist; provided, a hearing aid dispenser licensed under chapter 154A may use the title "certified hearing aid audiologist" when granted by the national hearing aid society; and provided, persons who meet the requirements of section 154F.3, subsection 1, who are certified by the department of education as speech clinicians may use the title "speech pathologist" and persons who meet the requirements of section 154F.3, subsection 2, who are certified by the department of education as hearing clinicians may use the title "audiologist", while acting within the scope of their employment.

Sec. 73. NEW SECTION. 154F.3 REQUIREMENTS FOR LICENSE.

Each applicant for a license as a speech pathologist or audiologist shall meet all of the following requirements:

1. For a license as a speech pathologist:

a. Possess a master's degree from an accredited school, college, or university with a major in speech pathology.

b. Show evidence of completion of not less than four hundred hours of supervised clinical training in speech pathology as a student in an accredited school, college, or university.

c. Show evidence of completion of not less than nine months clinical experience under the supervision of a licensed speech pathologist following the receipt of the master's degree.

2. For a license as an audiologist:

a. Possess a master's degree from an accredited school, college, or university with a major in audiology.

b. Show evidence of completion of not less than four hundred hours of supervised clinical training in audiology as a student in an accredited school, college, or university.

c. Show evidence of completion of not less than nine months clinical experience under the supervision of a licensed audiologist following the receipt of the master's degree.

d. In lieu of paragraphs "a" through "c", hold a doctoral degree in audiology from an accredited school, college, or university which incorporates the academic coursework and the minimum hours of supervised training required by rules adopted by the board.

3. Pass an examination as determined by the board in rule.

Sec. 74. NEW SECTION. 154F.4 WAIVER OF EXAMINATION REQUIREMENT.

The examinations required in section 154F.3, subsection 3, may be waived by the board for holders by examination of licenses or certificates from states whose requirements are substantially equivalent to those of this chapter.

Sec. 75. NEW SECTION. 154F.5 TEMPORARY CLINICAL LICENSE — FEE.

Any person who has fulfilled all of the requirements for licensure under this chapter, except for having completed the nine months clinical experience requirement as provided in section 154F.3, subsection 1 or 2, may apply to the board for a temporary clinical license. The license shall be designated "temporary clinical license in speech pathology" or "temporary clinical license in audiology" and shall authorize the licensee to practice speech pathology or audiology under the supervision of a licensed speech pathologist or licensed audiologist, as appropriate. The license shall be valid for one year and may be renewed at the discretion of the board. The fee for a temporary clinical license shall be set by the board to cover the administrative costs of issuing the license, and if renewed, a renewal fee as set by the board shall be required. A temporary clinical license shall be issued only upon evidence satisfactory to the board that the applicant will be supervised by a person licensed as a speech pathologist or audiologist, as appropriate.

Sec. 76. NEW SECTION. 154F.6 TEMPORARY PERMIT.

The board may, at its discretion, issue a temporary permit to a nonresident authorizing the permittee to practice speech pathology or audiology in this state for a period not to exceed three months whenever, in the opinion of the board, a need exists and the permittee, in the opinion of the board, possesses the necessary qualifications which shall be substantially equivalent to those required for licensure by this chapter.

Sec. 77. Section 155A.26, Code Supplement 2007, is amended to read as follows:

155A.26 ENFORCEMENT — AGENTS AS PEACE OFFICERS.

The board, its officers, agents, inspectors, and representatives, and all peace officers within the state, and all county attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to prescription drugs. Officers, agents, inspectors, and representatives of the board shall have the powers and status of peace officers when enforcing the provisions of this chapter and chapters 124, 126, and 205. Officers, agents, inspectors, and representatives of the board of pharmacy may:

1. Administer oaths, acknowledge signatures, and take testimony.

2. Make audits of the supply and inventory of controlled substances and prescription drugs in the possession of any and all individuals or institutions authorized to have possession of any controlled substances or prescription drugs.

3. Conduct routine and unannounced inspections of pharmacies, drug wholesalers, and the offices or business locations of all individuals and institutions authorized to have possession of prescription drugs including controlled substances or prescription devices.

4. Conduct inspections and investigations related to the practice of pharmacy and the distribution of prescription drugs and devices in this state.

5. Seize controlled or counterfeit substances or articles used in the manufacture or sale of controlled or counterfeit substances which they have reasonable grounds to believe are held in violation of law.

6. Seize prescription medications which they believe are held in violation of law.

7. Perform other duties as specifically authorized or mandated by law or rule.

Sec. 78. Sections 147.29, 147.30, 147.43, 147.51, 147.52, 147.54, 147.58 through 147.71, 147.75, 147.90, 147.104, and 147.153 through 147.156, Code 2007, are repealed.

Sec. 79. Sections 147.18, 147.26, 147.35, 147.39, 147.40 through 147.42, 147.45 through 147.47, 147.50, 147.94 through 147.96, 147.98 through 147.100, 147.102, 147.103, 147.103A, 147.151, 147.152, 148.4, 152C.8, and 154D.6, Code Supplement 2007, are repealed.

Sec. 80. Chapters 150 and 150A, Code and Code Supplement 2007, are repealed.

DIVISION II
COORDINATING AMENDMENTS

Sec. 81. Section 85B.9, subsection 2, Code 2007, is amended to read as follows:

2. Audiometric examinations shall be administered by persons who are certified by the council for accreditation in occupational hearing conservation or by persons licensed as audiologists under chapter ~~147~~ 154F, or as physicians or osteopathic physicians and surgeons under chapter 148, ~~as osteopathic physicians under chapter 150, or as osteopathic physicians and surgeons under chapter 150A,~~ provided the licensed persons are trained in audiometry.

Sec. 82. Section 124.555, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The council shall consist of eight members appointed by the governor. The members shall include three licensed pharmacists, four physicians licensed under chapter 148, ~~150, or 150A,~~ and one licensed prescribing practitioner who is not a physician. The governor shall solicit recommendations for council members from Iowa health professional licensing boards, associations, and societies. The license of each member appointed to and serving on the advisory council shall be current and in good standing with the professional's licensing board.

Sec. 83. Section 135.11, subsection 15, Code Supplement 2007, is amended to read as follows:

15. Establish standards for, issue permits for, and exercise control over the distribution of venereal disease prophylactics distributed by methods not under the direct supervision of a physician licensed under chapter 148, ~~150, or 150A,~~ or a pharmacist licensed under chapter 147. Any person selling, offering for sale, or giving away any venereal disease prophylactics in violation of the standards established by the department shall be fined not exceeding five hundred dollars, and the department shall revoke their permit.

Sec. 84. Section 135.24, subsection 2, paragraph d, Code Supplement 2007, is amended to read as follows:

d. Identification of the services to be provided under the program. The services provided may include, but shall not be limited to, obstetrical and gynecological medical services, psychiatric services provided by a physician licensed under chapter 148, ~~150, or 150A,~~ dental services provided under chapter 153, or other services provided under chapter 147A, 148A, 148B, 148C, 149, 151, 152, 152B, 152E, 154, 154B, 154C, 154D, 154F, or 155A.

Sec. 85. Section 135.24, subsection 6, paragraph d, Code Supplement 2007, is amended to read as follows:

d. "Health care provider" means a physician licensed under chapter 148, ~~150, or 150A,~~ a chiropractor licensed under chapter 151, a physical therapist licensed pursuant to chapter 148A, an occupational therapist licensed pursuant to chapter 148B, a podiatrist licensed pursuant to chapter 149, a physician assistant licensed and practicing under a supervising physician pursuant to chapter 148C, a licensed practical nurse, a registered nurse, or an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E, a respiratory therapist licensed pursuant to chapter 152B, a dentist, dental hygienist, or dental assistant registered or licensed

to practice under chapter 153, an optometrist licensed pursuant to chapter 154, a psychologist licensed pursuant to chapter 154B, a social worker licensed pursuant to chapter 154C, a mental health counselor or a marital and family therapist licensed pursuant to chapter 154D, a pharmacist licensed pursuant to chapter 155A, or an emergency medical care provider certified pursuant to chapter 147A.

Sec. 86. Section 135.61, subsection 10, Code 2007, is amended to read as follows:

10. "Health care provider" means a person licensed or certified under chapter 147, 148, 148A, 148C, 149, ~~150, 150A,~~ 151, 152, 153, 154, 154B, 154F, or 155A to provide in this state professional health care service to an individual during that individual's medical care, treatment or confinement.

Sec. 87. Section 135.105D, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. "Health care provider" means a physician who is licensed under chapter 148, ~~150, or 150A,~~ or a person who is licensed as a physician assistant under chapter 148C or as an advanced registered nurse practitioner.

Sec. 88. Section 135B.7, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatric physicians, ~~osteopaths,~~ osteopathic physicians and surgeons, dentists, certified health service providers in psychology, physician assistants, or advanced registered nurse practitioners licensed under chapter 148, 148C, 149, ~~150, 150A,~~ 152, or 153, or section 154B.7, solely by reason of the license held by the practitioner or solely by reason of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States department of education. A hospital may establish procedures for interaction between a patient and a practitioner. The rules shall not prohibit a hospital from limiting, restricting, or revoking clinical privileges of a practitioner for violation of hospital rules, regulations, or procedures established under this paragraph, when applied in good faith and in a nondiscriminatory manner. This paragraph shall not require a hospital to expand the hospital's current scope of service delivery solely to offer the services of a class of providers not currently providing services at the hospital. This section shall not be construed to require a hospital to establish rules which are inconsistent with the scope of practice established for licensure of practitioners to whom this paragraph applies. This section shall not be construed to authorize the denial of clinical privileges to a practitioner or class of practitioners solely because a hospital has as employees of the hospital identically licensed practitioners providing the same or similar services.

Sec. 89. Section 135C.40, subsection 3, Code 2007, is amended to read as follows:

3. No health care facility shall be cited for any violation caused by any practitioner licensed pursuant to chapter 148, ~~150 or 150A~~ if that practitioner is not the licensee of and is not otherwise financially interested in the facility, and the licensee or the facility presents evidence that reasonable care and diligence have been exercised in notifying the practitioner of the practitioner's duty to the patients in the facility.

Sec. 90. Section 135H.1, subsection 7, Code 2007, is amended to read as follows:

7. "Physician" means a person licensed under chapter 148 ~~or 150A~~.

Sec. 91. Section 135J.1, subsection 6, paragraph a, Code 2007, is amended to read as follows:

a. A licensed physician pursuant to chapter 148~~, 150, or 150A~~.

Sec. 92. Section 141A.1, subsection 8, Code Supplement 2007, is amended to read as follows:

8. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, ~~osteopathy,~~ chiropractic, podiatry, nursing, dentistry, or optometry, or as a physician assistant, dental hygienist, or acupuncturist.

Sec. 93. Section 142C.7, Code Supplement 2007, 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 a procurement organization as part of a referral or retrospective review of the patient as a potential 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. 94. Section 144.29A, subsection 7, Code 2007, is amended to read as follows:

7. For the purposes of this section, "health care provider" means an individual licensed under chapter 148, 148C, 148D, ~~150, 150A,~~ or 152, or any individual who provides medical services under the authorization of the licensee.

Sec. 95. Section 147.106, subsection 8, paragraph b, Code 2007, is amended to read as follows:

b. "Physician" means any person licensed to practice medicine and surgery~~,~~ or osteopathic medicine and surgery~~, or osteopathy~~ in this state or in another state.

Sec. 96. Section 147.108, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148~~, 150, 150A,~~ or 154. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. After contact lenses have been adequately adapted and the patient released from initial follow-up care by a person licensed under chapter 148~~, 150, 150A,~~ or 154, the patient may request a copy, at no cost, of the contact lens prescription from that licensed person. A person licensed under chapter 148~~, 150, 150A,~~ or 154 shall not withhold a contact lens prescription after the requirements of this section have been met. The prescription, at the option of the prescriber, may be given orally only to a person who is actively practicing and licensed under chapter 148, ~~150, 150A,~~ 154, or 155A. The contact lens prescription shall contain an expiration date, at the discretion of the prescriber, but not to exceed eighteen months. The contact lens prescription shall contain the necessary requirements of the ophthalmic lens, and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription may contain adapting and material guidelines and may also contain specific instructions for use by the patient. For the purpose of this section, "ophthalmic lens" means one which has been fabricated to fill the requirements of a particular contact lens prescription.

Sec. 97. Section 147.109, subsections 1, 2, and 3, Code Supplement 2007, are amended to read as follows:

1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written, electronic, or facsimile prescription from a person licensed under chapter 148~~, 150, 150A,~~ or 154. For the purpose of this section, "ophthalmic spectacle lens" means one which has been fabricated to fill the requirements of a particular spectacle lens prescription. The board of optometry shall adopt rules relating to electronic or facsimile transmission of a prescription under this section.

2. Upon completion of an eye examination, a person licensed under chapter 148~~, 150, 150A,~~ or 154 shall furnish the patient a copy of their ophthalmic spectacle lens prescription at no cost. The ophthalmic spectacle lens prescription shall contain an expiration date. The ophthalmic spectacle lens prescription shall contain the requirements of the ophthalmic spectacle lens and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

3. Upon request of a patient, a person licensed under chapter 148~~, 150, 150A,~~ or 154 shall provide the prescription of the patient, if the prescription has not expired, at no cost to another person licensed under chapter 148~~, 150, 150A,~~ or 154. The person licensed under chapter 148~~, 150, 150A,~~ or 154 shall accept the prescription and shall not require the patient to undergo an eye examination unless, due to observation or patient history, the licensee has reason to require an examination.

Sec. 98. Section 147.139, Code 2007, is amended to read as follows:

147.139 EXPERT WITNESS STANDARDS.

If the standard of care given by a physician and surgeon or an osteopathic physician and surgeon licensed pursuant to chapter 148~~, or osteopathic physician and surgeon licensed pursuant to chapter 150A~~, or a dentist licensed pursuant to chapter 153, is at issue, the court shall only allow a person to qualify as an expert witness and to testify on the issue of the appropriate standard of care if the person's medical or dental qualifications relate directly to the medical problem or problems at issue and the type of treatment administered in the case.

Sec. 99. Section 147A.1, subsection 9, Code 2007, is amended to read as follows:

9. "Physician" means an individual licensed under chapter 148~~, 150, or 150A~~.

Sec. 100. Section 148A.3, subsections 1 and 4, Code 2007, are amended to read as follows:

1. Licensed physicians and surgeons, ~~osteopaths,~~ osteopathic physicians and surgeons, podiatric physicians, chiropractors, nurses, dentists, cosmetologists, and barbers, who are engaged in the practice of their respective professions.

4. Nonprofessional workers not held out as physical therapists who are employed in hospitals, clinics, offices or health care facilities as defined in section 135C.1 working under the supervision and direction of a physical therapist or physician licensed pursuant to chapter 148~~, 150 or 150A~~.

Sec. 101. Section 152.1, subsection 3, Code Supplement 2007, is amended to read as follows:

3. "Physician" means a person licensed in this state to practice medicine and surgery, ~~osteopathy~~ osteopathic medicine and surgery, ~~or osteopathy,~~ or a person licensed in this state to practice dentistry or podiatry when acting within the scope of the license. A physician licensed to practice medicine and surgery, or osteopathic medicine and surgery~~, or osteopathy~~ in a state bordering this state shall be considered a physician for purposes of this chapter unless previously determined to be ineligible for such consideration by the board of medicine.

Sec. 102. Section 152.1, subsection 5, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The practice of medicine and surgery and the practice of osteopathic medicine and surgery, as defined in chapter 148, ~~the osteopathic practice, as defined in chapter 150, the practice of osteopathic medicine and surgery, as defined in chapter 150A,~~ or the practice of pharmacy as defined in chapter 155A, except practices which are recognized by the medical and nursing professions and approved by the board as proper to be performed by a registered nurse.

Sec. 103. Section 152.8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding the provisions of sections 147.44 through ~~147.54~~ 147.50, and 147.53, the

following shall apply regarding applicants for nurse licensure possessing a license from another state:

Sec. 104. Section 152.10, subsection 1, Code 2007, is amended to read as follows:

1. Notwithstanding sections 147.87 to 147.89 ~~and in addition to the provisions of sections 147.58 to 147.71~~, the board may restrict, suspend, or revoke a license to practice nursing or place the licensee on probation. The board may also prescribe by rule conditions of license reinstatement. The board shall prescribe rules of procedure by which to restrict, suspend, or revoke a license. These procedures shall conform to the provisions of chapter 17A.

Sec. 105. Section 152.12, Code 2007, is amended to read as follows:

152.12 EXAMINATION INFORMATION.

Notwithstanding section 147.21, ~~subsection 3,~~ individual pass or fail examination results made available from the authorized national testing agency may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or county, and the board-approved education program, for purposes of verifying accuracy of national data and determining program approval.

Sec. 106. Section 154.1, subsections 3 and 4, Code Supplement 2007, are amended to read as follows:

3. Diagnostically certified licensed optometrists may employ cycloplegics, mydriatics, and topical anesthetics as diagnostic agents topically applied to determine the condition of the human eye for proper optometric practice or referral for treatment to a person licensed under chapter 148~~, 150, or 150A~~. A diagnostically certified licensed optometrist is an optometrist who is licensed to practice optometry in this state and who is certified by the board to use diagnostic agents.

4. Therapeutically certified optometrists may employ all diagnostic and therapeutic pharmaceutical agents for the purpose of diagnosis and treatment of conditions of the human eye and adnexa pursuant to this subsection, 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 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 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. 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~~, 150, 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 to use the agents and procedures authorized pursuant to this subsection.

Sec. 107. Section 154.10, Code Supplement 2007, is amended to read as follows:

154.10 STANDARD OF CARE.

1. A diagnostically certified licensed optometrist employing diagnostic pharmaceutical agents as authorized by section 154.1 shall be held to the same standard of care in the use of such agents and in diagnosis as is common to persons licensed under chapter 148~~, 150, or 150A~~ in this state.

2. A therapeutically certified optometrist employing pharmaceutical agents as authorized

by section 154.1 shall be held to the same standard of care in the use of such agents and in diagnosis and treatment as is common to persons licensed under chapter 148~~, 150, or 150A~~ in this state.

Sec. 108. Section 154B.2, Code 2007, is amended to read as follows:

154B.2 PRACTICE NOT AUTHORIZED.

This chapter shall not authorize the practice of medicine and surgery or the practice of osteopathic medicine and surgery by any person not licensed pursuant to chapter 148~~, the practice of osteopathy by any person not licensed pursuant to chapter 150, or the practice of osteopathic medicine and surgery by any person not licensed pursuant to chapter 150A~~.

Sec. 109. Section 155.11, Code 2007, is amended to read as follows:

155.11 RECIPROCITY WITH OTHER STATES.

The board may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction if reciprocal agreements are entered into with another jurisdiction under sections ~~147.45 through 147.54~~ 147.44, 147.48, 147.49, and 147.53.

Sec. 110. Section 156.9, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Notwithstanding section 147.87 ~~and in addition to the provisions of sections 147.58 through 147.71~~, the board may restrict, suspend, or revoke a license to practice mortuary science or place a licensee on probation. The board shall adopt rules of procedure pursuant to chapter 17A by which to restrict, suspend, or revoke a license. The board may also adopt rules pursuant to chapter 17A relating to conditions of license reinstatement.

Sec. 111. Section 157.13, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. Notwithstanding section 157.12, when the licensee is employed by a physician and provides cosmetology services at the place of practice of a physician and is under the supervision of a physician licensed to practice pursuant to chapter 148~~, 150, or 150A~~.

Sec. 112. Section 229.1, subsection 8, Code 2007, is amended to read as follows:

8. "Licensed physician" means an individual licensed under the provisions of chapter 148~~, 150, or 150A~~ to practice medicine and surgery~~, osteopathy,~~ or osteopathic medicine and surgery.

Sec. 113. Section 232.68, subsection 3, paragraph c, Code 2007, is amended to read as follows:

c. "Physical examination" means direct physical viewing, touching, and medically necessary manipulation of any area of the child's body by a physician licensed under chapter 148 ~~or 150A~~.

Sec. 114. Section 232.68, subsection 5, Code 2007, is amended to read as follows:

5. "Health practitioner" includes a licensed physician and surgeon, ~~osteopath,~~ osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor; a resident or intern in any of such professions; a licensed dental hygienist, a registered nurse or licensed practical nurse; a physician assistant; and an emergency medical care provider certified under section 147A.6.

Sec. 115. Section 232.68, subsection 6, paragraph a, Code 2007, is amended to read as follows:

a. Holds at least a master's degree in a mental health field, including, but not limited to, psychology, counseling, nursing, or social work; or is licensed to practice medicine pursuant to chapter 148~~, 150, or 150A~~.

Sec. 116. Section 272C.5, subsection 2, paragraph c, Code Supplement 2007, 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, 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and 544B.16.

Sec. 117. Section 280.16, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. "Physician" means a person licensed under chapter 148, ~~150, or 150A,~~ or a physician's assistant, advanced registered nurse practitioner, or other person licensed or registered to distribute or dispense a prescription drug or device in the course of professional practice in this state in accordance with section 147.107, or a person licensed by another state in a health field in which, under Iowa law, licensees in this state may legally prescribe drugs.

Sec. 118. Section 321.34, subsection 14, Code Supplement 2007, is amended to read as follows:

14. PERSONS WITH DISABILITIES SPECIAL PLATES. An owner referred to in subsection 12 or an owner of a trailer used to transport a wheelchair who is a person with a disability, or who is the parent or guardian of a child who resides with the parent or guardian owner and who is a person with a disability, as defined in section 321L.1, may, upon written application to the department, order special registration plates with a persons with disabilities processed emblem designed by the department bearing the international symbol of accessibility. The special registration plates with a persons with disabilities processed emblem shall only be issued if the application is accompanied with a statement from a physician licensed under chapter 148~~,~~ or 149, ~~150, or 150A,~~ a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, written on the physician's, physician assistant's, nurse practitioner's, or chiropractor's stationery, stating the nature of the applicant's or the applicant's child's disability and such additional information as required by rules adopted by the department, including proof of residency of a child who is a person with a disability. If the application is approved by the department, the special registration plates with a persons with disabilities processed emblem shall be issued to the applicant. There shall be no fee in addition to the regular annual registration fee for the special registration plates with a persons with disabilities processed emblem. The authorization for special registration plates with a persons with disabilities processed emblem shall not be renewed without the applicant furnishing evidence to the department that the owner of the vehicle or the owner's child is still a person with a disability as defined in section 321L.1. An owner who has a child who is a person with a disability shall provide satisfactory evidence to the department that the child with a disability continues to reside with the owner. The registration plates with a persons with disabilities processed emblem shall be surrendered in exchange for regular registration plates as provided in subsection 12 when the owner of the vehicle or the owner's child no longer qualifies as a person with a disability as defined in section 321L.1 or when the owner's child who is a person with a disability no longer resides with the owner.

Sec. 119. Section 321.186, Code 2007, is amended to read as follows:

321.186 EXAMINATION OF NEW OR INCOMPETENT OPERATORS.

1. 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 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.

2. The department shall make every effort to accommodate a commercial driver's license applicant's need to arrange an appointment for a driving skills test at an established test site other than where the applicant passed the required knowledge test. The department shall report to the governor and the general assembly on any problems, extraordinary costs and recommendations regarding the appointment scheduling process.

3. The examination shall include a screening of the applicant's eyesight, a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic, a test of the applicant's knowledge of the traffic laws of this state, an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle and other physical and mental examinations as the department finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways. However, an applicant for a new driver's license other than a commercial driver's license need not pass a vision test administered by the department if the applicant files with the department 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.

4. A physician licensed under chapter 148, ~~150, or 150A,~~ or an optometrist licensed under chapter 154, may report to the department the identity of a person who has been diagnosed as having a physical or mental condition which would render the person physically or mentally incompetent to operate a motor vehicle in a safe manner. The physician or optometrist shall make reasonable efforts to notify the person who is the subject of the report, in writing. The written notification shall state the nature of the disclosure and the reason for the disclosure. A physician or optometrist making a report under this section shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed as a result of the report. A physician or optometrist has no duty to make a report or to warn third parties with regard to any knowledge concerning a person's mental or physical competency to operate a motor vehicle in a safe manner. Any report received by the department from a physician or optometrist under this section shall be kept confidential. Information regulated by chapter 141A shall be subject to the confidentiality provisions and remedies of that chapter.

Sec. 120. Section 321.186A, subsection 4, Code 2007, is amended to read as follows:

4. As used in this section, a "licensed vision specialist" means a physician licensed under chapter 148, ~~150, or 150A,~~ or an optometrist licensed under chapter 154.

Sec. 121. Section 321.375, subsection 1, paragraph d, Code 2007, is amended to read as follows:

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, advanced registered nurse practitioner, or chiropractor or any other person identified by federal and state law as authorized to perform physical examinations.

Sec. 122. Section 321.445, subsection 2, paragraph e, Code 2007, is amended to read as follows:

e. A person possessing a written certification from a health care provider licensed under chapter 148~~, 150, 150A,~~ or 151 on a form provided by the department that the person is unable to wear a safety belt or safety harness due to physical or medical reasons. The certification shall specify the time period for which the exemption applies. The time period shall not exceed twelve months, at which time a new certification may be issued unless the certifying health care provider is from a United States military facility, in which case the certificate may specify a longer period of time or a permanent exemption.

Sec. 123. Section 321.446, subsection 3, Code 2007, is amended to read as follows:

3. This section does not apply to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, buses, or motor homes, except when a child is transported in a motor

home's passenger seat situated directly to the driver's right. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148~~, 150, or 150A~~ as having a medical, physical, or mental condition that prevents or makes inadvisable securing the child in a child restraint system, safety belt, or safety harness.

Sec. 124. Section 321L.2, subsection 1, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A resident of the state with a disability desiring a persons with disabilities parking permit shall apply to the department upon an application form furnished by the department providing the applicant's full legal name, address, date of birth, and social security number or Iowa driver's license number or Iowa nonoperator's identification card number, and shall also provide a statement from a physician licensed under chapter 148~~,~~ or 149, ~~150, or 150A,~~ a physician assistant licensed under chapter 148C, an advanced registered nurse practitioner licensed under chapter 152, or a chiropractor licensed under chapter 151, or a physician, physician assistant, nurse practitioner, or chiropractor licensed to practice in a contiguous state, written on the physician's, physician assistant's, nurse practitioner's, or chiropractor's stationery, stating the nature of the applicant's disability and such additional information as required by rules adopted by the department under section 321L.8. If the person is applying for a temporary persons with disabilities parking permit, the physician's, physician assistant's, nurse practitioner's, or chiropractor's statement shall state the period of time during which the person is expected to be disabled and the period of time for which the permit should be issued, not to exceed six months.

Sec. 125. Section 509.3, subsections 5 and 6, Code 2007, are amended to read as follows:

5. A provision shall be made available to policyholders, under group policies covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154 if the care and treatment are provided within the scope of the optometrist's license and if the policy would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine or surgery or osteopathic medicine and surgery as licensed under chapter 148 ~~or 150A~~. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148~~, 150A,~~ or 154. This subsection applies to group policies delivered or issued for delivery after July 1, 1983, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident-only, limited or specified disease, or individual or group conversion policies, or policies designed only for issuance to persons for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

6. A provision shall be made available to policyholders under group policies covering diagnosis and treatment of human ailments for payment or reimbursement for necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151, if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the policy would pay or reimburse for the diagnosis or treatment by a person licensed under chapter 148~~, 150, or 150A~~ of the human ailment, irrespective of and disregarding variances in terminology employed by the various licensed professions in describing the human ailment or its diagnosis or its treatment. The policy shall provide that the policyholder may reject the coverage or provision if the coverage or provision for diagnosis or treatment of a human ailment by a chiropractor is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148~~, 150, 150A,~~ or 151. A policy of group health insurance may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148~~, 150, 150A,~~ and 151 on any rational basis which is not solely related to the license under or the practices authorized by chapter 151 or is not dependent upon a method

of classification, categorization, or description based directly or indirectly upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This subsection applies to group policies delivered or issued for delivery after July 1, 1986, and to existing group policies on their next anniversary or renewal date, or upon expiration of the applicable collective bargaining contract, if any, whichever is later. This subsection does not apply to blanket, short-term travel, accident-only, limited or specified disease, or individual or group conversion policies, or policies under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 126. Section 514.7, unnumbered paragraphs 2 and 3, Code 2007, are amended to read as follows:

A provision shall be available in approved contracts with hospital and medical service corporate subscribers under group subscriber contracts or plans covering vision care services or procedures, for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if the care and treatment are provided within the scope of the optometrist's license and if the subscriber contract would pay for the care and treatment if it were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 ~~or 150A~~. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for services which may be provided by an optometrist is rejected for all providers of similar vision care services as licensed under chapter 148~~, 150A,~~ or 154. This paragraph applies to group subscriber contracts delivered after July 1, 1983, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

A provision shall be made available in approved contracts with hospital and medical subscribers under group subscriber contracts or plans covering diagnosis and treatment of human ailments, for payment or reimbursement for necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151 if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the subscriber contract would pay or reimburse for the diagnosis or treatment of the human ailments, irrespective of and disregarding variances in terminology employed by the various licensed professions in describing the human ailments or their diagnosis or treatment, if it were provided by a person licensed under chapter 148~~, 150, or 150A~~. The subscriber contract shall also provide that the subscriber may reject the coverage or provision if the coverage or provision for diagnosis or treatment of a human ailment by a chiropractor is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148~~, 150, 150A,~~ or 151. A group subscriber contract may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148~~, 150, 150A,~~ and 151 on any rational basis which is not solely related to the license under or the practices authorized by chapter 151 or is not dependent upon a method of classification, categorization, or description based upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This paragraph applies to group subscriber contracts delivered after July 1, 1986, and to group subscriber contracts on their anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to contracts designed only for issuance to subscribers eligible for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 127. Section 514.17, Code 2007, is amended to read as follows:

514.17 PHYSICIANS AND SURGEONS, PODIATRIC PHYSICIANS, OR DENTISTS — NUMBER REQUIRED.

No nonprofit medical service corporation shall be permitted to operate until it shall have en-

tered into contracts with at least one hundred fifty physicians and surgeons licensed to practice medicine and surgery pursuant to chapter 148, or one hundred fifty dentists licensed to practice dentistry pursuant to chapter 153, or at least one hundred fifty osteopathic physicians and surgeons licensed to practice ~~osteopathy or osteopathy~~ osteopathic medicine and surgery pursuant to chapter ~~150~~ 148, or at least twenty-five podiatric physicians licensed to practice podiatry pursuant to chapter 149, who agree to furnish medical and surgical, podiatric, or dental service and be governed by the bylaws of the corporation.

Sec. 128. Section 514B.1, subsection 5, paragraphs b and c, Code 2007, are amended to read as follows:

b. The health care services available to enrollees under prepaid group plans covering vision care services or procedures, shall include a provision for payment of necessary medical or surgical care and treatment provided by an optometrist licensed under chapter 154, if performed within the scope of the optometrist's license, and the plan would pay for the care and treatment when the care and treatment were provided by a person engaged in the practice of medicine or surgery as licensed under chapter 148 ~~or 150A~~. The plan shall provide that the plan enrollees may reject the coverage for services which may be provided by an optometrist if the coverage is rejected for all providers of similar vision care services as licensed under chapter 148~~,~~ ~~150A,~~ or 154. This paragraph applies to services provided under plans made after July 1, 1983, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Title XVIII of the Social Security Act or any other similar coverage under a state or federal government plan.

c. The health care services available to enrollees under prepaid group plans covering diagnosis and treatment of human ailments, shall include a provision for payment of necessary diagnosis or treatment provided by a chiropractor licensed under chapter 151 if the diagnosis or treatment is provided within the scope of the chiropractor's license and if the plan would pay or reimburse for the diagnosis or treatment of human ailment, irrespective of and disregarding variances in terminology employed by the various licensed professions in describing the human ailment or its diagnosis or its treatment, if it were provided by a person licensed under chapter 148~~, 150, or 150A~~. The plan shall also provide that the plan enrollees may reject the coverage for diagnosis or treatment of a human ailment by a chiropractor if the coverage is rejected for all providers of diagnosis or treatment for similar human ailments licensed under chapter 148~~, 150, 150A,~~ or 151. A prepaid group plan of health care services may limit or make optional the payment or reimbursement for lawful diagnostic or treatment service by all licensees under chapters 148~~, 150, 150A,~~ and 151 on any rational basis which is not solely related to the license under or the practices authorized by chapter 151 or is not dependent upon a method of classification, categorization, or description based upon differences in terminology used by different licensees in describing human ailments or their diagnosis or treatment. This paragraph applies to services provided under plans made after July 1, 1986, and to existing group plans on their next anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is the later. This paragraph does not apply to enrollees eligible for coverage under Title XVIII of the Social Security Act, or any other similar coverage under a state or federal government plan.

Sec. 129. Section 514C.3, Code 2007, is amended to read as follows:

514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS INSURANCE POLICIES.

A policy of accident and sickness insurance issued in this state which provides payment or reimbursement for any service which is within the lawful scope of practice of a licensed dentist shall provide benefits for the service whether the service is performed by a licensed physician or a licensed dentist. As used in this section, "licensed physician" includes persons licensed under chapter 148, ~~150, or 150A~~ and "policy of accident and sickness insurance" includes indi-

vidual policies or contracts issued pursuant to chapter 514, 514A, or 514B, and group policies as defined in section 509B.1, subsection 3.

Sec. 130. Section 514C.11, Code 2007, is amended to read as follows:

514C.11 SERVICES PROVIDED BY LICENSED PHYSICIAN ASSISTANTS AND LICENSED ADVANCED REGISTERED NURSE PRACTITIONERS.

Notwithstanding section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall include a provision for the payment of necessary medical or surgical care and treatment provided by a physician assistant licensed pursuant to chapter 148C, or provided by an advanced registered nurse practitioner licensed pursuant to chapter 152 and performed within the scope of the license of the licensed physician assistant or the licensed advanced registered nurse practitioner if the policy or contract would pay for the care and treatment if the care and treatment were provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148 ~~or 150A~~. The policy or contract shall provide that policyholders and subscribers under the policy or contract may reject the coverage for services which may be provided by a licensed physician assistant or licensed advanced registered nurse practitioner if the coverage is rejected for all providers of similar services. A policy or contract subject to this section shall not impose a practice or supervision restriction which is inconsistent with or more restrictive than the restriction already imposed by law. This section applies to services provided under a policy or contract delivered, issued for delivery, continued, or renewed in this state on or after July 1, 1996, and to an existing policy or contract, on the policy's or contract's anniversary or renewal date, or upon the expiration of the applicable collective bargaining contract, if any, whichever is later. This section does not apply to policyholders or subscribers eligible for coverage under Title XVIII of the federal Social Security Act or any similar coverage under a state or federal government plan. For the purposes of this section, third-party payment or prepayment includes an individual or group policy of accident or health insurance or individual or group hospital or health care service contract issued pursuant to chapter 509, 514, or 514A, an individual or group health maintenance organization contract issued and regulated under chapter 514B, an organized delivery system contract regulated under rules adopted by the director of public health, or a preferred provider organization contract regulated pursuant to chapter 514F. Nothing in this section shall be interpreted to require an individual or group health maintenance organization, an organized delivery system, or a preferred provider organization or arrangement to provide payment or prepayment for services provided by a licensed physician assistant or licensed advanced registered nurse practitioner unless the physician assistant's supervising physician, the physician-physician assistant team, the advanced registered nurse practitioner, or the advanced registered nurse practitioner's collaborating physician has entered into a contract or other agreement to provide services with the individual or group health maintenance organization, the organized delivery system, or the preferred provider organization or arrangement.

Sec. 131. Section 514C.13, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. "Health care provider" means a hospital licensed pursuant to chapter 135B, a person licensed under chapter 148, 148C, 149, ~~150, 150A,~~ 151, or 154, or a person licensed as an advanced registered nurse practitioner under chapter 152.

Sec. 132. Section 514C.17, subsections 1 and 2, Code 2007, are amended to read as follows:

1. Except as provided under subsection 2 or 3, if a carrier, as defined in section 513B.2, an organized delivery system authorized under 1993 Iowa Acts, ch. 158, or a plan established pursuant to chapter 509A for public employees, terminates its contract with a participating health care provider, a covered individual who is undergoing a specified course of treatment for a terminal illness or a related condition, with the recommendation of the covered individual's treating physician licensed under chapter 148~~, 150, or 150A,~~ may continue to receive coverage

for treatment received from the covered individual's physician for the terminal illness or a related condition, for a period of up to ninety days. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

2. A covered person who makes a change in health plans involuntarily may request that the new health plan cover services of the covered person's treating physician licensed under chapter 148~~, 150, or 150A,~~ who is not a participating health care provider under the new health plan, if the covered person is undergoing a specified course of treatment for a terminal illness or a related condition. Continuation of such coverage shall continue for up to ninety days. Payment for covered benefits and benefit levels shall be according to the terms and conditions of the contract.

Sec. 133. Section 514C.18, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy or contract providing for third-party payment or prepayment of health or medical expenses shall provide coverage benefits for the cost associated with equipment, supplies, and self-management training and education for the treatment of all types of diabetes mellitus when prescribed by a physician licensed under chapter 148~~, 150, or 150A~~. Coverage benefits shall include coverage for the cost associated with all of the following:

Sec. 134. Section 514C.20, subsection 1, paragraphs a and b, Code 2007, are amended to read as follows:

a. A child under five years of age upon a determination by a licensed dentist and the child's treating physician licensed pursuant to chapter 148, ~~150, or 150A,~~ that such child requires necessary dental treatment in a hospital or ambulatory surgical center due to a dental condition or a developmental disability for which patient management in the dental office has proved to be ineffective.

b. Any individual upon a determination by a licensed dentist and the individual's treating physician licensed pursuant to chapter 148, ~~150, or 150A,~~ that such individual has one or more medical conditions that would create significant or undue medical risk for the individual in the course of delivery of any necessary dental treatment or surgery if not rendered in a hospital or ambulatory surgical center.

Sec. 135. Section 514F.1, Code Supplement 2007, is amended to read as follows:

514F.1 UTILIZATION AND COST CONTROL REVIEW COMMITTEES.

The licensing boards under chapters 148, 149, ~~150, 150A,~~ 151, and 152 shall establish utilization and cost control review committees of licensees under the respective chapters, selected from licensees who have practiced in Iowa for at least the previous five years, or shall accredit and designate other utilization and cost control organizations as utilization and cost control committees under this section, for the purposes of utilization review of the appropriateness of levels of treatment and of giving opinions as to the reasonableness of charges for diagnostic or treatment services of licensees. Persons governed by the various chapters of Title XIII, subtitle 1, of the Code and self-insurers for health care benefits to employees may utilize the services of the utilization and cost control review committees upon the payment of a reasonable fee for the services, to be determined by the respective boards. The respective boards under chapters 148, 149, ~~150, 150A,~~ 151, and 152 shall adopt rules necessary and proper for the administration of this section pursuant to chapter 17A. It is the intent of this general assembly that conduct of the utilization and cost control review committees authorized under this section shall be exempt from challenge under federal or state antitrust laws or other similar laws in regulation of trade or commerce.

Sec. 136. Section 602.8102, subsection 33, Code Supplement 2007, is amended to read as follows:

33. Furnish to the Iowa department of public health a certified copy of a judgment ~~suspend-~~

~~ing or revoking~~ relating to the suspension or revocation of a professional license ~~as provided in section 147.66~~.

Sec. 137. Section 702.8, Code 2007, is amended to read as follows:

702.8 DEATH.

"Death" means the condition determined by the following standard: A person will be considered dead if in the announced opinion of a physician licensed pursuant to chapter 148, ~~150, or 150A,~~ a physician assistant licensed pursuant to chapter 148C, or a registered nurse or a licensed practical nurse licensed pursuant to chapter 152, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous respiratory and circulatory functions. In the event that artificial means of support preclude a determination that these functions have ceased, a person will be considered dead if in the announced opinion of two physicians, based on ordinary standards of medical practice, that person has experienced an irreversible cessation of spontaneous brain functions. Death will have occurred at the time when the relevant functions ceased.

Sec. 138. Section 702.17, Code 2007, is amended to read as follows:

702.17 SEX ACT.

The term "sex act" or "sexual activity" means any sexual contact between two or more persons by: penetration of the penis into the vagina or anus; contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person; contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to chapter 148, 148C, ~~150, 150A,~~ 151, or 152; or by use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus.

Sec. 139. Section 707C.4, subsection 4, Code Supplement 2007, is amended to read as follows:

4. 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.

Sec. 140. Section 708.3A, subsection 5, paragraph d, Code 2007, is amended to read as follows:

d. "Health care provider" means an emergency medical care provider as defined in chapter 147A or a person licensed or registered under chapter 148, 148C, 148D, ~~150, 150A,~~ or 152 who is providing or who is attempting to provide emergency medical services, as defined in section 147A.1, or who is providing or who is attempting to provide health services as defined in section 135.61 in a hospital. A person who commits an assault under this section against a health care provider in a hospital, or at the scene or during out-of-hospital patient transportation in an ambulance, is presumed to know that the person against whom the assault is committed is a health care provider.

Sec. 141. DIRECTIVE TO CODE EDITOR. The Code editor is directed to delete any other references to "osteopathy" or "osteopath" in the Code.

Approved April 16, 2008

CHAPTER 1089

LICENSING AND REGULATION OF PLUMBERS AND MECHANICAL PROFESSIONALS

H.F. 2390

AN ACT relating to the licensing and regulation of plumbers and mechanical professionals and providing effective dates.

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

Section 1. 2007 Iowa Acts, chapter 198, section 6, subsection 2, is amended by striking the subsection and inserting in lieu thereof the following:

2. Examinations for the licenses which may be issued pursuant to this chapter shall be conducted at least two times per year at such times and locations as the department may fix in consultation with the board. Applicants who fail to pass an examination shall be allowed to retake the examination at a future scheduled time. Any subsequent opportunities to take the examination are available only at the discretion of the board.

Sec. 2. 2007 Iowa Acts, chapter 198, section 6, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The board shall adopt by rule a specific plumbing examination and a specific mechanical examination for each license type to be used for all plumbing and mechanical license examinations throughout the state.

Sec. 3. 2007 Iowa Acts, chapter 198, section 7, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Allowing an applicant who has failed an examination to request information about the subject areas which the applicant failed to answer correctly. An applicant shall not have access to actual test questions and answers.

Sec. 4. 2007 Iowa Acts, chapter 198, section 11, subsections 1 and 2, are amended to read as follows:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, licensed as a manufactured home retailer or certified as a manufactured home installer pursuant to chapter 103A, registered as an architect pursuant to chapter 544A, or licensed as a landscape architect pursuant to chapter 544B who provides consultations or develops plans or other work concerning plumbing, HVAC, refrigeration, or hydronic work who is exclusively engaged in the practice of the person's profession.

2. Require employees of municipal ~~corporations~~ utilities, electric membership or cooperative associations, public utility corporations, rural water associations or districts, railroads, or commercial retail or industrial companies performing manufacturing, installation, service, or repair work for such employer to hold licenses while acting within the scope of their employment. This licensing exemption does not apply to employees of a rate-regulated gas or electric public utility which provides plumbing or mechanical services as part of a systematic marketing effort, as defined pursuant to section 476.80.

Sec. 5. 2007 Iowa Acts, chapter 198, section 11, is amended by adding the following new subsections:

NEW SUBSECTION. 9. Apply to an employee of any unit of state or local government, including but not limited to cities, counties, or school corporations, performing routine maintenance, as defined by rule, on a mechanical system or plumbing system, which serves a state-owned facility while acting within the scope of the state employee's employment.

NEW SUBSECTION. 10. Apply to the employees of manufacturers, manufacturer repre-

sentatives, or wholesale suppliers who provide consultation or develop plans concerning plumbing, HVAC, refrigeration, or hydronic work, or who assist a person licensed under this chapter in the installation of mechanical or plumbing systems.

Sec. 6. 2007 Iowa Acts, chapter 198, section 12, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to the certificate, the department shall provide each licensee with a wallet-sized licensing identification card.

Sec. 7. 2007 Iowa Acts, chapter 198, section 17, subsection 1, is amended to read as follows:

1. The provisions of this chapter regarding the licensing of plumbing, HVAC, refrigeration, and hydronic professionals and contractors shall supersede and preempt all plumbing, HVAC, refrigeration, or hydronic licensing provisions of all governmental subdivisions. ~~On and after the effective date of this Act~~

a. A governmental subdivision that issues licenses on July 1, 2008, shall continue to issue licenses until June 30, 2009. On July 1, 2009, all plumbing and mechanical licensing provisions promulgated by any governmental subdivision shall be null and void, except reciprocal licenses as provided in section 104C.21, and of no further force and effect~~, and~~.

b. On and after July 1, 2008, a governmental subdivision ~~may~~ shall not prohibit a plumbing, HVAC, refrigeration, or hydronic professional licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any plumbing and mechanical licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

Sec. 8. 2007 Iowa Acts, chapter 198, section 18, subsection 2, paragraph b, subparagraph (3), is amended to read as follows:

(3) Provide the board with evidence of having completed at least four years of practical experience as an apprentice. Commencing January 1, 2010, the four years of practical experience required by this subparagraph must be an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor.

Sec. 9. 2007 Iowa Acts, chapter 198, section 20, subsection 7, is amended by striking the subsection and inserting in lieu thereof the following:

7. The board shall, by rule, establish a reinstatement process for a licensee who allows a license to lapse for a period greater than one month, including reasonable penalties.

Sec. 10. 2007 Iowa Acts, chapter 198, section 35, is repealed.

Sec. 11. EFFECTIVE DATE. 2007 Iowa Acts, chapter 198, sections 1 through 4, being deemed of immediate importance, take effect upon enactment of this Act.

Sec. 12. EFFECTIVE DATE. 2007 Iowa Acts, chapter 198, sections 5 through 27 and sections 30 through 34, take effect July 1, 2008.

Sec. 13. EFFECTIVE DATE. 2007 Iowa Acts, chapter 198, sections 28 and 29, take effect January 1, 2009.

Approved April 16, 2008

CHAPTER 1090

CITY UTILITIES OR ENTERPRISES —
RATES AND SERVICES

H.F. 2392

AN ACT relating to certain city utilities or city enterprises by making changes to procedures for notice and collection of delinquent charges and by making changes to billing notifications for water service provided to certain residential rental property.

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

Section 1. Section 384.84, subsection 2, paragraphs c and d, Code 2007, are amended to read as follows:

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent, by ordinary mail, to the account holder ~~by ordinary mail~~ in whose name the delinquent rates or charges were incurred, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

d. (1) If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises. A city utility, city enterprise, or combined city enterprise shall not withhold service from, or discontinue service to, a subsequent owner who obtains fee simple title of the prior property or premises unless such delinquent amount has been certified in a timely manner to the county treasurer as provided in subsection 3, paragraph "a", subparagraphs (1) and (2).

(2) Delinquent amounts that have not been certified in a timely manner to the county treasurer are not collectible against any subsequent owner of the property or premises.

Sec. 2. Section 384.84, subsection 3, Code 2007, is amended to read as follows:

3. a. (1) Except as provided in paragraph "d", all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

(2) If the delinquent rates or charges were incurred prior to the date a transfer of the property or premises in fee simple is filed with the county recorder and such delinquencies were not certified to the county treasurer prior to such date, the delinquent rates or charges are not eligible to be certified to the county treasurer. If certification of such delinquent rates or charges is attempted subsequent to the date a transfer of the property or premises in fee simple is filed with the county recorder, the county treasurer shall return the certification to the city utility, city enterprise, or combined city enterprise attempting certification along with a notice stating that the delinquent rates or charges cannot be made a lien against the property or premises.

(3) If the city utility, city enterprise, or combined city enterprise is prohibited under subparagraph (2) from certifying delinquent rates or charges against the property or premises served by the services described in subparagraph (1), the city utility, city enterprise, or combined city enterprise may certify the delinquent rates or charges against any other property or premises located in this state and owned by the account holder in whose name the rates or charges were incurred.

b. ~~This~~ The lien under paragraph "a" may be imposed upon a property or premises even if

a city utility or enterprise service to the property or premises has been or may be discontinued as provided in this section.

c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder ~~of~~ in whose name the delinquent ~~account~~ rates or charges were incurred at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty days prior to certification of the lien to the county treasurer.

d. Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city utility or enterprise within ~~ten~~ thirty business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

Approved April 16, 2008

CHAPTER 1091

OUT-OF-STATE WORK-RELATED INJURIES

H.F. 2542

AN ACT concerning work-related injuries suffered and claims made outside of this state.

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

Section 1. Section 85.71, Code 2007, is amended to read as follows:

85.71 INJURY OUTSIDE OF STATE.

1. If an employee, while working outside the territorial limits of this state, suffers an injury on account of which the employee, or in the event of death, the employee's dependents, would have been entitled to the benefits provided by this chapter had such injury occurred within this state, such employee, or in the event of death resulting from such injury, the employee's dependents, shall be entitled to the benefits provided by this chapter, if at the time of such injury any of the following is applicable:

~~1.~~ a. The ~~employment is principally localized in this state, that is, the employee's~~ employer has a place of business in this ~~or some other~~ state and the employee regularly works ~~in this state, or if the employee's employer has a~~ at or from that place of business ~~in this state and the employee is domiciled in this state~~.

~~2. The employee is working under a contract of hire made in this state in employment not principally localized in any state and the employee spends a substantial part of the employee's working time working for the employer in this state.~~

~~3.~~ b. The employee is working under a contract of hire made in this state ~~in employment principally localized in another state, whose workers' compensation law is not applicable to the employee's employer~~ and the employee regularly works in this state.

c. The employee is working under a contract of hire made in this state and sustains an injury for which no remedy is available under the workers' compensation laws of another state.

~~4.~~ d. The employee is working under a contract of hire made in this state for employment outside the United States.

~~5.~~ e. The employer has a place of business in Iowa, and the employee is working under a contract of hire which provides that the employee's workers' compensation claims be governed by Iowa law.

2. This section shall be construed to confer personal jurisdiction over an employee or employer to whom the section is applicable.

Sec. 2. Section 85.72, Code 2007, is amended to read as follows:

85.72 CLAIMS FOR BENEFITS MADE OUTSIDE OF STATE — RESTRICTIONS — CREDIT.

1. An employee, or an employee's dependents, shall not be entitled to benefits under this chapter if the employee or the employee's dependents have initiated a judicial proceeding or a contested case or other similar proceeding for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, and the employee or the employee's dependents receive benefits following final resolution of the proceeding pursuant to a settlement, judgment, or award.

2. If an employee, or an employee's dependents, initiate a judicial proceeding or a contested case or other similar proceeding for benefits pursuant to the laws of another state or country concerning workers' compensation, any proceeding initiated by an employee, or an employee's dependents, for workers' compensation benefits under this chapter for the same injury, disability, or death shall be stayed, without prejudice, pending resolution of the out-of-state claim for benefits.

3. If benefits are paid under this chapter and were payable, at any time, for the same injury, disability, or death pursuant to the laws of another state or country concerning workers' compensation, the employer shall have a credit toward the benefits payable under this chapter for any benefits paid in another state or country. Benefits paid in another state or country constitute weekly compensation benefits for the purposes of sections 85.26 and 86.13.

Approved April 16, 2008

CHAPTER 1092

ALARM SYSTEM INSTALLER OR
CONTRACTOR CERTIFICATION AND ELECTRICIAN LICENSURE
— MISCELLANEOUS ADDITIONAL REVISIONS

H.F. 2547

AN ACT modifying provisions relating to statewide licensure and certification of electricians and alarm system contractors and installers, and providing an effective date.

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

Section 1. Section 100C.1, subsection 1, Code Supplement 2007, is amended to read as follows:

1. "Alarm system" means a system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of a fire alarm, security alarm, or ~~medical alarm~~ nurse call or supervisory signal-initiating devices and to initiate the appropriate response to those signals, but does not mean any such security system or portion of a combination system installed in a prison, jail, or detention facility owned by the state, a political subdivision of the state, the department of human services, or the Iowa veterans home.

Sec. 2. Section 100C.1, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. "Alarm system contractor" means a person engaging in or representing oneself as engaging in the ~~activity or~~ business of layout, installation, repair, alteration, addition, maintenance, or maintenance inspection of alarm systems in this state.

3. "Alarm system installer" means ~~an employee of an alarm system contractor who is~~ a person engaged in the layout, installation, repair, alteration, addition, or maintenance~~, or maintenance inspection~~ of alarm systems as an employee of an alarm system contractor, or as an employee of any employer other than an alarm system contractor in a building or facility owned or occupied by such employer.

Sec. 3. Section 100C.1, subsection 13, paragraph b, Code Supplement 2007, is amended to read as follows:

b. An owner, partner, officer, or manager employed full-time by an alarm system contractor who is certified by the national institute for certification in engineering technologies in fire alarm systems or security systems at a level established by the fire marshal by rule or who meets any other criteria established by rule under this chapter. The rules may provide for separate endorsements for fire alarm systems, security alarm systems, and ~~medical alarm~~ nurse call systems and may require separate qualifications for each.

Sec. 4. Section 100C.2, subsection 4, paragraph b, Code Supplement 2007, is amended to read as follows:

b. An employee or subcontractor of a certified alarm system contractor who is an alarm system installer, and who is not licensed pursuant to chapter 103 shall obtain and maintain certification as an alarm system installer and shall meet and maintain qualifications established by the state fire marshal by rule.

Sec. 5. Section 100C.6, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Apply to a person licensed as an engineer pursuant to chapter 542B who provides consultation or develops plans or other work concerning the installation or design of fire protection systems.

Sec. 6. Section 100C.10, subsection 2, paragraph d, Code Supplement 2007, is amended to read as follows:

d. Three alarm system contractors, certified pursuant to this chapter, at least one of whom shall have experience with fire alarm systems, at least one of whom shall have experience with security alarm systems, and at least one of whom shall have experience with ~~medical alarm~~ nurse call systems.

Sec. 7. Section 103.1, subsection 7, Code Supplement 2007, is amended by striking the subsection.

Sec. 8. Section 103.1, subsection 8, Code Supplement 2007, is amended to read as follows:

8. "Electrical contractor" means a person affiliated with an electrical contracting firm or business who is, or who employs a person who is, licensed by the board as either a class A or class B master electrician and who is also registered with the state of Iowa as a contractor.

Sec. 9. Section 103.1, subsection 13, Code Supplement 2007, is amended by striking the subsection.

Sec. 10. Section 103.1, subsection 14, Code Supplement 2007, is amended to read as follows:

14. "Routine maintenance" means the repair or replacement of existing electrical apparatus or equipment, including but not limited to wires, cables, switches, receptacles, outlets, fuses, circuit breakers, and fixtures, of the same size and type for which no changes in wiring are made, but does not include any new electrical installation or the expansion or extension of any circuit.

Sec. 11. Section 103.2, subsection 2, paragraphs b and d, Code Supplement 2007, are amended to read as follows:

b. Two members shall be master electricians or electrical contractors, one of whom is a contractor signed to a collective bargaining agreement or a master electrician covered under a collective bargaining agreement and one of whom is a ~~nonunion~~ contractor not signed to a collective bargaining agreement or a master electrician who is not a member of a union.

d. Two members, one a union member covered under a collective bargaining agreement and one ~~a nonunion member,~~ who is not a member of a union, each of whom shall not be a member of any of the ~~aforementioned~~ groups described in paragraphs "a" through "c", and shall represent the general public.

Sec. 12. Section 103.6, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Adopt rules pursuant to chapter 17A and in doing so shall be governed by the minimum standards set forth in the most current publication of the national electrical code issued and adopted by the national fire protection association, and amendments to the code, which code and amendments shall be filed in the offices of the ~~secretary of~~ state law library and the board and shall be a public record. The board shall adopt rules reflecting updates to the code and amendments to the code. The board shall promulgate and adopt rules establishing wiring standards that protect public safety and health and property and that apply to all electrical wiring which is installed subject to this chapter.

Sec. 13. Section 103.8, Code Supplement 2007, is amended to read as follows:

103.8 ACTIVITIES WHERE LICENSE REQUIRED — EXCEPTIONS.

1. No person, except a person licensed as an electrical contractor, shall engage in the business of providing new electrical installations or any other electrical services regulated under this chapter.

2. Except as provided in sections 103.13 and 103.14, no person shall, for another, plan, lay

out, or supervise the installation of wiring, apparatus, or equipment for electrical light, heat, power, and other purposes unless the person is licensed by the board as an electrical contractor, a class A master electrician, or a class B master electrician.

Sec. 14. Section 103.10, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

Sec. 15. Section 103.11, Code Supplement 2007, is amended to read as follows:

103.11 WIRING OR INSTALLING — SUPERVISING APPRENTICES — LICENSE REQUIRED — QUALIFICATIONS.

Except as provided in section 103.13, no person shall, for another, wire for or install electrical wiring, apparatus, or equipment, or supervise an apprentice electrician or unclassified person, unless the person is licensed by the board as an electrical contractor, a class A master electrician, or a class B master electrician, or is licensed as a class A journeyman electrician, or a class B journeyman electrician, and is employed by an electrical contractor, or is working under the supervision of a class A master electrician, or a class B master electrician.

Sec. 16. Section 103.12, subsection 1, Code Supplement 2007, is amended to read as follows:

1. An applicant for a class A journeyman electrician license shall have successfully completed an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor in accordance with the standards established by that department or shall have received training or experience for a period of time and under conditions as established by the board by rule. An applicant may petition the board to receive a waiver of this requirement. The board shall determine a level of on-the-job experience as an unclassified person sufficient to qualify for a waiver.

Sec. 17. Section 103.12, subsection 2, Code Supplement 2007, is amended by striking the subsection and inserting in lieu thereof the following:

2. In addition, an applicant shall meet examination criteria based upon the most recent national electrical code adopted pursuant to section 103.6 and upon electrical theory, as determined by the board.

Sec. 18. Section 103.12, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

Sec. 19. Section 103.13, Code Supplement 2007, is amended to read as follows:

103.13 SPECIAL ELECTRICIAN LICENSE — QUALIFICATIONS.

The board shall by rule provide for the issuance of special electrician licenses authorizing the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license. Each licensee shall have experience, acceptable to the board, in each such limited class of work for which the person is licensed. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

Sec. 20. Section 103.15, Code Supplement 2007, is amended to read as follows:

103.15 APPRENTICE ELECTRICIAN — UNCLASSIFIED PERSON.

1. A person shall be licensed by the board and pay a licensing fee to work as an apprentice

electrician while participating in an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor in accordance with the standards established by that department. An apprenticeship shall be limited to six years from the date of licensure, unless extended by the board upon a finding that a hardship existed which prevented completion of the apprenticeship program. Such licensure shall entitle the licensee to act as an apprentice to an electrical contractor, a class A master electrician, a class B master electrician, a class A journeyman electrician, or a class B journeyman electrician as provided in subsection 3.

2. a. A person shall be licensed as an unclassified person by the board to perform electrical work if the work is performed under the personal supervision of a person actually licensed to perform such work and the licensed and unclassified persons are employed by the same employer. ~~After one hundred continuous days of employment as a nonlicensed unclassified person, the unclassified person must receive a license from the board.~~ A person shall not be employed continuously for more than one hundred days as an unclassified person without having obtained a current license from the board. For the purposes of this subsection, "one hundred continuous days of employment" includes any days not worked due to illness, holidays, weekend days, and other absences that do not constitute separation from or termination of employment. Any period of employment as a nonlicensed unclassified person shall not be credited to any applicable experiential requirement of an apprenticeship training program registered by the bureau of apprenticeship and training of the United States department of labor.

b. Licensed persons shall not permit unclassified persons to perform electrical work except under the personal supervision of a person actually licensed to perform such work. Unclassified persons shall not supervise the performance of electrical work or make assignments of electrical work to unclassified persons. ~~Electrical contractors~~ Any person employing unclassified persons performing electrical work shall maintain records establishing compliance with this section, which shall designate all unclassified persons performing electrical work.

3. Apprentice electricians and unclassified persons shall do no electrical wiring except under the direct personal on-the-job supervision and control and in the immediate presence of a licensee ~~pursuant to this chapter~~ as specified in section 103.11. Such supervision shall include both on-the-job training and related classroom training as approved by the board. The licensee may employ or supervise apprentice electricians and unclassified persons at a ratio not to exceed three apprentice electricians and unclassified persons to one licensee, except that such ratio and the other requirements of this section shall not apply to apprenticeship classroom training.

4. For purposes of this section, "the direct personal on-the-job supervision and control and in the immediate presence of a licensee" shall mean the licensee and the apprentice electrician or unclassified person shall be working at the same project location but shall not require that the licensee and apprentice electrician or unclassified person be within sight of one another at all times.

5. An apprentice electrician shall not install, alter, or repair electrical equipment except as provided in this section, and the licensee employing or supervising an apprentice electrician shall not authorize or permit such actions by the apprentice electrician.

6. The board may reject an application for licensure under this section from an applicant who would be subject to suspension, revocation, or reprimand pursuant to section 103.35.

Sec. 21. Section 103.16, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Examinations for licensure shall be ~~given~~ offered as often as deemed necessary by the board, but no less than one time per ~~month~~ quarter. The scope of the examinations and the methods of procedure shall be prescribed by the board. The examinations given by the board shall be the Experior assessment examination, or a successor examination approved by the board, or an examination prepared by a third-party testing service which is substantially equivalent to the Experior assessment examination, or a successor examination approved by the board.

Sec. 22. Section 103.19, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Licenses issued pursuant to this chapter shall expire every three years, with the exception of licenses for apprentice electricians and unclassified persons, which shall expire on an annual basis. All license applications shall include the applicant's social security number, which shall be maintained as a confidential record and shall be redacted prior to public release of an application or other record containing such social security number. The board shall establish the fees to be payable for ~~examination and~~ license issuance and renewal in amounts not to exceed the following:

~~a. For examinations:~~

~~(1) Class A master electrician, one hundred twenty-five dollars.~~

~~(2) Class A journeyman electrician, sixty dollars.~~

~~b.~~ a. For each year of the three-year license period for issuance and renewal:

(1) Electrical contractor, one hundred twenty-five dollars.

(2) Class A master electrician, class B master electrician, one hundred twenty-five dollars.

(3) Class A journeyman electrician, class B journeyman electrician, or special electrician, twenty-five dollars.

~~c.~~ b. For apprentice electricians or unclassified persons, twenty dollars.

Sec. 23. Section 103.22, subsections 1, 6, and 10, Code Supplement 2007, are amended to read as follows:

1. Apply to a person licensed as an engineer pursuant to chapter 542B, registered as an architect pursuant to chapter 544A, licensed as a landscape architect pursuant to chapter 544B, licensed as a manufactured or mobile home retailer or certified as a manufactured or mobile home installer pursuant to chapter 103A, or designated as lighting certified by the national council on qualifications for the lighting professions providing consultations and developing plans concerning electrical installations who is exclusively engaged in the practice of the person's profession.

6. Prohibit an owner of property from performing work on the owner's principal residence, if such residence is an existing dwelling rather than new construction and is not an apartment that is attached to any other apartment or building, as those terms are defined in section 499B.2, and is not larger than a single-family dwelling, or farm property, excluding commercial or industrial installations or installations in public use buildings or facilities, or require such owner to be licensed under this chapter. In order to qualify for inapplicability pursuant to this subsection, a residence shall qualify for the homestead tax exemption.

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

Sec. 24. Section 103.22, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Require any person, including an employee of the state or any political subdivision of the state, performing routine maintenance to be licensed under this chapter.

Sec. 25. 2007 Iowa Acts, chapter 197, section 33, subsection 2, is amended to read as follows:

2. All new electrical installations for residential applications in excess of single-family residential applications, including an apartment that is attached to any other apartment or building, as those terms are defined in section 499B.2.

Sec. 26. Section 103.24, as enacted by 2007 Iowa Acts, chapter 197, section 34, is amended to read as follows:

103.24 STATE INSPECTION — INAPPLICABILITY IN CERTAIN POLITICAL SUBDIVISIONS — ELECTRICAL INSPECTORS — CERTIFICATE OF QUALIFICATION.

1. ~~No person other than the holder of an electrical inspector's certificate of qualification shall be appointed to act as an electrical inspector and to enforce this chapter as an electrical inspector and to enforce this chapter or any applicable resolution or ordinance within the inspector's jurisdiction.~~ The board shall establish by rule standards for the certification and decertification of ~~state~~ electrical inspectors appointed by the state or a political subdivision to enforce this chapter or any applicable resolution or ordinance within the inspector's jurisdiction, and for certified electrical inspector continuing education requirements.

a. On and after January 1, 2009, a person appointed to act as an electrical inspector for the state shall obtain an inspector's certificate of qualification within one year of such appointment and shall maintain the certificate thereafter for the duration of the inspector's service as an electrical inspector.

b. On and after January 1, 2014, a person appointed to act as an electrical inspector for a political subdivision shall obtain an inspector's certificate of qualification within one year of such appointment and shall maintain the certificate thereafter for the duration of the inspector's service as an electrical inspector.

2. State inspection shall not apply within the jurisdiction of any political subdivision which, pursuant to section 103.29, provides by resolution or ordinance standards of electrical wiring and its installation that are not less than those prescribed by the board or by this chapter and which further provides by resolution or ordinance for the inspection of electrical installations within the limits of such subdivision by a certified electrical inspector. A copy of the certificate of each electrical inspector shall be provided to the board by the political subdivision issuing the certificate.

3. State inspection shall not apply to routine maintenance.

Sec. 27. Section 103.25, as enacted by 2007 Iowa Acts, chapter 197, section 35, is amended to read as follows:

103.25 REQUEST FOR INSPECTION — FEES.

At or before commencement of any installation required to be inspected by the board, the licensee or owner making such installation shall submit to the state fire marshal's office a request for inspection. The board shall prescribe the methods by which the request may be submitted, which may include electronic submission or through a form prescribed by the board that can be submitted either through the mail or by a fax transmission. The board shall also prescribe methods by which inspection fees can by paid, which may include electronic methods of payment. If the board or the state fire marshal's office becomes aware that a person has failed to file a necessary request for inspection, the board ~~or the state fire marshal's office~~ shall send a written notification by certified mail that the request must by filed within fourteen days. Any person filing a late request for inspection shall pay a delinquency fee in an amount to be determined by the board. Failure to file a late request within fourteen days shall be subject to a civil penalty to be determined by the board by rule.

Sec. 28. Section 103.26, as enacted by 2007 Iowa Acts, chapter 197, section 36, is amended to read as follows:

103.26 CONDEMNATION — DISCONNECTION — OPPORTUNITY TO CORRECT NONCOMPLIANCE.

If the inspector finds that any installation or portion of an installation is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, the inspector shall by written order condemn the installation or noncomplying portion or order service to such installation disconnected and shall send

a copy of such order to the board, the state fire marshal, and the electrical utility supplying power involved. If the installation or the noncomplying portion is such as to seriously and proximately endanger human health or property, the order of the inspector when approved by the inspector's ~~superior~~ supervisor shall require immediate condemnation and disconnection by the applicant. In all other cases, the order of the inspector shall establish a reasonable period of time for the installation to be brought into compliance with accepted standards of construction for safety to health and property prior to the effective date established in such order for condemnation or disconnection.

Sec. 29. 2007 Iowa Acts, chapter 197, section 39, subsection 1, is amended to read as follows:

1. A political subdivision performing electrical inspections prior to December 31, 2007, shall continue to perform such inspections. After December 31, ~~2012~~ 2013, a political subdivision may choose to discontinue performing its own inspections and permit the board to have jurisdiction over inspections in the political subdivision. If a political subdivision seeks to discontinue its own inspections prior to December 31, ~~2012~~ 2013, the political subdivision shall petition the board. ~~If~~ On or after January 1, 2014, if a unanimous vote of the board finds that a political subdivision's inspections are inadequate by reason of misfeasance, malfeasance, or nonfeasance, the board may suspend or revoke the political subdivision's authority to perform its own inspections, subject to appeal according to the procedure set forth in section 103.35 and judicial review pursuant to section 17A.19. A political subdivision not performing electrical inspections prior to December 31, 2007, may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances or resolutions and electrical codes.

Sec. 30. 2007 Iowa Acts, chapter 197, section 41, subsection 4, is amended to read as follows:

4. Except when an inspection reveals that an installation or portion of an installation is not in compliance with accepted standards of construction for safety to health and property, based upon minimum standards set forth in the local electrical code or the national electrical code adopted by the board pursuant to section 103.6, such that an order of condemnation or disconnection is warranted pursuant to section 103.26, an inspector shall not add to, modify, or amend a construction plan as originally approved by the state fire marshal or the state building code commissioner in the course of conducting an inspection.

Sec. 31. Section 103.35, as enacted by 2007 Iowa Acts, chapter 197, section 44, is amended to read as follows:

103.35 APPEAL PROCEDURES.

1. Upon receipt of a notice of appeal filed pursuant to section 103.34, the chairperson or executive secretary of the board may designate a hearing officer from among the board members to hear the appeal or may set the matter for hearing before the full board at its next regular meeting. A majority of the board shall make the decision.

2. Upon receiving the notice of appeal filed pursuant to section 103.34, the board shall notify all persons served with the order appealed from. Such persons may join in the hearing and give testimony in their own behalf. The board shall set the hearing date on a date not more than fourteen days after receipt of the notice of appeal unless otherwise agreed by the interested parties and the board.

Sec. 32. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 16, 2008

CHAPTER 1093

DEPENDENT ADULT ABUSE —
CARETAKER FACILITIES AND PROGRAMS

H.F. 2591

AN ACT relating to dependent adult abuse in certain facilities and programs and providing penalties.

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

Section 1. Section 235B.1, subsection 4, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:

(3) Receive and review recommendations and complaints from the public, health care facilities, and health care programs concerning the dependent adult abuse services program.

Sec. 2. Section 235B.1, subsection 4, paragraph b, subparagraph (1), Code 2007, is amended to read as follows:

(1) The advisory council shall consist of ~~ten~~ twelve members. Six members shall be appointed by and serve at the pleasure of the governor. Four of the members appointed shall be appointed on the basis of knowledge and skill related to expertise in the area of dependent adult abuse including professionals practicing in the disciplines of medicine, public health, mental health, long-term care, social work, law, and law enforcement. Two of the members appointed shall be members of the general public with an interest in the area of dependent adult abuse and two of the members appointed shall be members of the Iowa caregivers association. In addition, the membership of the council shall include the director or the director's designee of the department of human services, the department of elder affairs, the Iowa department of public health, and the department of inspections and appeals.

Sec. 3. Section 235B.2, subsection 5, paragraph a, subparagraph (3), unnumbered paragraph 1, Code 2007, is amended to read as follows:

Sexual exploitation of a dependent adult ~~who is a resident of a health care facility, as defined in section 135C.1, by a caretaker providing services to or employed by the health care facility, whether within the health care facility or at a location outside of the health care facility~~ by a caretaker.

Sec. 4. Section 235B.3, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The department shall receive dependent adult abuse reports and shall collect, maintain, and disseminate the reports by establishing a central registry for dependent adult abuse information. The department shall evaluate the reports expeditiously. However, the department of inspections and appeals is solely responsible for the evaluation and disposition of dependent adult abuse cases within ~~health care~~ facilities and programs pursuant to chapter 235E and shall inform the department of human services of such evaluations and dispositions pursuant to section 235E.2.

Sec. 5. Section 235B.3, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A member of the staff of a community mental health center~~, a member of the staff of a hospital, a member of the staff or employee of a public or private health care facility as defined in section 135C.1, a member of the staff or employee of an elder group home as defined in section 231B.1, a member of the staff or employee of an assisted living program certified under section 231C.3, and a member of the staff or employee of an adult day services program as defined in section 231D.1~~.

Sec. 6. Section 235B.3, subsection 13, Code Supplement 2007, is amended to read as follows:

13. The department of inspections and appeals shall adopt rules which require ~~licensed health care~~ facilities or programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of abuse and prior to the completion of an investigation of the allegation.

Sec. 7. Section 235B.5, subsection 5, Code 2007, is amended to read as follows:

5. An oral report of suspected dependent adult abuse initially made to the central registry regarding a ~~health care~~ facility or program as defined in section 235E.1 shall be transmitted by the department to the department of inspections and appeals on the first working day following the submitting of the report.

Sec. 8. Section 235B.6, subsection 2, paragraph c, subparagraphs (1) and (4), Code Supplement 2007, are amended to read as follows:

(1) A licensing authority for a facility, including a facility or program defined in section 235E.1, providing care to an adult named in a report.

(4) The legally authorized protection and advocacy agency recognized pursuant to section 135C.2 if a person identified in the information as a victim or a perpetrator of abuse resided in or receives services from a facility, including a facility or program defined in section 235E.1, or agency because the person is diagnosed as having a developmental disability or a mental illness.

Sec. 9. Section 235B.6, subsection 2, paragraph d, subparagraph (3), Code Supplement 2007, is amended to read as follows:

(3) An expert witness or a witness who testifies at any stage of an appeal necessary for correction of dependent adult abuse information as provided in section 235B.10.

Sec. 10. Section 235B.16, subsection 5, paragraphs b, f, g, and i, Code Supplement 2007, are amended to read as follows:

b. A person required to report cases of dependent adult abuse pursuant to ~~section~~ sections 235B.3 and 235E.2, other than a physician whose professional practice does not regularly involve providing primary health care to adults, shall complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment or self-employment which involves the examination, attending, counseling, or treatment of adults on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

f. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to ~~section~~ sections 235B.3 and 235E.2 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

g. For persons required to report cases of dependent adult abuse pursuant to ~~section~~ sections 235B.3 and 235E.2, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure,

registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

i. For persons required to report cases of dependent adult abuse pursuant to ~~section~~ sections 235B.3 and 235E.2 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

Sec. 11. NEW SECTION. 235E.1 DEFINITIONS.

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

1. "Caretaker" means a person who is a staff member of a facility or program who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

2. "Court" means the district court.

3. "Department" means the department of inspections and appeals.

4. "Dependent adult" means a person eighteen years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently.

5. a. "Dependent adult abuse" means:

(1) Any of the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

(a) A physical injury to, or injury which is at a variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult which involves a breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances. "Assault of a dependent adult" means the commission of any act which is generally intended to cause pain or injury to a dependent adult, or which is generally intended to result in physical contact which would be considered by a reasonable person to be insulting or offensive or 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.

(b) The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult.

(c) Exploitation of a dependent adult. "Exploitation" means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult's funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

(d) Neglect of a dependent adult. "Neglect of a dependent adult" means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or physical or mental health.

(2) Sexual exploitation of a dependent adult by a caretaker whether within a facility or program or at a location outside of a facility or program. "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult which includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17. "Sexual exploitation" includes the transmission, display, taking of electronic images of the unclothed breast, groin, buttock, anus, pubes, or genitals of a dependent adult by a caretaker for a purpose not related to treatment or diagnosis or as part of an ongoing investigation. Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

b. "Dependent adult abuse" does not include any of the following:

(1) Circumstances in which the dependent adult declines medical treatment if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.

(2) Circumstances in which the dependent adult's caretaker, acting in accordance with the dependent adult's stated or implied consent, declines medical treatment or care.

(3) The withholding or withdrawing of health care from a dependent adult who is terminally ill in the opinion of a licensed physician, when the withholding or withdrawing of health care is done at the request of the dependent adult or at the request of the dependent adult's next of kin, attorney in fact, or guardian pursuant to the applicable procedures under chapter 125, 144A, 144B, 222, 229, or 633.

6. "Facility" means a health care facility as defined in section 135C.1 or a hospital as defined in section 135B.1.

7. "Intimate relationship" means a significant romantic involvement between two persons that need not include sexual involvement, but does not include a casual social relationship or association in a business or professional capacity. In determining whether persons are in an intimate relationship, the court may consider the following nonexclusive list of factors:

a. The duration of the relationship.

b. The frequency of interaction.

c. Whether the relationship has been terminated.

d. The nature of the relationship, characterized by either person's expectation of sexual or romantic involvement.

8. "Person" means person as defined in section 4.1.

9. "Program" means an elder group home as defined in section 231B.1, an assisted living program certified under section 231C.3, or an adult day services program as defined in section 231D.1.

10. "Recklessly" means that a person acts or fails to act with respect to a material element of a public offense, when the person is aware of and consciously disregards a substantial and unjustifiable risk that the material element exists or will result from the act or omission. The risk must be of such a nature and degree that disregard of the risk constitutes a gross deviation from the standard conduct that a reasonable person would observe in the situation.

11. "Support services" includes but is not limited to community-based services including area agency on aging assistance, mental health services, fiscal management, home health services, housing-related services, counseling services, transportation services, adult day services, respite services, legal services, and advocacy services.

Sec. 12. NEW SECTION. 235E.2 DEPENDENT ADULT ABUSE REPORTS IN FACILITIES AND PROGRAMS.

1. a. The department shall receive and evaluate reports of dependent adult abuse in facilities and programs. The department shall inform the department of human services of such evaluations and dispositions for inclusion in the central registry for dependent adult abuse information pursuant to section 235B.5.

b. Reports of dependent adult abuse which is the result of the acts or omissions of the dependent adult shall be collected and maintained in the files of the dependent adult as assessments only and shall not be included in the central registry.

c. A report of dependent adult abuse that meets the definition of dependent adult abuse under section 235E.1, subsection 5, paragraph "a", subparagraph (1), subparagraph subdivision (a) or (d), which the department determines is minor, isolated, and unlikely to reoccur shall be collected and maintained by the department of human services as an assessment only for a five-year period and shall not be included in the central registry and shall not be considered to be founded dependent adult abuse. A subsequent report of dependent adult abuse that meets the definition of dependent adult abuse under section 235E.1, subsection 5, paragraph "a", subparagraph (1), subparagraph subdivision (a) or (d), that occurs within the five-year period, and that is committed by the caretaker responsible for the act or omission which was the subject of the previous report of dependent adult abuse which the department determined was

minor, isolated, and unlikely to reoccur, may be considered minor, isolated, and unlikely to reoccur depending on the circumstances of the report.

2. A staff member or employee of a facility or program who, in the course of employment, examines, attends, counsels, or treats a dependent adult in a facility or program and reasonably believes the dependent adult has suffered dependent adult abuse, shall report the suspected dependent adult abuse to the department.

3. a. If a staff member or employee is required to make a report pursuant to this section, the staff member or employee shall immediately notify the person in charge or the person's designated agent who shall then notify the department within twenty-four hours of such notification. If the person in charge is the alleged dependent adult abuser, the staff member shall directly report the abuse to the department within twenty-four hours.

b. The employer or supervisor of a person who is required to or may make a report pursuant to this section shall not apply a policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

4. An employee of a financial institution may report suspected financial exploitation of a dependent adult to the department.

5. Any other person who believes that a dependent adult has suffered dependent adult abuse may report the suspected dependent adult abuse to the department of inspections and appeals. The department of inspections and appeals shall transfer any reports received of dependent adult abuse in the community to the department of human services. The department of human services shall transfer any reports received of dependent adult abuse in facilities or programs to the department of inspections and appeals.

6. The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required pursuant to subsection 2 to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report, shall cooperate and assist in the evaluation upon the request of the department. If the department's assessment reveals that dependent adult abuse exists which might constitute a criminal offense, a report shall be made to the appropriate law enforcement agency. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

a. If, upon completion of an investigation, the department determines that the best interests of the dependent adult require court action, the department shall notify the department of human services of the potential need for a guardian or conservator or for admission or commitment to an appropriate institution or facility pursuant to the applicable procedures under chapter 125, 222, 229, or 633, or shall pursue other remedies provided by law. The appropriate county attorney shall assist the department of human services in the preparation of the necessary papers to initiate the action and shall appear and represent the department of human services at all district court proceedings.

b. Investigators within the department shall be specially trained to investigate cases of dependent adult abuse including but not limited to cases involving gerontological, dementia, and wound care issues.

c. The department shall assist the court during all stages of court proceedings involving a suspected case of dependent adult abuse.

d. In every case involving dependent adult abuse which is substantiated by the department and which results in a judicial proceeding on behalf of the dependent adult, legal counsel shall be appointed by the court to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult if necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem. Before legal counsel or a guardian ad litem is appointed pur-

suant to this paragraph, the court shall require the dependent adult and any person legally responsible for the support of the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counselor guardian ad litem, the court shall so order. In cases where the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid by the county.

7. A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report, cooperation, or assistance or relating to the subject matter of the report, cooperation, or assistance.

8. It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 5, or cooperating with, or assisting the department in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

9. A person required by this section to report a suspected case of dependent adult abuse pursuant to subsection 2 who knowingly and willfully fails to do so within twenty-four hours commits a simple misdemeanor. A person required by subsection 2 to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of such a report or applies a requirement that results in such a failure is civilly liable for the damages proximately caused by the failure.

10. The department shall adopt rules which require facilities and programs to separate an alleged dependent adult abuser from a victim following an allegation of perpetration of dependent adult abuse and prior to the completion of an investigation of the allegation.

11. Upon receiving notice from a credible source, the department shall notify a facility or program that subsequently employs a dependent adult abuser when the notice of investigative findings has been issued. Such notification shall occur prior to the completion of an investigation that is founded for dependent adult abuse.

12. An inspector of the department may enter any facility or program without a warrant and may examine all records pertaining to residents, employees, former employees, and the alleged dependent adult abuser. An inspector of the department may contact or interview any resident, employee, former employee, or any other person who might have knowledge about the alleged dependent adult abuse. An inspector may take or cause to be taken photographs of the dependent adult abuse victim and the vicinity involved. The department shall obtain consent from the dependent adult abuse victim or guardian or other person with a power of attorney over the dependent adult abuse victim prior to taking photographs of the dependent adult abuse victim.

13. a. Notwithstanding section 235B.6 and chapter 22, an employee organization or union representative may observe an investigative interview conducted by the department of an alleged dependent adult abuser if all of the following conditions are met:

(1) The alleged dependent adult abuser is part of a bargaining unit that is party to a collective bargaining agreement under chapter 20 or any other applicable state or federal law.

(2) The alleged dependent adult abuser requests the presence of a union representative.

(3) The union representative maintains the confidentiality of all information from the interview subject to the penalties provided in section 235B.12 if such confidentiality is breached.

b. This subsection shall only apply to interviews conducted pursuant to this chapter. This subsection does not apply to interviews conducted pursuant to the regulatory activities of chapter 135B, 135C, 231B, 231C, or 231D, or any other state or federal law.

Sec. 13. NEW SECTION. 235E.3 PREVENTION OF ADDITIONAL DEPENDENT ADULT ABUSE — NOTIFICATION OF RIGHTS.

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred in a facility or program, the officer shall use all reasonable means to prevent further dependent adult abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the facility or program, or if unable to remain at the scene, assisting the dependent adult in leaving the facility or program and securing support services or emergency shelter services.

2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.

3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:

"a. You have the right to ask the court for the following help on a temporary basis:

(1) Keeping the alleged perpetrator away from you, your home, your facility, and your place of work.

(2) The right to stay at your home or facility without interference from the alleged perpetrator.

(3) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.

b. If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.

c. If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured."

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

Sec. 14. NEW SECTION. 235E.4 CHAPTER 235B APPLICATION.

Sections 235B.4 through 235B.20, not inconsistent with this chapter, shall apply to this chapter.

Sec. 15. NEW SECTION. 235E.5 RULEMAKING AUTHORITY.

The department, in cooperation and consultation with the dependent adult protective advisory council established in section 235B.1, affected industry representatives, and professional and consumer groups, may adopt rules pursuant to chapter 17A to administer this chapter.

Approved April 16, 2008

CHAPTER 1094

REGULATION AND LICENSURE OF
FIRE PROTECTION SYSTEM INSTALLATION AND MAINTENANCE

H.F. 2646

AN ACT providing for the licensure of persons installing fire protection systems, providing for the establishment of fees, and providing penalties and an effective date.

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

Section 1. Section 100C.6, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Relieve any person engaged in fire sprinkler installation, maintenance, repair, service, or inspection as defined in section 100D.1 from obtaining a fire sprinkler installer or fire sprinkler maintenance worker as required pursuant to chapter 100D.[1]

Sec. 2. NEW SECTION. 100D.1 DEFINITIONS.

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

1. "Apprentice sprinkler fitter" means a person who, as a principal occupation, is engaged in learning the fire protection system industry trade under the direct supervision of a certified fire extinguishing system contractor or licensed fire sprinkler installer and maintenance worker and who is registered with the United States department of labor, office of apprenticeship.

2. "Department" means the department of public safety.

3. "Fire extinguishing system contractor" means a person or persons engaging in or representing oneself to the public as engaging in the activity or business of layout, installation, repair, service, alteration, addition, testing, maintenance, or maintenance inspection of automatic fire extinguishing systems in this state, as defined in section 100C.1, and who is certified pursuant to chapter 100C.

4. "Fire protection system" means a sprinkler, standpipe, hose system, special hazard system, dry systems, foam systems, or any water-based fire protection system, either manual or automatically activated, used for fire protection purposes that is composed of an integrated system of underground and overhead piping connected to a water source. For licensing purposes only "fire protection system" does not include the water service piping to a structure or building from a city water main.

5. "Fire protection system installation" means to set up or establish for use in an indicated space a fire protection system.

6. "Fire protection system maintenance" means to provide repairs, including all inspections and tests, required to keep a fire protection system and its component parts in an operative condition at all times, and the replacement of the system or its component parts when they become undependable or inoperable.

7. "Fire sprinkler installer and maintenance worker" means a person who, as a principal occupation, and having the necessary qualifications, training, experience, and technical knowledge, conducts fire protection system installation and maintenance, and who is licensed by the department.

Sec. 3. NEW SECTION. 100D.2 LICENSE REQUIRED.

1. A person shall not perform fire protection system installations or fire protection system maintenance without first obtaining a fire protection installer and maintenance worker license pursuant to this chapter.

a. An employee of a fire extinguishing system contractor working as an apprentice sprinkler fitter performing fire protection system installation or maintenance under the direct supervision of an on-site licensed fire sprinkler installer and maintenance worker is not required to obtain a fire sprinkler installer and maintenance worker license.

[1] See chapter 1191, §123 herein

b. A person who installs or demolishes walls, ceilings, flooring, insulation, or associated materials or a person who demolishes sprinkler pipe is not subject to the provisions of this chapter except when the work involves a complete sprinkler system.

2. A licensed fire sprinkler installer and maintenance worker must be present at all locations and at all times when fire protection system installation work is being performed. At least one licensed fire sprinkler installer and maintenance worker must be present for every three apprentice sprinkler fitters, or any other employees performing work related to fire protection system installation.

3. Licenses are not transferable. The lending, selling, giving, or assigning of any license or the obtaining of a license for any other person shall be grounds for revocation.

4. Licenses shall be issued for a two-year period, and may be renewed as established by the state fire marshal by rule.

5. An applicant for a license issued under this chapter, excluding an applicant for license renewal, shall be subject to a national criminal history check through the federal bureau of investigation. The applicant shall provide fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. Fees for the national criminal history check shall be paid by the applicant. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

6. On and after August 1, 2009, a governmental subdivision shall not issue a license to a person installing a fire protection system and shall not prohibit a person installing fire protection systems and licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

7. A governmental subdivision that administers an inspection program relating to the installation of a fire protection system on July 31, 2009, may continue that inspection program.

Sec. 4. NEW SECTION. 100D.3 FIRE SPRINKLER INSTALLER AND MAINTENANCE WORKER LICENSE.

The state fire marshal shall issue a fire sprinkler installer and maintenance worker license to an applicant who possesses a minimum of four years of employment experience as an apprentice sprinkler fitter and completed a United States department of labor apprenticeship program and is employed by a fire extinguishing system contractor, who either receives a passing score on the national inspection, testing, and certification star fire sprinkler mastery exam or on an equivalent exam from a nationally recognized third-party testing agency, or who is certified at level one by the national institute for certification in engineering technologies. The holder of a fire sprinkler installer and maintenance worker license shall be responsible for license fees, renewal fees, and continuing education hours.

Sec. 5. NEW SECTION. 100D.4 INSURANCE AND SURETY BOND REQUIREMENTS.

1. An applicant for a fire sprinkler installer and maintenance worker license or renewal of an active license shall provide evidence of a public liability insurance policy and surety bond in an amount determined sufficient by the department by rule.

2. If the applicant is engaged in fire sprinkler installer and maintenance worker work individually through a business conducted as a sole proprietorship, the applicant shall personally obtain the insurance and surety bond required by this section. If the applicant is engaged in the fire sprinkler installer and maintenance worker business as an employee or owner of a legal entity, then the insurance and surety bond required by this section shall be obtained by the entity and shall cover all fire sprinkler installer and maintenance worker work performed by the entity.

3. The insurance and surety bond shall be written by an entity licensed to do business in this state and each licensee shall maintain on file with the department a certificate evidencing the insurance providing that the insurance or surety bond shall not be canceled without the entity first giving fifteen days written notice to the department.

Sec. 6. NEW SECTION. 100D.5 ADMINISTRATION — RULES — SUSPENSION AND REVOCATION.

The state fire marshal shall do all of the following:

1. Adopt rules pursuant to chapter 17A necessary for the administration and enforcement of this chapter.

2. Revoke, suspend, or refuse any license granted pursuant to this chapter when the licensee fails or refuses to pay an examination, license, or renewal fee required by law or when the licensee is guilty of any of the following acts or omissions:

a. Fraud in procuring a license.

b. Professional incompetence.

c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the licensee's profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

d. Habitual intoxication or addiction to the use of drugs.

e. Conviction of a felony related to the profession or occupation of the licensee. A copy or the record of conviction or plea of guilty shall be conclusive evidence.

f. Fraud in representation as to skill or ability.

g. Use of untruthful or improbable statements in advertisements.

h. Willful or repeated violations of the provisions of this chapter.

3. Adopt rules for continuing education requirements, which shall include, at a minimum, completion of sixteen credit hours of instruction per licensure period relating to updates in fire protection system installation and maintenance.

4. Adopt rules regarding license application forms, examination procedures, and license application and renewal fees.

5. Adopt rules specifying a violation reporting procedure applicable to division employees, deputy fire marshals, division inspectors, and municipal fire departments.

Sec. 7. NEW SECTION. 100D.6 PENALTIES.

The state fire marshal may impose a civil penalty of up to five hundred dollars on any person who violates any provision of this chapter for each day a violation continues. The state fire marshal may adopt rules necessary to enforce and collect any penalties imposed pursuant to this chapter.

Sec. 8. NEW SECTION. 100D.7 DEPOSIT AND USE OF MONEYS COLLECTED.

1. The state fire marshal shall set the license fees and renewal fees for all licenses issued pursuant to this chapter, by rule, based upon the actual costs of licensing.

2. All fees assessed pursuant to this chapter shall be retained as repayment receipts by the division of state fire marshal in the department of public safety and such fees received shall be used exclusively to offset the costs of administering this chapter.

3. Notwithstanding section 8.33, fees collected by the division of state fire marshal 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. 9. NEW SECTION. 100D.8 TEMPORARY LICENSURE.

1. An applicant for licensure under this chapter as a fire sprinkler installer and maintenance worker who possesses a minimum of four years of experience as an apprentice sprinkler fitter and who has not successfully passed the licensure examination or achieved certification as required pursuant to section 100D.3 by August 1, 2009, shall be issued a temporary license as a fire sprinkler installer and maintenance worker for a period of sixty days commencing August 1, 2009. A temporary license shall be granted upon presentation of satisfactory evidence to the department demonstrating experience and competency in conducting fire protection system installations and fire protection system maintenance according to criteria to be determined by the department in rule. A temporary license shall not be renewed.

2. An applicant issued a temporary license pursuant to this section shall pass the licensure examination or achieve certification on or before February 1, 2010, in order to remain licensed as a fire sprinkler installer and maintenance worker. A temporary license fee shall be established by the department by rule. No temporary licenses will be issued after February 1, 2010.

Sec. 10. NEW SECTION. 100D.9 TRANSITION PROVISIONS.

An applicant for licensure under this chapter, who is employed as a fire sprinkler installer and maintenance worker as of July 1, 2008, shall be issued a license upon presentation of satisfactory evidence to the department of at least eight thousand five hundred hours of experience as a fire sprinkler installer and maintenance worker and one of the following:

1. Presentation of a certificate of completion of a United States department of labor, office of apprenticeship, four-year or five-year apprenticeship program.

2. A passing score on the national inspection, testing and certification star fire sprinkler mastery exam or an equivalent exam from a nationally recognized third-party testing agency.

3. A passing score on the NICET level I examination.

Sec. 11. NEW SECTION. 100D.10 RECIPROCAL LICENSES.

To the extent that another state provides for the licensing of fire sprinkler installers and maintenance workers or similar action, the state fire marshal may issue a fire sprinkler installer and maintenance worker license, without examination, to a nonresident fire sprinkler installer and maintenance worker who has been licensed by such other state for at least three years provided such other state grants the same reciprocal licensing privileges to residents of Iowa who have obtained a fire sprinkler installer and maintenance worker license upon payment by the applicant of the required fee and upon furnishing proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in this state.

Sec. 12. NEW SECTION. 100D.11 APPLICABILITY.

1. The provisions of this chapter shall not be construed to apply to a person licensed as an engineer pursuant to chapter 542B who provides consultation or develops plans or other work concerning the installation or design of fire protection systems.

2. The provisions of this chapter shall not be construed to apply to a person employed full time as a custodian for a school corporation, hospital, or public facility, who performs fire sprinkler maintenance work involving no more than one sprinkler head or nozzle.

Sec. 13. NEW SECTION. 100D.12 LOCAL LICENSING PROVISIONS.

On and after August 1, 2009, a governmental subdivision shall not prohibit a person licensed pursuant to this chapter from performing services for which that person is licensed pursuant to this chapter or enforce any additional licensing provisions promulgated by the governmental subdivision against a person licensed pursuant to this chapter.

Sec. 14. Section 272C.1, subsection 6, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. ae. The department of public safety, in licensing fire sprinkler installers and maintenance workers pursuant to chapter 100D.

Sec. 15. Section 272C.3, subsection 2, paragraph a, Code Supplement 2007, 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 100D.5, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, 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. 16. Section 272C.4, subsection 6, Code Supplement 2007, is amended to read as follows:

6. Define by rule acts or omissions that are grounds for revocation or suspension of a license under section 100D.5, 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151 or 155, as applicable, and to define by rule acts or omissions that 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. 17. Section 272C.5, subsection 2, paragraph c, Code Supplement 2007, 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 100D.5, 147.58 through 147.71, 148.6 through 148.9, 152.10, 152.11, 153.33, 154A.23, 542.11, 542B.22, 543B.35, 543B.36, and 544B.16.

Sec. 18. EFFECTIVE DATE. This Act takes effect on August 1, 2009.

Approved April 16, 2008

CHAPTER 1095

IMPACT OF LEGISLATION AND
STATE GRANTS ON MINORITIES — STATEMENTS

H.F. 2393

AN ACT providing requirements for minority impact statements in relation to state grant applications and correctional impact statements for legislation, and providing effective and applicability dates.

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

Section 1. Section 2.56, subsection 1, Code 2007, is amended to read as follows:

1. Prior to debate on the floor of a chamber of the general assembly, a correctional impact statement shall be attached to any bill, joint resolution, or amendment which proposes a change in the law which creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole, or probation procedures. The statement shall include information concerning the estimated number of criminal cases per year that the legislation will impact, the fiscal impact of confining persons pursuant to the legislation, the impact of the legislation on minorities, the impact of the legislation upon existing correctional institutions, community-based correctional facilities and services, and jails, the likelihood that the legislation may create a need for additional prison capacity, and other relevant matters. The statement shall be factual and shall, if possible, provide a reasonable estimate of both the immediate effect and the long-range impact upon prison capacity.

Sec. 2. Section 2.56, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The legislative services agency in cooperation with the division of criminal and juvenile justice planning of the department of human rights shall develop a protocol for analyzing the impact of the legislation on minorities.

Sec. 3. NEW SECTION. 8.11 GRANT APPLICATIONS — MINORITY IMPACT STATEMENTS.

1. Each application for a grant from a state agency shall include a minority impact statement that contains the following information:

a. Any disproportionate or unique impact of proposed policies or programs on minority persons in this state.

b. A rationale for the existence of programs or policies having an impact on minority persons in this state.

c. Evidence of consultation of representatives of minority persons in cases where a policy or program has an identifiable impact on minority persons in this state.

2. For the purposes of this section, the following definitions shall apply:

a. "Disability" means the same as provided in section 15.102, subsection 5, paragraph "b", subparagraph (1).

b. "Minority persons" includes individuals who are women, persons with a disability, Blacks, Latinos, Asians or Pacific Islanders, American Indians, and Alaskan Native Americans.

c. "State agency" means a department, board, bureau, commission, or other agency or authority of the state of Iowa.

3. The office of grants enterprise management shall create and distribute a minority impact statement form for state agencies and ensure its inclusion with applications for grants.

4. The directives of this section shall be carried out to the extent consistent with federal law.

5. The minority impact statement shall be used for informational purposes.

Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This Act takes effect July 1, 2008, and shall apply to grants for which applications are due beginning January 1, 2009.

Approved April 17, 2008

CHAPTER 1096

IOWA CROP IMPROVEMENT ASSOCIATION

S.F. 2133

AN ACT relating to the Iowa crop improvement association.

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

Section 1. Section 177.1, Code 2007, is amended to read as follows:

177.1 RECOGNITION OF ORGANIZATION.

The organization ~~now~~ existing in and incorporated under the laws of this state and known as the Iowa crop improvement association, shall be entitled to the benefits of this chapter ~~by filing each year with the department of agriculture and land stewardship verified proofs of its organization and of the names of its president, vice president, secretary, and treasurer, and that five hundred persons are bona fide members of the association, together with such other information as the department of agriculture and land stewardship may require~~.

Sec. 2. NEW SECTION. 177.1A DEFINITIONS.

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

1. "Association" means the Iowa crop improvement association recognized in section 177.1.

2. "Department" means the department of agriculture and land stewardship.

Sec. 3. Section 177.2, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

177.2 POWERS AND PURPOSES.

The Iowa crop improvement association shall have all powers necessary to carry out the following purposes:

1. Act as the official seed certifying agency for Iowa as provided by rules adopted by the department.

2. Adopt procedures for conducting seed and plant stock certification and planting stock quality assurance, pursuant to rules adopted by the department.

3. Provide educational and leadership opportunities to influence public policy regarding crop improvement.

4. Conduct, in cooperation with Iowa state university college of agriculture, testing and disseminating information regarding the adaptation and performance of crop cultivars.

5. Coordinate all Iowa crop improvement association activities in a manner that is consistent with environmentally sound agricultural practices.

6. Provide a mechanism for commodity identity preservation.

7. Engage in such other activities that are reasonably connected to the purposes of this section.

Sec. 4. Section 177.3, Code 2007, is amended to read as follows:

177.3 BOARD OF DIRECTORS.

The Iowa crop improvement association shall be governed by a board of directors.

1. The association's articles of incorporation or bylaws shall provide for all of the following:

a. The organization of the board, its procedures for meeting and voting, and the election of its board members and officers.

b. The business of the association, which shall be transacted ~~by a~~ as provided in this chapter.

2. The board ~~of directors which shall consist~~ shall include all of the following members:

~~1.~~ a. The secretary of agriculture or the secretary's designee.

b. The following persons representing the college of agriculture at Iowa state university:

(1) The director of the agricultural experiment station ~~of the Iowa state university of science and technology~~.

~~2.~~ (2) The ~~head of farm crops in the Iowa agricultural experiment station~~ chair of the agronomy department.

~~3.~~ (3) The ~~secretary of agriculture or the secretary's designee~~ director of the seed science center.

~~4.~~ c. Six persons ~~who shall be~~ elected ~~from its membership~~ by the association's voting shareholders from among its voting shareholders.

Sec. 5. Section 177.4, Code 2007, is amended to read as follows:

177.4 EMPLOYEES.

The ~~directors~~ Iowa crop improvement association may employ one or more competent persons ~~who shall devote their entire time, while employed by the association,~~ to ~~carrying~~ carry out the provisions of this chapter as directed by the association's board of directors. ~~Such persons~~ The board may employ an executive director. A person employed by the board shall receive ~~such~~ compensation ~~as the directors may fix and their~~ and necessary expenses incurred while engaged in ~~such work~~ the business of the association as provided by its board of directors.

Sec. 6. Section 177.5, Code 2007, is amended to read as follows:

177.5 EXPENSES OF OFFICERS.

~~The officers~~ A member of the board of directors or officer of the Iowa crop improvement association other than the executive director appointed pursuant to section 177.4 shall serve without compensation~~, but shall~~. However, a member of the board of directors or officer may

receive ~~their~~ necessary expenses while engaged in the business of the association pursuant to section 7E.6, as determined by the board.

Approved April 18, 2008

CHAPTER 1097

IOWA FINANCE AUTHORITY HOUSING PROGRAMS
AND REAL ESTATE BROKER TRUST ACCOUNTS

S.F. 2136

AN ACT relating to real estate broker trust accounts and abolishing the local housing assistance program.

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

Section 1. Section 16.10, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Moneys declared by the authority to be surplus moneys which are not required to service bonds and notes issued by the authority, to pay administrative expenses of the authority, or to accumulate necessary operating or loss reserves, shall be used by the authority to provide grants, subsidies, and services to lower income families and very low income families through the programs authorized in this chapter and consistent with legislative findings and guiding principles. ~~In addition, the authority may use such surplus moneys to provide assistance to the local housing assistance program established in sections 15.351 through 15.354 for purposes of providing assistance to low and moderate income families. Surplus moneys shall not be used for infrastructure or administration purposes under the local housing assistance program.~~

Sec. 2. Section 16.91, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The authority through the title guaranty division shall initiate and operate a program in which the division shall offer guaranties of real property titles in this state. The terms, conditions and form of the guaranty contract shall be forms approved by the division board. The division shall fix a charge for the guaranty in an amount sufficient to permit the program to operate on a self-sustaining basis, including payment of administrative costs and the maintenance of an adequate reserve against claims under the title guaranty program. A title guaranty fund is created in the office of the treasurer of state. Funds collected under this program shall be placed in the title guaranty fund and are available to pay all claims, necessary reserves and all administrative costs of the title guaranty program. Moneys in the fund shall not revert to the general fund and interest on the moneys in the fund shall be ~~transferred to the department of economic development for deposit in the local housing assistance program fund established in section 15.354~~ deposited in the housing trust fund established in section 16.181 and shall not accrue to the general fund. If the authority board in consultation with the division board determines that there are surplus funds in the title guaranty fund after providing for adequate reserves and operating expenses of the division, the surplus funds shall be transferred to the housing assistance fund created pursuant to section 16.40.

Sec. 3. Section 543B.46, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Each real estate broker shall maintain a common trust account in a bank, a savings and

loan association, savings bank, or credit union for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or the broker's salespersons on behalf of the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom the broker acts as salesperson. The account shall be an interest-bearing account. The interest on the account shall be transferred quarterly to the treasurer of state and transferred to the ~~department of economic development~~ Iowa finance authority for deposit in the ~~local~~ housing ~~assistance program~~ trust fund established in section ~~15.354~~ 16.181 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession.

Sec. 4. Sections 15.351 through 15.354, Code 2007, are repealed.

Sec. 5. TRANSFER OF FUNDS. Any unobligated funds in or received for deposit in the local housing assistance program fund, created in section 15.354, shall be transferred to the Iowa finance authority for deposit in the housing trust fund established in section 16.181.

Approved April 18, 2008

CHAPTER 1098

CHILD IN NEED OF ASSISTANCE PROCEEDINGS —
TERMINATIONS OF PARENTAL RIGHTS

S.F. 2212

AN ACT relating to determinations in child in need of assistance proceedings, and modifying circumstances for termination of parental rights.

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

Section 1. Section 232.102, subsection 12, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The parent's parental rights have been terminated under section 232.116 or involuntarily terminated by an order of a court of competent jurisdiction in another state with respect to another child who is a member of the same family, and there is clear and convincing evidence to show that the offer or receipt of services would not be likely within a reasonable period of time to correct the conditions which led to the child's removal.

Sec. 2. Section 232.116, subsection 1, paragraph g, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) The court has terminated parental rights pursuant to section 232.117 with respect to another child who is a member of the same family or a court of competent jurisdiction in another state has entered an order involuntarily terminating parental rights with respect to another child who is a member of the same family.

Approved April 18, 2008

CHAPTER 1099

LICENSURE OF REAL ESTATE BROKERS AND SALESPERSONS

S.F. 2250

AN ACT relating to the licensure of real estate brokers and salespersons.

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

Section 1. Section 543B.15, subsection 3, paragraph a, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) Notwithstanding subparagraph (1), for offenses including or involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty, five years.

Sec. 2. Section 543B.15, subsection 10, Code Supplement 2007, is amended to read as follows:

10. An applicant for an initial real estate broker's or salesperson's license shall be subject to a national criminal history check through the federal bureau of investigation. The commission shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation. The applicant shall authorize release of the results of the criminal history check to the real estate commission. The applicant shall pay the actual cost of the fingerprinting and criminal history check, if any. Unless the criminal history check was completed within the ~~ninety~~ two hundred ten calendar days prior to the date the license application is received by the real estate commission, the commission shall reject and return the application to the applicant. The commission shall process the application but hold delivery of the license until the background check is complete. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22.

Sec. 3. Section 543B.29, Code 2007, is amended to read as follows:

543B.29 REVOCATION OR SUSPENSION.

1. A license to practice the profession of real estate broker and salesperson may be revoked or suspended when the licensee is guilty of any of the following acts or offenses:

~~1.~~ a. Fraud in procuring a license.

~~2.~~ b. Professional incompetency.

~~3.~~ c. Knowingly making misleading, deceptive, untrue, or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

~~4.~~ d. Habitual intoxication or addiction to the use of drugs.

~~5.~~ e. Conviction of an offense included in section 543B.15, subsection 3. For purposes of this section, "conviction" means a conviction for an indictable offense and includes a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction. A copy of the record of conviction, guilty plea, deferred judgment, or other finding of guilt is conclusive evidence.

~~6.~~ f. Fraud in representations as to skill or ability.

~~7.~~ g. Use of untruthful or improbable statements in advertisements.

~~8.~~ h. Willful or repeated violations of the provisions of this ~~Act~~ chapter.

~~9.~~ i. Noncompliance with insurance requirements under section 543B.47.

~~10.~~ j. Noncompliance with the trust account requirements under section 543B.46.

~~11.~~ k. Revocation of any professional license held by the licensee in this or any other jurisdiction.

2. The revocation of a broker's license shall automatically suspend every license granted to any person by virtue of the person's employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. The new license shall be issued upon payment of a fee in an amount determined by the commission based upon the administrative costs involved, if granted during the same license period in which the original license was granted.

3. A real estate broker or salesperson who is an owner or lessor of property or an employee of an owner or lessor may have the broker's or salesperson's license revoked or suspended for violations of this section or section 543B.34, except subsections 4, 5, 6 and 9, with respect to that property.

4. A real estate broker's or salesperson's license shall be revoked following three violations of this section or section 543B.34 within a three-year period.

Sec. 4. Section 543B.54, subsection 2, Code Supplement 2007, is amended to read as follows:

2. Twenty-five dollars per license from fees deposited for each real estate salesperson's license and each broker's license shall be distributed and are appropriated to the real estate commission for the purpose of establishing and maintaining a program to provide grants to community colleges and other colleges and universities in the state providing programs under this section and using the curriculum maintained by the commission. Grants shall be awarded by a grant committee established by the real estate commission. The committee shall consist of seven members: two members of the commission, four members ~~of~~ appointed by the Iowa association of realtors, and one member of the general public. The commission shall promulgate rules, in consultation with the Iowa association of realtors, relating to the organization and operation of the committee, which shall include the term of membership, and establishing standards for awarding grants. The members of the committee may be reimbursed for actual and necessary expenses incurred in the performance of their duties but shall not receive a per diem payment.

Sec. 5. Section 543B.60A, subsection 6, Code Supplement 2007, is amended to read as follows:

6. A violation of this section is deemed a violation of section 543B.29, subsection ~~3~~ 1, paragraph "c".

Approved April 18, 2008

CHAPTER 1100

STUDENT EYE CARE

S.F. 2251

AN ACT relating to student eye care and including an applicability date provision.

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

Section 1. NEW SECTION. 280.7A STUDENT EYE CARE.

1. A parent or guardian who registers a child for kindergarten or a preschool program shall be given a student vision card provided by the Iowa optometric association and as approved by the department of education with a goal of every child receiving an eye examination by age seven, as needed.

2. School districts may encourage a student to receive an eye examination by a licensed ophthalmologist or optometrist prior to the student receiving special education services pursuant to chapter 256B. The eye examination is not a requirement for a student to receive special education services. A parent or guardian shall be responsible for ensuring that a student receives an eye examination pursuant to this section.

3. Area education agencies, pursuant to section 273.3, shall make every effort to provide, in collaboration with local community organizations, vision screening services to children ages two through four.

Sec. 2. APPLICABILITY DATE. This Act applies to school years beginning on or after July 1, 2009.

Approved April 18, 2008

CHAPTER 1101

STATE RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DISSEMINATION SCHOOL — PLANNING

S.F. 2307

AN ACT establishing committees to formulate plans for a state research and development prekindergarten through grade twelve school and providing an effective date.

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

Section 1. STATE OF IOWA RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DISSEMINATION SCHOOL — COMMITTEES ESTABLISHED.

1. a. The director of the department of education and the president of the university of northern Iowa shall jointly establish a finance and funding committee and an implementation committee to develop detailed plans for expansion of the Price laboratory school at the university of northern Iowa as the state of Iowa research, development, demonstration, and dissemination school. The committees shall file a joint report with the general assembly, the governor, the board of regents, and the state board of education by January 15, 2009. The committees shall collaborate to ensure that their recommendations in the joint report are compatible.

b. The committees shall use the findings and recommendations of the research and development prekindergarten through grade twelve school feasibility study committee created in 2007 Iowa Acts, chapter 215, section 128, as the basis of each committee's plan.

2. Members of the finance and funding committee shall include individuals from the university of northern Iowa, the department of education, and educators with expertise in school finance. The committee shall develop a plan for sustained operational and capital funding both through the identification of new funding sources and through the restructuring of existing funding sources for the school. The committee shall evaluate the condition of the current Price laboratory school facility and determine whether renovation, including new construction, is recommended, and, in particular, renovation or new construction that would result in the Price laboratory school serving as a demonstration site in energy efficiency and energy efficient design.

3. Members of the implementation committee shall include Price laboratory school faculty, university of northern Iowa faculty, and department of education staff. The committee shall develop a detailed transition plan for expanding the Price laboratory school as a state of Iowa research, development, demonstration, and dissemination school and shall develop a detailed

governance structure that outlines the specific roles and responsibilities of the university of northern Iowa, the department of education, and the other individuals, boards, committees, and groups involved with the school. The committee shall focus on making recommendations regarding governance structure that result in creating the type of environment that must exist for a research, development, demonstration, and dissemination school to be effective, including the methods by which research will be translated into practice in all accredited public and nonpublic prekindergarten through grade twelve schools.

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

Approved April 18, 2008

CHAPTER 1102

GROW IOWA VALUES FUND PROGRAMS AND REQUIREMENTS

S.F. 2325

AN ACT relating to the grow Iowa values fund by allocating moneys for the physical infrastructure assistance program and changing certain job and wage requirements, and providing an effective date.

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

Section 1. Section 15E.175, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

1. The department shall establish a physical infrastructure financial assistance program to provide financial assistance for business or community physical infrastructure development or redevelopment projects. Physical infrastructure development or redevelopment projects include but are not limited to infrastructure projects involving any mode of transportation; public works and utilities such as sewer, water, power, or telecommunications; physical improvements which mitigate, prevent, or eliminate environmental contaminants; and any other project deemed appropriate by the department.

a. Physical infrastructure projects that create the necessary infrastructure for economic success throughout Iowa, that provide the foundation for the creation of quality, high-wage jobs, and that involve substantial capital investment may be eligible for financial assistance under the program if within three years of the completion of the project, the project meets certain performance measurements established by the department. The performance measurements may include but are not limited to a requirement for building infrastructure projects involving tenant businesses that the tenant businesses meet minimum job and wage requirements pursuant to section 15G.112. If, at the end of the three-year period, the project has not met the performance measurements established by the department, the department may seek to reclaim any funds granted through the program. At the department's discretion, a project may be granted an additional year of time to meet the performance measurements of this subsection.

b. The department shall adopt rules governing the awarding and use of funds pursuant to this section.

Sec. 2. Section 15G.111, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. For the fiscal period beginning July 1, ~~2005~~ 2007, and ending June 30, 2015, there is appro-

priated each fiscal year from the grow Iowa values fund created in section 15G.108, the following amounts for the purposes designated:

~~(1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, to the department of economic development thirty-five million dollars for programs administered by the department of economic development.~~

~~(2) For each fiscal year of the fiscal period beginning July 1, 2006, and ending June 30, 2007, to the department of economic development thirty-three million dollars for programs administered by the department of economic development.~~

~~(3)~~ (1) For each fiscal year of the fiscal period beginning July 1, 2007, and ending June 30, 2009, to the department of economic development thirty million dollars for the following programs administered by the department ~~of economic development.~~:

(a) The targeted small business financial assistance program established pursuant to section 15.247.

(b) The community economic betterment program established pursuant to section 15.317.

(c) The entrepreneurial venture[1] assistance program established pursuant to section 15.339.

(d) The value-added agricultural products and processes financial assistance program established pursuant to section 15E.111.

(e) The physical infrastructure financial assistance program established pursuant to section 15E.175.

(f) The loan and credit guarantee program established pursuant to section 15E.224.

~~(4)~~ (2) For each fiscal year of the fiscal period beginning July 1, 2009, and ending June 30, 2015, to the department of economic development thirty-two million dollars for the following programs administered by the department ~~of economic development.~~:

(a) The targeted small business financial assistance program established pursuant to section 15.247.

(b) The community economic betterment program established pursuant to section 15.317.

(c) The entrepreneurial venture[2] assistance program established pursuant to section 15.339.

(d) The value-added agricultural products and processes financial assistance program established pursuant to section 15E.111.

(e) The physical infrastructure financial assistance program established pursuant to section 15E.175.

(f) The loan and credit guarantee program established pursuant to section 15E.224.

Sec. 3. Section 15G.111, Code 2007,[3] is amended by adding the following new subsection:

NEW SUBSECTION. 8A. For the fiscal period beginning July 1, 2008, and ending June 30, 2015, from the moneys appropriated each fiscal year from the grow Iowa values fund created in section 15G.108, to the department for program administration pursuant to subsection 1, paragraph "a", the department may allocate up to five million dollars to projects qualifying for assistance under the physical infrastructure financial assistance program established pursuant to section 15E.175 which, notwithstanding section 15G.112, shall not be subject to job or wage requirements. The department may allocate moneys from the grow Iowa values fund above five million dollars each year to projects qualifying for assistance under the physical infrastructure financial assistance program but such projects shall be subject to the job and wage requirements of section 15G.112.

Sec. 4. Section 15G.112, subsections 1 and 3, Code 2007, are amended to read as follows:

1. In order to be eligible to receive financial assistance from the department from the moneys appropriated in section 15G.111, subsection 1, paragraph "a", from the grow Iowa values fund to the department for programs administered by the department, the average annual wage, including benefits, of new jobs created must be equal to or greater than one hundred thirty percent of the average county wage. For purposes of this section, "average county wage" and "benefits" mean the same as defined in section 15I.1.

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[1] According to enrolled Act; the word "ventures" probably intended

[2] According to enrolled Act; the word "ventures" probably intended

[3] "Code Supplement 2007" probably intended

3. In awarding moneys appropriated to the department pursuant to section 15G.111, subsection 1, paragraph "a", from the grow Iowa values fund for programs administered by the department, the department shall give special consideration to projects that include significant physical infrastructure components designed to increase property tax revenues to local governments.

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

Approved April 18, 2008

CHAPTER 1103

PRENEED SALE OF CEMETERY AND
FUNERAL MERCHANDISE AND FUNERAL SERVICES

S.F. 2349

AN ACT relating to the preneed sale of cemetery and funeral merchandise and funeral services.

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

Section 1. Section 523A.102, subsection 27, Code Supplement 2007, is amended to read as follows:

27. "Seller" or "preneed seller" means a person doing business within this state, including a person doing business within this state who sells insurance, who advertises, sells, promotes, or offers to furnish cemetery merchandise, funeral merchandise, funeral services, or a combination thereof when performance or delivery may be more than one hundred twenty days following the initial payment on the account whether the transaction is completed or offered in person, through the mail, over the telephone, by the internet, or through any other means of commerce. "Seller" or "preneed seller" includes any person performing any term of a purchase agreement executed within this state, and any person identified under a burial account as the provider of cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. "Seller" or "preneed seller" does not include a person who has an ownership interest in a seller or preneed seller but who is not actively engaged in advertising, selling, promoting, or offering to furnish such cemetery merchandise, funeral merchandise, funeral services, or a combination thereof.

Sec. 2. Section 523A.203, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. A financial institution acting as a trustee of trust funds under this chapter shall notify each purchaser within sixty days from the date of deposit confirming that a deposit has been made establishing a trust fund for the purchaser's payments made under the purchase agreement.

Sec. 3. Section 523A.203, subsection 6, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Use any funds required to be held in trust pursuant to section 523A.201 to purchase an insurance policy or annuity.

Sec. 4. Section 523A.405, subsection 8, Code Supplement 2007, is amended to read as follows:

8. The amount of the surety bond shall equal eighty percent of the payments received pursuant to purchase agreements, or the applicable portion thereof, for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, and the amount needed to adjust the amount of the surety bond for inflation as set by the commissioner based on the consumer price index. The seller shall review the amount of the surety bond no less than annually and shall increase the bond as necessary to reflect additional payments. The amount needed to adjust for inflation shall be added annually to the surety bond during the first quarter of the ~~establishment's~~ seller's fiscal year.

Sec. 5. Section 523A.501, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, ~~any~~ an applicant for reinstatement of a license issued pursuant to this section, or ~~any~~ a licensee who is being monitored as a result of a commission order or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner ~~shall adopt rules pursuant to chapter 17A to implement this section~~ may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. The commissioner shall inform ~~the~~ an applicant or licensee ~~of~~ to whom the criminal history requirement applies and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

Sec. 6. Section 523A.501, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The commissioner shall request and obtain a financial history for any director of, or person with a financial interest in, a preneed seller who is an applicant for an initial license issued pursuant to this section, ~~any~~ an applicant for reinstatement of a license issued pursuant to this section, or ~~any~~ a licensee who is being monitored as a result of a commission order or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller, as required by the commissioner by rules adopted pursuant to chapter 17A. The commissioner may limit this requirement to those persons who have the ability to control or direct control of trust funds under this chapter. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement setting forth the assets, liabilities, and the net worth of the person.

Sec. 7. Section 523A.502, subsection 6, Code Supplement 2007, is amended to read as follows:

6. A sales agent licensed pursuant to this section shall satisfactorily fulfill continuing education requirements for the license as prescribed by the commissioner by rule. However, this continuing education requirement is not applicable to a sales agent who is also a licensed insurance producer under chapter 522B or a licensed funeral director under chapter 156.

Sec. 8. Section 523A.601, subsection 6, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

"For your prearranged funeral agreement, we will deposit not less than eighty percent of your payments in trust at (name of financial institution), (street address), (city), (state) (zip

code) within fifteen days following receipt of the funds. For your protection, you ~~have the right to contact~~ will be notified within sixty days from the date of deposit from the financial institution ~~directly~~, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds ~~occurred~~ has been made establishing a trust fund as required by law. If you ~~unable to confirm the deposit of these funds in trust~~ do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above."[1]

Sec. 9. NEW SECTION. 523A.810A ELECTRONIC FILING.

The commissioner shall, by rule, develop a system and procedures and a format for electronic filing of documents required to be filed with the commissioner under this chapter.

Sec. 10. Section 523A.811, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The amount of funds currently held in trust for cemetery merchandise, funeral merchandise, and funeral services is less than ~~eighty percent of all payments made under the purchase agreements referred to in~~ the amount required in section 523A.201, subsection 2 or 3, as applicable.

Approved April 18, 2008

CHAPTER 1104

STATE PURCHASE OF BIOBASED PRODUCTS

S.F. 2361

AN ACT providing for the procurement of designated biobased products by state government.

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

Section 1. Section 8A.311, subsection 14, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The procurement of designated biobased products in accordance with the requirements of section 8A.317.

Sec. 2. NEW SECTION. 8A.317 STATE PURCHASES — DESIGNATED BIOBASED PRODUCTS.

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

a. "Biobased material" means the same as defined in section 469.31.

b. "Designated biobased product" means a biobased product as defined in section 469.31, and includes a product determined by the United States department of agriculture to be a commercial or industrial product, other than food or feed, that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials including plant, animal, and marine materials, or forestry materials as provided in 7 U.S.C. § 8102.

2. The department shall do all of the following:

a. Develop procedures and specifications for the purchase of designated biobased products. The department may develop specifications after consulting guidelines or regulations promulgated by the United States department of agriculture pursuant to section 7 U.S.C. § 8102.

[1] See chapter 1191, §140 herein

b. Require that a purchase of a designated biobased product be made from the seller whose designated biobased product contains the greatest percentage of biobased materials, unless any of the following applies:

(1) The designated biobased product is not available within a reasonable period of time or in quantities necessary or in container sizes appropriate to meet a state agency's needs.

(2) The designated biobased product does not meet performance requirements or standards recommended by a manufacturer, including any warranty requirements.

(3) The designated biobased product does not meet the functional requirements and evaluation criteria identified in bid documents. Functional requirements to be considered may include but are not limited to the designated biobased product's conformance with ASTM (American society for testing and materials) international standards.

(4) The purchase of the designated biobased product conflicts with section 8A.311, subsection 1, paragraph "a".

(5) The designated biobased product is available only at a cost greater than one hundred five percent of the cost of comparable products which are not biobased.

c. Establish and maintain a preference program for procuring the maximum content of biobased materials in biobased products. The preference program shall include but is not limited to all of the following:

(1) The inclusion of preferences for designated biobased products in publications used to solicit bids from suppliers.

(2) The provision of a description of the preference program at bidders' conferences.

(3) Discussion of the preference program in requests for proposals or invitations to bid.

(4) Efforts to inform industry trade associations about the preference program.

3. This section does not apply to a biobased product which is subject to requirements for procurement in another provision of this chapter including but not limited to any of the following:

a. Soybean-based ink as provided in section 8A.315.

b. Degradable loose foam packing material manufactured from grain starches or other renewable resources as provided in section 8A.315.

c. A biobased hydraulic fluid, grease, or other industrial lubricant as provided in section 8A.316.

4. When evaluating a bid for the purchase of designated biobased products, the department may take into consideration warranty provisions and life cycle cost estimates.

Sec. 3. Section 216B.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 17A. Give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

Sec. 4. NEW SECTION. 260C.19C PURCHASE OF DESIGNATED BIOBASED PRODUCTS.

The board of directors providing services to a merged area shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

Sec. 5. NEW SECTION. 262.25C PURCHASE OF DESIGNATED BIOBASED PRODUCTS.

The state board of regents and institutions under the control of the board purchasing products shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

Sec. 6. Section 307.21, subsection 4, paragraph b, Code Supplement 2007, is amended by adding the following new subparagraph:

[1](5) Give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

[1] According to enrolled Act; the phrase "NEW SUBPARAGRAPH." probably intended

Sec. 7. NEW SECTION. 904.312C PURCHASE OF DESIGNATED BIOBASED PRODUCTS.

The department shall give preference to purchasing designated biobased products in the same manner as provided in section 8A.317.

Approved April 18, 2008

CHAPTER 1105

AIR POLLUTION
FROM SMALL BUSINESS STATIONARY SOURCES
— REGULATION AND TECHNICAL ASSISTANCE

S.F. 2367

AN ACT relating to the compliance advisory panel, including the appointment of its members and its powers and duties.

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

Section 1. Section 455B.131, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13. "Small business stationary source" means a stationary air contaminant source that meets all of the following requirements:

a. Employs one hundred or fewer individuals.

b. Qualifies as a small business concern by the United States department of commerce pursuant to 15 U.S.C. § 632.

c. Is not a major stationary source.

d. Emits less than fifty tons per year of any federally regulated air pollutant and less than seventy-five tons per year of all federally regulated pollutants under the federal Clean Air Act Amendments of 1990, 42 U.S.C. § 7401 et seq.

Sec. 2. NEW SECTION. 455B.133A SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM.

A small business stationary source technical and environmental compliance assistance program shall be administered and enforced as required pursuant to the federal Clean Air Act Amendments of 1990, 42 U.S.C. § 7661f.

Sec. 3. Section 455B.133B, Code 2007, is amended to read as follows:

455B.133B AIR CONTAMINANT SOURCE FUND CREATED.

An air contaminant source fund is created in the office of the treasurer of state under the control of the department.

1. Moneys received from the fees assessed pursuant to section 455B.133, subsection 8, shall be deposited in the fund.

2. Moneys in the fund shall be used solely to defray the costs related to the permit, monitoring, and inspection program, including the small business stationary source technical and environmental compliance assistance program required pursuant to the federal Clean Air Act Amendments of 1990, ~~sections~~ section 502 ~~and 507~~, Pub. L. No. 101-549, and as provided in section 455B.133A.

3. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 12C.7, any interest and earnings on investments from money in the fund shall be credited to the fund.

Sec. 4. Section 455B.150, Code 2007, is amended to read as follows:

455B.150 COMPLIANCE ADVISORY PANEL — CREATION.

A compliance advisory panel ~~shall be~~ is created, pursuant to Title V, section 507(e) of the federal Clean Air Act Amendments of 1990, ~~to review and report on the effectiveness of the small business technical assistance program required by the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549~~ 42 U.S.C. § 7661f.

1. Appointment to the compliance advisory panel shall be as follows:

a. Two persons shall be appointed by the governor.

(1) Each person shall represent the general public and have an interest in air quality issues. The person shall not be an owner or represent an owner of a small business stationary source.

(2) The person shall serve for a four-year term and may be reappointed. A term of office shall begin and end as provided in section 69.19.

(3) An appointment shall comply with sections 69.16 and 69.16A. In addition, the appointments shall be geographically balanced.

b. Four persons appointed by the leadership of the general assembly.

(1) The persons shall be appointed as follows:

(a) One person by the majority leader of the senate after consultation with the president of the senate and the minority leader, and one person by the minority leader of the senate after consultation with the president of the senate and the majority leader.

(b) Two persons appointed by the speaker of the house of representatives after consultation with the majority leader and minority leader.

(2) Each person shall be an owner of a small business stationary source or shall represent an owner of a small business stationary source.

(3) The person shall serve for a two-year term and may be reappointed.

(4) A term shall expire upon the convening of the following general assembly, or when the appointee's successor is appointed, whichever occurs later.

c. The director or the director's designee who shall serve for a term of four years.

2. A vacancy shall be filled for the unexpired term by the original appointing authority in the manner of the original appointment.

3. The members are entitled to receive a per diem as specified in section 7E.6 for each day spent in performance of duties of members, and shall be reimbursed for all actual necessary expenses incurred in the performance of duties as members. Per diem and expenses shall be paid from moneys deposited in the air contaminant source fund created pursuant to section 455B.133B.

4. The compliance advisory panel shall elect a chairperson and may elect a vice chairperson or other officers from among its members as provided by its rules. The panel shall meet on a regular basis, but at least once each six months, and at the call of the chairperson or upon the written request to the chairperson of three or more members.

5. The department shall staff the compliance advisory panel and provide the panel with space to conduct its meetings, clerical assistance, and necessary supplies and equipment.

Sec. 5. NEW SECTION. 455B.151 COMPLIANCE ADVISORY PANEL — POWERS AND DUTIES.

The compliance advisory panel created in section 455B.150 shall review and report on the effectiveness of the small business stationary source technical and environmental assistance program as provided in section 455B.133A. The compliance advisory panel shall do all of the following:

1. Render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement.

2. Make periodic reports to the administrator of the federal environmental protection agency concerning the compliance of the state small business stationary source technical and environmental compliance assistance program with the requirements of the federal Paperwork

Reduction Act, 44 U.S.C. § 3501 et seq.; the federal Regulatory Flexibility Act, 5 U.S.C. § 601 et seq.; and the federal Equal Access to Justice Act, 5 U.S.C. § 504.

3. Review information for small business stationary sources to assure such information is understandable by the layperson.

4. Have the small business stationary source technical and environmental compliance assistance program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

Approved April 18, 2008

CHAPTER 1106

REGULATION OF PRACTICE OF
CERTIFIED PUBLIC ACCOUNTING

S.F. 2379

AN ACT relating to the regulation of the practice of certified public accounting and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 542.3, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. An examination of prospective financial information to be performed in accordance with the statements on standards for attestation engagements. ~~For purposes of this subsection, "the statements on standards for attestation engagements" means those standards adopted by the board, by rule, by reference to the standards developed for general application by the American institute of certified public accountants, or other recognized national accountancy organization.~~

Sec. 2. Section 542.3, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any engagement to be performed in accordance with the standards of the public company accounting oversight board.

Sec. 3. Section 542.3, subsection 1, Code 2007, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The standards specified in this subsection are those standards adopted by the board, by rule, by reference to the standards developed for general application by the American institute of certified public accountants, the public company accounting oversight board, or other recognized national accountancy organization.

Sec. 4. Section 542.3, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. "Home office" is the location specified by the client as the address to which an attest or compilation service is directed, which may be a subunit or subsidiary or an entity or the principal office of an entity, as the board may further define by rule.

NEW SUBSECTION. 15A. "NASBA" means the national association of state boards of accountancy.

NEW SUBSECTION. 15B. "Office" means any Iowa workplace identified or advertised to the general public as a location where public accounting services are performed.

NEW SUBSECTION. 20A. "Practice privilege" means an authorization to practice public accounting in Iowa or for clients with a home office in Iowa without licensure under this chapter, as provided in section 542.20.

NEW SUBSECTION. 20B. "Principal place of business" means the primary location from which public accounting services are performed, as the board may further define by rule. A person or firm may only have one principal place of business at any one time.

Sec. 5. Section 542.4, subsection 7, Code 2007, is amended to read as follows:

7. The board may join professional organizations and associations to promote the improvement of the standards of the practice of accountancy and for the protection and welfare of the public. The board may provide social security numbers of licensees to NASBA provided that the numbers are solely used by NASBA for inclusion in a national database of licensees, the numbers are submitted in an encrypted format or through such alternative means as will assure the confidentiality of the numbers, and NASBA maintains the confidentiality of the numbers and agrees not to disseminate the numbers to any other person or entity.

Sec. 6. Section 542.4, subsection 9, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. rr. Rules on practice privilege under section 542.20.

Sec. 7. Section 542.6, subsection 6, Code 2007, is amended to read as follows:

6. The board, by rule, shall require as a condition for renewal of a certificate under this section, by any certificate holder who performs compilation services for the public other than through a certified public accounting firm or licensed public accounting firm, that such individual undergo, no more frequently than once every three years, a peer review conducted in such manner as the board shall by rule specify, and such review shall include verification that such individual has met the competency requirements set out in professional standards for such services. The provisions of section 542.7, subsections 10, 11, and 12, shall apply to the peer review required in this subsection.

Sec. 8. Section 542.7, subsections 1, 3, 4, and 10, Code 2007, are amended to read as follows:

1. The board shall issue or renew a permit to practice to a certified public accounting firm that makes application and demonstrates the qualifications set forth in this section~~, or to a qualified certified public accounting firm originally licensed in another state that establishes an office in this state or otherwise provides services for clients in this state on a regular or recurring basis. A certified public accounting firm licensed and located in another state or foreign jurisdiction shall be allowed to audit a business unit located in Iowa without a permit to practice if the Iowa business unit is part of a multistate company whose principal offices are located outside of this state.~~ A person or firm holding a permit to practice issued by this state prior to July 1, 2002, is deemed to have met the requirements of this section.

a. A firm must hold a permit issued under this section ~~in order to provide~~ if the firm performs attest services in this state or for clients having a home office in this state or ~~to use~~ has an office in this state and uses the title "CPAs" ~~or~~, "CPA firm", "certified public accountants", or "certified public accounting firm".

b. A firm which is not subject to paragraph "a" may practice public accounting in this state without a permit issued under this section in conformance with section 542.20.

c. A firm that holds a permit issued under this chapter shall designate to the board the licensee or person with a practice privilege under section 542.20 who is responsible for the proper licensure of the firm and the firm's compliance with all applicable laws and rules of this state. If such firm has one or more offices in this state the firm shall designate to the board one or more persons who are licensed under this chapter who are responsible for the proper registration of each Iowa office of the firm and each office's compliance with all applicable laws and rules of this state.

3. a. An applicant for initial issuance or renewal of a permit to practice as a firm 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 542.6 or 542.19, or by another state if the holder has a practice privilege under section 542.20.

b. A certified public accounting firm may include a nonlicensee owner, which for purposes of this section means an owner that does not hold a valid certificate to practice public accounting in any state, provided all of the following occur:

~~(1) Such firm designates a licensee who is responsible for the proper registration of the firm, and identifies that individual to the board.~~

~~(2)~~ (1) All nonlicensee owners are active participants in the firm or an affiliated entity.

~~(3) All nonlicensee owners participate in a program of learning designed to maintain professional competency in compliance with rules adopted by the board which shall include requiring compliance with requirements imposed by a regulatory authority charged with regulation of a nonlicensee owner's professional or occupational license which is relevant to the firm's services.~~

~~(4)~~ (2) All nonlicensee owners comply with all applicable rules of professional conduct adopted by the board~~, and their own regulatory authority~~.

~~(5)~~ (3) Such firm complies with other requirements as established by the board by rule.

c. A licensee or person with a practice privilege under section 542.20 who is responsible for supervising attest or compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience or competency requirements set out in nationally recognized professional standards for such services.

d. A licensee or person with a practice privilege under section 542.20 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the experience or competency requirements established in paragraph "c".

e. The board may deny the issuance or renewal of, or revoke a permit, or otherwise discipline the holder of a permit issued under this section if a nonlicensee owner's professional license has been revoked in any jurisdiction or a nonlicensee owner has been convicted of a crime described in section 542.5, subsection 2, if the board determines that such revocation or conviction is detrimental to the public interest and would be a ground for discipline if applicable to a licensee under this chapter.

4. An applicant for initial issuance or renewal of a permit to practice as a certified public accounting firm is required to register each office of the firm within this state with the board and to show that all attest and compilation services rendered in this state are under the charge of a person holding a valid certificate issued under section 542.6 or 542.19, or by another state if the holder has a practice privilege under section 542.20.

10. Peer review records are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion. Peer review records are not admissible in evidence in a judicial, administrative, or arbitration proceeding. Unless the subject of a peer review timely objects in writing to the administering entity of the peer review program, the administering entity shall make available to the board within thirty days of the issuance of the peer review acceptance letter the final peer review report or such peer review records as are designated by the peer review program in which the administering entity participates. The subject of a peer review may voluntarily submit the final peer review report directly to the board. Information or documents discoverable from sources other than a peer review team do not become nondiscoverable from such other sources because they are made available to or are in the possession of a peer review team. Information or documents publicly available from the American institute of certified public accountants relating to quality or peer review are not privileged or confidential under this subsection. A person or organization participating in the peer review process shall not testify as to the findings, recommendations, evaluations, or opinions of a peer review team in a judicial, administrative, or arbitration proceeding.

Sec. 9. Section 542.8, subsection 9, paragraph a, Code 2007, is amended to read as follows:

a. The licensed public accountant license shall expire in ~~multiyear~~ intervals as determined by the board. The board shall notify a person licensed under this chapter of the date of expiration of the license and the amount of the fee required for its renewal. The notice shall be mailed at least one month in advance of the expiration date. A person who fails to renew a license as a licensed public accountant by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.

Sec. 10. Section 542.8, subsections 12, 13, and 19, Code 2007, are amended to read as follows:

12. The board shall issue or renew a permit to practice as a licensed public accounting firm to a person that makes application and demonstrates the qualification set forth in this section or to a licensed public accounting firm originally registered in another state that provides evidence that the qualifications met in the other state are substantially equivalent to those required by this section. A firm must hold a permit issued under this section in order to use the title ~~"LPA"~~ "LPAs" or "Licensed Public Accountants" in a firm name.

a. An applicant for initial issuance or renewal of a permit to practice as a firm under this section must show that notwithstanding any other provision of law, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members, and managers, belongs to the holders of a certificate or license issued by a state, and that such partners, officers, shareholders, members, and managers who perform professional services in this state or for clients in this state hold a certificate issued under section 542.6 or a license issued under this section, or another state if the holder has a practice privilege under section 542.20. To qualify for firm licensure at least one partner, officer, shareholder, member, or manager shall hold a license under this section.

b. A licensed public accounting firm may include a nonlicensee owner, which for purposes of this section means an owner that does not hold a valid license or certificate to practice public accounting in any state, provided all of the following occur:

(1) Such firm designates a licensee who is responsible for the proper registration of the firm, and identifies that individual to the board.

(2) All nonlicensee owners are active participants in the firm or an affiliated entity.

~~(3) All nonlicensee owners participate in a program of learning designed to maintain professional competency in compliance with rules adopted by the board which shall include requiring compliance with requirements imposed by a regulatory authority charged with regulation of a nonlicensee owner's professional or occupational license which is relevant to the firm's services.~~

~~(4)~~ (3) All nonlicensee owners comply with all applicable rules of professional conduct adopted by the board~~, and their own regulatory authority~~.

~~(5)~~ (4) Such firm complies with other requirements as established by the board by rule.

c. An individual licensee or person with a practice privilege under section 542.20 who is responsible for compilation services and signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in nationally recognized professional standards for such services.

d. An individual licensee or person with a practice privilege under section 542.20 who signs or authorizes someone to sign the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set out in nationally recognized professional standards for such services.

e. The board may deny the issuance or renewal of, or revoke a permit, or otherwise discipline the holder of a permit issued under this section if a nonlicensee owner's professional license has been revoked in any jurisdiction or a nonlicensee owner has been convicted of a crime described in section 542.5, subsection 2, if the board determines that such revocation or conviction is detrimental to the public interest and would be a ground for discipline if applicable to a licensee under this chapter.

13. An applicant for initial issuance or renewal of a permit to practice as a licensed public accounting firm is required to register each office of the firm within this state with the board and to show that all compilation services rendered in this state are under the charge of a person holding a valid certificate issued under section 542.6 or 542.19, or a license issued under this section, or another state if the holder has a practice privilege under section 542.20.

19. Peer review records are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion. Peer review records are not admissible in evidence in a judicial, administrative, or arbitration proceeding. Unless the subject of a peer review timely objects in writing to the administering entity of the peer review program, the administering entity shall make available to the board within thirty days of the issuance of the peer review acceptance letter the final peer review report or such peer review records as are designated by the peer review program in which the administering entity participates. The subject of a peer review may voluntarily submit the final peer review report directly to the board. Information or documents discoverable from sources other than a peer review team do not become nondiscoverable from such other sources because they are made available to or are in the possession of a peer review team. Information or documents publicly available from the national society of accountants relating to quality or peer review are not privileged or confidential under this subsection. A person or organization participating in the peer review process shall not testify as to the findings, recommendations, evaluations, or opinions of a peer review team in a judicial, administrative, or arbitration proceeding.

Sec. 11. Section 542.10, subsection 1, Code 2007, is amended to read as follows:

1. After notice and hearing pursuant to section 542.11, the board may revoke, suspend for a period of time not to exceed two years, or refuse to renew a license; reprimand, censure, or limit the scope of practice of any licensee; impose an administrative penalty not to exceed one thousand dollars per violation against an individual licensee or ten thousand dollars per violation against a firm licensee; require remedial actions; or place any licensee on probation; all with or without terms, conditions, and in combinations of remedies, for any one or more of the following reasons:

a. Fraud or deceit in obtaining a license, which may also result in permanent revocation of the license.

b. Dishonesty, fraud, or gross negligence in the practice of public accounting.

c. Engaging in any activity prohibited under section 542.13 or 542.20 or permitting persons under the licensee's supervision to do so.

d. Violation of a rule of professional conduct adopted by the board under the authority granted by this chapter.

e. Conviction of a felony under the laws of any state ~~of~~ or the United States.

f. Conviction of any crime, any element of which is dishonesty or fraud as provided in section 542.5, subsection 2, under the laws of any state ~~of~~ or the United States.

g. Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant, licensed public accountant, or accounting practitioner, or the acceptance of the voluntary surrender of a license to practice as a certified public accountant, licensed public accountant, or accounting practitioner to conclude a pending disciplinary action, by any other state or foreign authority for any cause other than failure to pay appropriate fees in the other jurisdiction.

h. Suspension or revocation of the right to practice before any state or federal agency, or the public company accounting oversight board.

i. Conduct discreditable to the public accounting profession.

j. Violation of section 272C.10.

Sec. 12. Section 542.13, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 18. Nothing in this section shall be construed to prohibit the practice of public accounting and lawful use of titles by persons or firms exercising a practice privilege in conformance with section 542.20.

Sec. 13. Section 542.14, subsections 1 and 2, Code 2007, are amended to read as follows:

1. If, as a result of an investigation under section 542.11 or otherwise, the board believes that a person or firm has engaged, or is about to engage, in an act or practice which constitutes or will constitute a violation of section 542.13 or 542.20, the board may make application to the district court for an order enjoining such act or practice. Upon a showing by the board that such person or firm has engaged, or is about to engage, in any such act or practice, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

2. In addition to a criminal penalty provided for in section 542.15, the board may issue an order to require compliance with section 542.13 or 542.20 or to revoke a practice privilege under section 542.20, and may impose a civil penalty not to exceed one thousand dollars for each offense upon a person who is not a licensee under this chapter and who engages in conduct prohibited by section 542.13 or 542.20. Each day of a continued violation constitutes a separate offense. The board may impose a penalty up to ten thousand dollars per violation against a firm that violates section 542.13 or 542.20.

Sec. 14. NEW SECTION. 542.20 PRACTICE PRIVILEGE.

1. This section authorizes a person or firm whose principal place of business is not in this state to practice public accounting in Iowa in person, or by telephone, mail, or electronic means without licensure under this chapter or notice to the board under the conditions described in this section. Such a person or firm must hold a valid, unexpired license in good standing in the state of its principal place of business that is substantially equivalent to a comparable license issued in Iowa, and such a person or firm must be licensed to lawfully perform in its principal place of business all public accounting services offered or rendered under a practice privilege in Iowa.

2. A provision of this section or of any other section in this chapter shall not prevent the auditor of state, the department of agriculture and land stewardship, other governmental official or body, or a client from requiring that public accounting services performed in Iowa or for an Iowa client be performed by a person or firm holding a license under this chapter.

3. The practice privilege authorized by this section is temporary and shall cease if the license in the person's or firm's principal place of business expires, is no longer valid or in good standing, or otherwise no longer lawfully supports the conditions of the practice privilege described in this section.

4. The board may revoke a practice privilege, impose a civil penalty, issue an order to secure compliance with this chapter or board rules, or take such additional actions as are provided in section 542.14 if a person or firm acting or purporting to act under a practice privilege violates this chapter or board rules. In addition, or as an alternative to such action, the board may refer a complaint to the state regulatory body that issued the license to the person or firm.

a. A violation of this chapter or board rules by a person or firm acting or purporting to act under a practice privilege is a ground to deny the violator's subsequent application for licensure under this chapter.

b. A violation of this chapter or board rules by a person acting or purporting to act under a practice privilege is a ground to deny a subsequent application for initial or renewal licensure under this chapter by the violator's firm, and is a ground for discipline against such firm.

c. A violation of this chapter or board rules by a person or firm acting or purporting to act under a practice privilege is a ground for discipline against a licensee under this chapter who aided or abetted the violation.

5. A certified public accounting firm that is licensed in the state of its principal place of business and is not required to hold an Iowa firm license under section 542.7 may practice in this state without a firm license under this chapter or notice to the board if the firm's practice in this state is performed by individuals who hold a license under this chapter or who practice in conformance with subsection 6, under the following conditions:

a. The firm shall not perform attest services in Iowa or for a client having a home office in Iowa.

b. The firm shall not have an office in Iowa which uses the title "CPAs", "CPA firm", "certified public accountants", or "certified public accounting firm".

c. The firm may perform compilation services only if it complies with the ownership and peer review requirements of section 542.7.

d. The firm shall not make any representation tending to falsely indicate that the firm is licensed under this chapter.

e. The firm, upon a client's or prospective client's request, shall provide accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

f. The firm shall comply with all professional standards, laws, and rules that apply to licensees performing the same professional services.

6. An individual who is licensed in the state of the individual's principal place of business may exercise the privileges of a certificate holder of this state without obtaining a certificate under this chapter or providing notice to the board, under the following conditions:

a. The individual must meet the criteria for substantial equivalency reciprocity under section 542.19, subsection 1, paragraph "a", "b", or "c".

b. The individual shall not have an office in Iowa at which the individual uses the title "CPA". The individual may, however, perform public accounting services using the title "CPA" if performed at the office of a certified public accounting firm or licensed public accounting firm that holds a permit to practice under section 542.7 or 542.8, or at the office of a business entity that is not required to hold a firm permit under section 542.7 or 542.8.

c. An individual who provides attest services in Iowa or for a client having a home office in Iowa must practice through a certified public accounting firm that is licensed under section 542.7.

d. An individual who provides compilation services in Iowa or for a client having a home office in Iowa must comply with the peer review provisions of section 542.6, subsection 6, or provide such services through a certified public accounting firm, a licensed public accounting firm, or substantially equivalent firm that is validly licensed in the firm's principal place of business and is subject to the peer review and ownership provisions of section 542.7 or 542.8.

e. The individual shall not make any representation tending to falsely indicate that the individual is licensed under this chapter.

f. The individual, upon a client's or prospective client's request, shall provide accurate information on the state or states of licensure, principal place of business, contact information, and manner in which licensure status can be verified.

g. The individual shall comply with all professional standards, laws, and rules that apply to licensees performing the same professional services.

7. As a condition of exercising the practice privilege provided in subsection 5 or 6, the person or firm does all of the following:

a. Consents to the personal and subject matter jurisdiction and regulatory authority of the board, including but not limited to the board's jurisdiction to revoke the practice privilege or otherwise take action under section 542.14 for any violation of this chapter or board rules.

b. Appoints the regulatory body of the state that issued the firm or individual license as the agent upon whom process may be served in any action or proceeding by the board against the firm or person.

c. Agrees to supply the board, upon the board's request and without subpoena, such information or records as licensees are similarly required to provide the board under this chapter regarding themselves or, in the case of a firm, regarding the individuals practicing through the firm, including but not limited to licensure status in all jurisdictions; qualifications for substantial equivalency reciprocity under section 542.19, subsection 1, paragraph "a", "b", or "c"; location of principal place of business and all other offices; criminal and disciplinary background; malpractice settlements and judgments; firm ownership and when applicable, information regarding nonlicensee owners; whether public accounting services are subject to peer review; proof of completion of peer review, when applicable; qualifications to supervise attest services, when applicable; and timely response to inquiries regarding complaints and investigations conducted under this chapter.

d. Agrees to promptly cease offering or rendering public accounting services in this state or for clients having a home office in this state if the license in the person's for firm's principal place of business expires or is otherwise no longer valid or in good standing, or if any of the conditions for exercising the practice privilege are no longer satisfied, or if the board revokes the practice privilege.

8. A licensee of this state is subject to discipline in this state based on a violation of a comparable practice privilege afforded by another state.

9. The board shall adopt rules on the manner in which this section applies to persons or firms that hold a lapsed Iowa license, have been subject to discipline in Iowa, have surrendered an Iowa license, or have otherwise held an Iowa license at one point in time that is no longer valid, active, or in good standing, and to persons or firms that have been convicted of a crime, the subject of discipline or denied licensure in any jurisdiction, or that would otherwise be subject to license denial or discipline if a license applicant or licensee in Iowa.

Sec. 15. EFFECTIVE DATE. This Act takes effect July 1, 2009.

Approved April 18, 2008

CHAPTER 1107

COLLEGE STUDENT AID COMMISSION MEMBERSHIP

H.F. 2103

AN ACT relating to appointments to the college student aid commission and including an effective date and applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 261.1, subsections 3 and 4, Code 2007, are amended to read as follows:

3. a. ~~A member~~ Two members of the senate, one to be appointed by the president of the senate~~, after consultation with the majority leader~~ and one to be appointed by the minority leader of the senate, to serve as ~~an~~ ex officio, nonvoting ~~member for a term of four years beginning on July 1 of the year of appointment~~ members.

b. ~~A member~~ Two members of the house of representatives, one to be appointed by the speaker of the house of representatives and one to be appointed by the minority leader of the house of representatives, to serve as ~~an~~ ex officio, nonvoting ~~member for a term of four years beginning on July 1 of the year of appointment~~ members.

c. The members of the senate and house of representatives shall serve at the pleasure of the appointing legislator for a term beginning upon the convening of the general assembly and expiring upon the convening of the following general assembly, or when the appointee's successor is appointed, whichever occurs later.[1]

Sec. 2. Section 261.1, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Eight additional members to be appointed by the governor. One of the members shall be selected to represent private colleges~~, private~~ and universities ~~and private junior colleges~~ located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of some or all private colleges~~, private~~ and universities ~~and private junior colleges~~ located in the state of Iowa. One of the members shall be selected to represent community colleges

[1] See chapter 1191, §134 herein

located in the state of Iowa. When appointing this member, the governor shall give careful consideration to any person or persons nominated or recommended by any organization or association of Iowa community colleges. One member shall be enrolled as a student at a board of regents institution, community college, or accredited private institution. One member shall be a representative of a lending institution located in this state. One member shall be ~~a representative of the Iowa student loan liquidity corporation~~ an individual who is repaying or has repaid a student loan guaranteed by the commission. The other three members, none of whom shall be official board members or trustees of an institution of higher learning or of an association of institutions of higher learning, shall be selected to represent the general public.

Sec. 3. EFFECTIVE AND APPLICABILITY DATE.

1. This Act, being deemed of immediate importance, takes effect upon enactment.

2. The Act applies to members of the general assembly appointed to the college student aid commission before, on, or after the effective date of this Act.

3. The membership of the person who is the Iowa student loan liquidity corporation representative on the college student aid commission is terminated on the effective date of this Act. The term of the initial appointment of the individual who is repaying or repaid a student loan guaranteed by the commission shall expire on the date the term of the Iowa student loan liquidity corporation representative would have ended but for enactment of this Act.

Approved April 18, 2008

CHAPTER 1108

HUMAN PAPILLOMA VIRUS VACCINATIONS — INSURANCE COVERAGE

H.F. 2145

AN ACT to require insurers offering certain individual or group health insurance contracts, policies, or plans to provide coverage for vaccinations for human papilloma virus.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 514C.23 HUMAN PAPILLOMA VIRUS VACCINATIONS — COVERAGE.

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a contract, policy, or plan providing for third-party payment or prepayment of health or medical expenses that provides coverage benefits for any vaccination or immunization shall provide coverage benefits for a vaccination for human papilloma virus, including but not limited to the following classes of third-party payment provider contracts, policies, or plans delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2009:

a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.

b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.

c. An individual or group health maintenance organization contract regulated under chapter 514B.

d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

e. A plan established pursuant to chapter 509A for public employees.

2. This section shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, long-term care, basic hospital and medical-surgical expense coverage as defined by the commissioner, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical payment insurance.

3. As used in this section, "human papilloma virus" means the human papilloma virus as defined by the centers for disease control and prevention of the United States department of health and human services.

4. The commissioner of insurance shall adopt rules pursuant to chapter 17A as necessary to administer this section.

Approved April 18, 2008

CHAPTER 1109

SOLID WASTE DISPOSAL,
ENVIRONMENTAL MANAGEMENT SYSTEMS,
AND RECYCLING

H.F. 2570

AN ACT relating to solid waste disposal and environmental management by providing for the designation of environmental management systems, providing incentives, and creating a solid waste alternatives program advisory council and comprehensive recycling planning task force, and modifying fees and allocations of funds.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.310, subsection 2, Code 2007, is amended to read as follows:

2. The tonnage fee is four dollars and twenty-five cents per ton of solid waste, except as provided in section 455J.5, subsection 1, paragraph "b".

Sec. 2. Section 455D.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. ENVIRONMENTAL MANAGEMENT SYSTEMS. A planning area designated as an environmental management system pursuant to section 455J.7 is exempt from the waste stream reduction goals of this section.

Sec. 3. Section 455E.11, subsection 2, paragraph a, subparagraph (1), Code 2007, is amended to read as follows:

(1) After the one dollar and fifty-five cents is allocated pursuant to subparagraph (2), the remaining moneys from the tonnage fee shall be used for funding alternatives to landfills and shall be allocated as follows:

(a) Fifty thousand dollars to the department to implement the special waste authorization program.

(b) One hundred sixty-five thousand dollars to the department to be used for the by-products and waste search service at the university of northern Iowa.

(c) Up to thirty percent of the fees remitted shall be used for grants to environmental management systems as provided in section 455J.7.

~~(c)~~ (d) The balance of the remaining funds shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs. These funds may also be used to assist planning areas which have not

been designated as environmental management systems in meeting the designation requirements of section 455J.3.

Sec. 4. NEW SECTION. 455J.1 ENVIRONMENTAL MANAGEMENT SYSTEMS — LEGISLATIVE FINDINGS — PURPOSE.

1. The purpose of this chapter is to encourage responsible environmental management and solid waste disposal and to enhance efforts to promote environmental stewardship.

2. The general assembly finds and declares all of the following:

a. The policy of responsible environmental management can be furthered by rewarding solid waste disposal projects that operate in an innovative, cost-effective, technologically advanced, and environmentally sensitive manner.

b. Responsible environmental management can also be furthered by changing the focus of solid waste disposal projects from disposal management to environmental resource management.

c. The concept of environmental stewardship embraces every aspect of the environmental footprint created by the management and disposal of solid waste.

d. Environmental management systems mitigate the climate change impacts of solid waste disposal by reducing the amount of greenhouse gases released into the atmosphere. In addition, environmental management systems improve water quality by limiting and treating the impacts of leachate disposal and by providing positive examples of sustainable water resource management.

e. The goal of managing resources in a sustainable manner is to increase the benefits to communities and society for the present and for the future.

Sec. 5. NEW SECTION. 455J.2 DEFINITIONS.

For purposes of this chapter:

1. "Commission" means the environmental protection commission.

2. "Council" means the solid waste alternatives program advisory council established by the director.

3. "Department" means the department of natural resources.

4. "Director" means the director of the department of natural resources.

5. "Environmental management system" or "system" means a solid waste planning area which has been designated as an environmental management system pursuant to section 455J.7. "Environmental management system" includes a planning area designated as an environmental management system that is providing multiple environmental services in addition to solid waste disposal and that is planning for the continuous improvement of solid waste management by appropriately and aggressively mitigating the environmental impacts of solid waste disposal.

Sec. 6. NEW SECTION. 455J.3 ENVIRONMENTAL MANAGEMENT SYSTEM DESIGNATION REQUIREMENTS.

To qualify for designation as an environmental management system pursuant to section 455J.7 a solid waste planning area shall actively pursue all of the following:

1. YARD WASTE MANAGEMENT. Provide for the operation of a yard waste management program or contract with another party to do so.

2. HAZARDOUS HOUSEHOLD WASTE COLLECTION. Provide for the proper management and disposal of hazardous household waste by operating a regional collection center or participating in a regional collection center network. The regional collection center shall provide for the collection and disposal of hazardous household wastes, including but not limited to paint, pesticides, batteries, automotive products, sharps, needles and syringes, and pool chemicals. The regional collection center shall encourage the reuse of any materials for which reuse is possible and may educate households on the use of safer alternatives through efforts designed to increase public participation and to increase the participation of local government entities not currently in a network. Regional collection centers may also provide for the assessment of current educational programs by examining changes in consumer behavior.

3. WATER QUALITY IMPROVEMENT. Provide for a water quality improvement program within the system's planning area. Such a program may include offering educational programs, sponsoring awareness initiatives, providing for cleanup activities such as the cleanup of illegal dumping areas, and otherwise promoting responsible environmental behavior.

4. GREENHOUSE GAS REDUCTION. Implement a greenhouse gas reduction program designed to prevent the release of greenhouse gases into the atmosphere. Such a program may include but is not limited to the following activities:

a. Generating electricity or producing other fuels through the collection of landfill gas, such as a methane gas recovery or minimization system.

b. Collecting and managing food and other organic waste from households and from industrial and commercial establishments, or attempting to recover energy from the reuse of biomass.

c. Implementing programs that encourage the efficient use of energy and promote the use of renewable fuels.

d. Discouraging the uncontrolled burning of solid waste and yard waste.

e. Setting recycling goals to measure energy savings and quantify the level of success of greenhouse gas mitigation efforts.

f. Collection and recycling services targeted at waste generated by industrial and commercial facilities such as cardboard, paper, construction, and demolition waste.

5. RECYCLING SERVICES.

a. Offer recycling services for paper, glass, metal, and plastics within the communities served. In addition to offering recycling of paper, metal, glass, and plastics, a solid waste planning area may also offer recycling services for electronic waste, white goods, and tires.

b. Recycling services may also be targeted at waste generated by industrial and commercial facilities such as cardboard, paper, construction, and demolition waste.

c. Recycling services offered in an effort to meet the goals of this subsection may be provided through drop-off sites or through curbside recycling programs operated in conjunction with solid waste collection.

6. ENVIRONMENTAL EDUCATION. Plan and implement programs educating the public on environmental stewardship. These programs may include components designed to prevent illegal dumping, reduce greenhouse gas emissions, improve water quality, reduce waste generation, increase recycling and reuse, or any other environmental objective that furthers the purpose and goals of this chapter.

Sec. 7. NEW SECTION. 455J.4 ANNUAL COMPLIANCE REPORTS.

1. On September 1, 2009, and each year thereafter, each environmental management system shall submit to the department an annual report. The report shall document the system's compliance with the requirements of section 455J.3.

2. The department shall adopt by rule methods and criteria for determining whether a system is in compliance with the provisions of this chapter. In adopting methods and criteria, the department shall consult with stakeholders in order to develop reasonable and appropriate criteria. In determining whether a system is in compliance with the provisions of this chapter, the department shall evaluate whether a system is making continuing progress in regard to the requirements of section 455J.3.

Sec. 8. NEW SECTION. 455J.5 INCENTIVES.

1. A solid waste planning area designated as an environmental management system pursuant to section 455J.7 shall qualify for all of the following:

a. An exemption from solid waste reduction goals imposed on sanitary landfills pursuant to section 455D.3.

b. A reduced tonnage fee of three dollars and sixty-five cents per ton, to be imposed as provided in section 455B.310, notwithstanding section 455B.310, subsection 2, of which two dollars and ten cents shall be remitted to the department.

c. Financial assistance as recommended by the council and approved by the commission pursuant to section 455J.7.

2. Notwithstanding any other provision of law to the contrary, in addition to the incentives in subsection 1, an environmental management system is only required to file its updated comprehensive plan once every five years.

Sec. 9. NEW SECTION. 455J.6 SOLID WASTE ALTERNATIVES PROGRAM ADVISORY COUNCIL.

1. A solid waste alternatives program advisory council is established within the department. The council consists of the following voting members serving staggered three-year terms who shall be appointed by the director:

a. One member representing the Iowa recycling association.

b. One member representing the Iowa waste exchange.

c. One member representing the department of economic development's recycle Iowa program.

d. One member representing the Iowa society of solid waste administrators.

e. Three members representing solid waste planning areas of various sizes.

f. One member representing the Iowa chapter of the national solid wastes management association.

g. One member representing the department.

2. In appointing members to the council, the director shall include representatives from both public and private solid waste entities.

3. Members shall not be entitled to compensation, but shall be entitled to reimbursement for expenses pursuant to section 7E.6.

4. A majority of voting members shall not include any member who has a conflict of interest. A statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the council.

Sec. 10. NEW SECTION. 455J.7 DESIGNATION OF ENVIRONMENTAL MANAGEMENT SYSTEMS.

1. CONSIDERATION OF PLANS. The council shall consider solid waste management plans submitted by solid waste planning areas and make recommendations for designation as an environmental management system to the commission. All system designations recommended by the council are subject to approval by the commission. Any solid waste planning area may submit a plan to the council and seek designation as a system.

a. By October 1, 2008, the council shall recommend the designation of up to six initial qualifying solid waste planning areas as environmental management systems to serve as pilot projects. By October 1, 2009, and by the same date each year thereafter, the council may recommend the designation of any additional planning areas as systems, provided those areas meet the requirements of section 455J.3.

b. In recommending the designation of a planning area as a system, the council shall make a determination as to whether the area meets the requirements of section 455J.3. The council shall not recommend the designation of a planning area as a system unless the planning area meets the requirements of section 455J.3.

c. The commission shall consider the plans submitted to the council and shall review the council's recommendations on those plans. The commission shall approve or reject each plan and shall make publicly available its reasons for doing so.

2. SYSTEM REVIEW.

a. By October 1, 2009, and by the same date each year thereafter, the council shall review the annual reports of all designated systems and determine whether those systems remain in compliance with section 455J.3. If the council determines that a planning area is no longer in compliance, the council may recommend to the commission the revocation of the planning area's system designation.

b. The council may review and monitor the progress of those planning areas that have not been designated as a system and shall coordinate with other statewide boards, task forces, and other entities in order to achieve the goals and objectives of this chapter.

3. ALLOCATION OF FUNDS.

a. The council shall recommend to the commission a reasonable allocation of the moneys provided in section 455E.11, subsection 2, paragraph "a", subparagraph (1), subparagraph subdivision (c), to eligible systems. In making its recommendation as to the allocation of moneys, the council shall adopt and use a set of reasonable criteria. The criteria shall conform to the goals and purposes of this chapter as described in section 455J.1 and shall be approved by the commission.

b. Notwithstanding any other provision of law to the contrary, the commission shall make a final allocation of the funds described in section 455E.11, subsection 2, paragraph "a", subparagraph (1), subparagraph subdivision (c), to systems meeting the requirements of this chapter.

c. Moneys allocated pursuant to this subsection shall be used by systems to further compliance with any of the requirements of section 455J.3.

Sec. 11. COMPREHENSIVE RECYCLING PLANNING TASK FORCE.

1. ESTABLISHMENT AND PURPOSE. A comprehensive recycling planning task force is established. The task force shall be initially convened by July 1, 2008, and shall be regularly convened as often as necessary. The task force shall be convened for the following purposes:

a. Studying and making recommendations for the planning and implementation of comprehensive statewide recycling programs, including an evaluation of the current beverage container control law commonly referred to as the bottle bill.

b. Making recommendations for reducing the amount of recyclable materials contained in the waste stream and for reducing litter.

2. MEMBERSHIP.

a. The task force shall consist of the following voting members:

(1) One member selected by the Iowa recycling association.

(2) One member selected by the Iowa society of solid waste operations.

(3) Three members selected by the Iowa society of solid waste operations representing solid waste planning areas of various sizes and from various locations across the state.

(4) One member selected by the Iowa league of cities.

(5) One member selected by the solid waste association of north America representing private solid waste disposal entities.

(6) The director of the department of natural resources, or the director's designee.

(7) One member selected by the Iowa environmental council.

(8) One member selected by the league of women voters of Iowa.

(9) One member selected by the Iowa wholesale beer distributors association.

(10) One member selected by the Iowa beverage association representing juice and soft drink distributors.

(11) One member selected by the Iowa bottle bill coalition representing independent redemption centers.

(12) One member selected by the Iowa association of counties.

(13) One member selected by the Iowa farm bureau federation.

(14) One member selected by the association of business and industry.

(15) One member selected by the home builders association of Iowa.

(16) The director of the alcoholic beverages division of the department of commerce, or the director's designee.

(17) One member selected by keep Iowa beautiful.

(18) One member selected by the Iowa grocery industry association.

(19) One member selected by the Iowa dairy foods association.

(20) One member selected by the petroleum marketers and convenience stores of Iowa.

(21) One member selected by the Iowa retail federation.

(22) One member selected by the Iowa wine growers association.

(23) The director of the department of transportation, or the director's designee.

b. Nonvoting members of the task force shall include all of the following:

(1) Two members of the senate. One senator shall be appointed by the majority leader of the senate and one senator shall be appointed by the minority leader of the senate.

(2) Two members of the house of representatives. One member shall be appointed by the speaker of the house of representatives and one member shall be appointed by the minority leader of the house of representatives.

c. The voting members shall be appointed in compliance with the requirements of sections 69.16, 69.16A, and 69.19, and shall serve for the duration of the task force.

d. The members of the task force are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties.

e. The task force shall elect a chairperson and the recommendations of the task force shall be approved by a majority of the voting members. A majority of the task force constitutes a quorum and an affirmative vote of the majority of members is necessary to approve the recommendations of the task force. A vacancy in the membership does not impair the right of a quorum to exercise all rights and perform all duties of the task force.

3. DUTIES. The task force shall do all of the following:

a. Evaluate in a comprehensive manner the nature, extent, and effectiveness of recycling programs throughout the state.

b. Make recommendations for creating and enhancing comprehensive sustainable recycling programs. Such recommendations may include methods of collecting and paying for the recycling of residential, industrial, and commercial waste, mechanisms for increasing the recycling of construction and demolition waste, and incentives for increasing the recycling of yard waste, food or other organic waste, hazardous household waste, and electronic waste.

c. Assess the viability of a statewide curbside recycling program and make recommendations regarding the manner in which such a program might be implemented. If the assessment determines that such a program is viable, the task force shall provide an evaluation of available funding sources for a statewide curbside recycling program and include a detailed budget proposal for funding, implementing, and conducting such a program. The evaluation of funding sources and the proposed budget shall ensure adequate funding of recycling efforts throughout this state until a transition from the current beverage container control system to a statewide curbside recycling program can be fully completed and implemented.

d. Make recommendations for facilitating the elimination of illegal dumping and littering throughout the state, including an evaluation of enhanced fines to increase deterrence. If appropriate, the recommendations may include an examination or incorporation of recommendations made by other task forces or government agencies.

e. Make recommendations for the establishment and funding of regional recycling centers.

f. Develop a plan to assist existing redemption and recycling businesses in adapting to any industry changes resulting from recommendations of the task force.

g. Make recommendations for marketing programs that increase education and awareness of recycling, littering, and illegal dumping issues and that enhance the understanding of and commitment to effective environmental stewardship.

h. Assess the effectiveness and sustainability of the beverage container control law in Code chapter 455C, commonly referred to as the bottle bill, and consider possible alternatives.

4. REPORT. The task force shall submit a written report containing its findings and recommendations to the governor and the general assembly by January 1, 2009.

5. DISSOLUTION. The task force shall complete its duties no later than January 1, 2009, but may complete its duties and dissolve itself prior to that date.

Approved April 18, 2008

CHAPTER 1110

REAL ESTATE TRANSACTION DISCLOSURE REQUIREMENTS

S.F. 2246

AN ACT relating to required disclosures in real estate transactions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 558A.4, subsection 1, Code 2007, is amended to read as follows:

1. The disclosure statement shall include information relating to the condition and important characteristics of the property and structures located on the property, including significant defects in the structural integrity of the structure, as provided in rules which shall be adopted by the real estate commission pursuant to section 543B.9. ~~The disclosure statement shall also include whether the property is located in a real estate improvement district and the amount of any special assessment against the property under chapter 358C.~~ The rules may require the disclosure to include information relating to the property's zoning classification; the condition of plumbing, heating, or electrical systems; or the presence of pests.

Sec. 2. Section 358C.24, Code 2007, is repealed.

Approved April 22, 2008

CHAPTER 1111

FAMILY INVESTMENT PROGRAM —
LIMITED BENEFIT PLAN INELIGIBILITY PERIOD

S.F. 2269

AN ACT revising family investment program requirements for limited benefit plans.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 239B.9, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) A limited benefit plan subsequent to a first limited benefit plan chosen by the same individual participant shall provide for a ~~six-month~~ specified period of ineligibility of six months or less beginning with the effective date of the limited benefit plan and continuing indefinitely following the ~~six-month~~ specified period until the individual participant completes significant contact with or action in regard to the JOBS program. The department shall adopt rules defining the circumstances for which a particular period of ineligibility will be specified.

Sec. 2. Section 239B.9, subsection 4, paragraph b, Code 2007, is amended to read as follows:

b. A participant who chooses a subsequent limited benefit plan may reconsider that choice at any time following the ~~required~~ period of ineligibility specified in accordance with subsection 1.

Approved April 22, 2008

CHAPTER 1112

CHILDREN UNDER OUT-OF-HOME PLACEMENT ORDERS
— IDENTITY DOCUMENTS

S.F. 2340

AN ACT requiring certain identity documents to be provided to children subject to a court order for out-of-home placement.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.2, subsection 4, paragraph f, Code Supplement 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) Provision for the department or a designee of the department on or before the date the child reaches age eighteen to provide to the child a certified copy of the child's birth certificate and to facilitate securing a federal social security card. The fee for the certified copy that is otherwise chargeable under section 144.13A, 144.46, or 331.605 shall be waived by the state or county registrar.

Approved April 22, 2008

CHAPTER 1113

TRANSPORTATION FEES, FUNDS,
AND REVENUE SOURCES — TIME-21

S.F. 2420

AN ACT relating to and increasing motor vehicle and trailer registration fees and title fees, allocating new revenues from fees to the TIME-21 fund, requiring the department of transportation to conduct an analysis of TIME-21 funding and a study of public transit funding, increasing the motorcycle operator's license fee and allocating the increased revenue to the motorcycle rider education fund, reallocating certain fees collected by the department of transportation, repealing the use tax on vehicles subject to registration and the use tax on certain leased motor vehicles, establishing a fee for new registration of vehicles, providing penalties, and providing effective and applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
MOTOR VEHICLES

Section 1. Section 312.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 19. a. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the TIME-21 fund created in section 312A.2, the revenue accruing to the road use tax fund from annual motor vehicle registration fees for passenger cars, multipurpose vehicles, and motor trucks in excess of three hundred ninety-two million dollars annually.

b. This subsection is repealed June 30, 2028.

Sec. 2. Section 321.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Business-trade truck" means a motor truck with an unladen weight of ten thousand pounds or less which is owned by a corporation, limited liability company, or partnership or by a person who files a schedule C or schedule F form with the federal internal revenue service and which is eligible for depreciation under section 167 of the Internal Revenue Code. If the motor truck is a leased vehicle, the motor truck is a business-trade truck only if the lessee is a corporation, limited liability company, or partnership and the truck is used primarily for purposes of the business operations of the corporation, limited liability company, or partnership or the lessee is a person who files a schedule C or schedule F form with the federal internal revenue service and the truck is used primarily for purposes of the person's own business or farming operation.

Sec. 3. Section 321.109, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The annual fee for all motor vehicles including vehicles designated by manufacturers as station wagons, ~~and~~ 1993 and subsequent model ~~years for~~ year multipurpose vehicles, and 2010 and subsequent model year motor trucks with an unladen weight of ten thousand pounds or less, except motor trucks registered under section 321.122, business-trade trucks, special trucks, motor homes, ambulances, hearses, motorcycles, motorized bicycles, and 1992 and older model ~~years for~~ year multipurpose vehicles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ten dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the title to the owner. If there is a security interest noted on the title, the county treasurer shall mail to the secured party an acknowledgment of the notation of the security interest. The county treasurer shall not release a security interest that has been noted on a title issued to a nonresident purchaser as provided in this paragraph. The application requirements of section 321.20 apply to a title issued as provided in this subsection, except that a natural person who applies for a certificate of title shall provide either the person's social security number, passport number, or driver's license number, whether the license was issued by this state, another state, or another country. The provisions of this subsection relating to multipurpose vehicles are effective ~~January 1, 1993,~~ for all 1993 and subsequent model years. The annual registration fee for multipurpose vehicles that are 1992 model years and older shall be in accordance with section 321.124.

Sec. 4. Section 321.113, Code 2007, is amended to read as follows:

321.113 AUTOMATIC REDUCTION.

1. The annual registration fee for a motor vehicle shall not be automatically reduced under this section unless the ~~registration~~ fee is based on the value and weight of the motor vehicle as provided in section 321.109, subsection 1.

2. If a motor vehicle is more than ~~five~~ seven model years old, the part of the annual registration fee that is based on the value of the vehicle shall be seventy-five percent of the rate as fixed when the motor vehicle was new and the total fee shall not be less than fifty dollars; except that if the registration is a renewal for a vehicle registered to the same owner prior to January 1, 2009, the annual registration fee shall not be more than the fee paid for the previous registration year.

3. If a motor vehicle is more than ~~six~~ nine model years old, the part of the annual registration fee that is based on the value of the vehicle shall be fifty percent of the rate as fixed when the motor vehicle was new and the total fee shall not be less than fifty dollars; except that if the registration is a renewal for a vehicle registered to the same owner prior to January 1, 2009, the annual registration fee shall not be more than the fee paid for the previous registration year.

~~4. If a 1994 model year or newer motor vehicle is nine model years old or older the registration fee is thirty-five dollars. For purposes of determining the portion of the registration fee under this subsection that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.~~

~~5. a. If a 1993 model year or older motor vehicle has been titled in the same person's name since the vehicle was new or the title to the vehicle was transferred prior to January 1, 2002, the part of the registration fee that is based on the value of the vehicle shall be ten percent of the rate as fixed when the motor vehicle was new.~~

~~b. If the title of a 1993 model year or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:~~

~~(1) For a motor vehicle that is model year 1969 or older: . . . . . $ 16.00~~

~~(2) For a motor vehicle that is model year 1970 through 1989: . . . . . $ 23.00~~

~~(3) For a motor vehicle that is model year 1990 through 1993: . . . . . $ 27.00~~

~~For purposes of determining the portion of the registration fee under this paragraph "b" that is based upon the value of the motor vehicle, sixty percent of the registration fee is attributable to the value of the vehicle.~~

4. a. Except as provided in paragraph "b", if a motor vehicle is twelve model years old or older, the annual registration fee is fifty dollars; except that if the registration is a renewal for a vehicle registered to the same owner prior to January 1, 2009, the annual registration fee shall not be more than the fee paid for the previous registration year.

b. If the registration is a renewal for a motor vehicle registered as an antique vehicle by the same owner prior to January 1, 2009, the annual registration fee shall be twenty-three dollars for a motor vehicle that is model year 1970 through 1983 and sixteen dollars for a motor vehicle that is model year 1969 or older.

c. For purposes of determining the portion of an annual registration fee under paragraph "a" or "b" that is based upon the value of the motor vehicle, sixty percent of the annual registration fee is attributable to the value of the vehicle.

Sec. 5. NEW SECTION. 321.120 BUSINESS-TRADE TRUCKS.

1. The annual registration fee for a business-trade truck shall be determined pursuant to section 321.122, subsection 1, paragraph "a".

2. Upon application for a new registration, an owner who registers a motor vehicle as a business-trade truck shall be required to provide proof or affirm that the vehicle meets the definition of a business-trade truck. The department may adopt rules as necessary to prescribe the documentation required of the applicant as proof or affirmation under this subsection but shall not require that such documentation be notarized. If requested by the department of transportation or a county treasurer, the department of revenue shall confirm or refute, according to the most recent records available, that an applicant for registration of a business-trade truck

is either a corporation, limited liability company, or partnership or a person who files a schedule C or schedule F form for federal income tax purposes and that the corporation, limited liability company, partnership, or person is allowed a depreciation deduction with respect to the vehicle under section 167 of the Internal Revenue Code.

3. Upon approval of the application and payment of the proper fees, the county treasurer shall issue registration plates for the vehicle which distinguish the vehicle as a business-trade truck.

4. If the department determines by audit or other means that a person has registered a vehicle as a business-trade truck that is not qualified for such registration, the person shall be required to pay the difference between the regular annual registration fees owed for the vehicle for each year the vehicle was registered in violation of this section and the fees actually paid.

5. If the department determines by audit or other means that the person had knowingly registered a vehicle as a business-trade truck that is not qualified for such registration, the person shall be required to pay a penalty for improper registration in the amount of seven hundred fifty dollars for each registration year in which the vehicle was registered in violation of this section, not to exceed two thousand two hundred fifty dollars.

Sec. 6. Section 321.121, Code 2007, is amended to read as follows:

321.121 SPECIAL TRUCKS FOR FARM USE.

1. a. Except as provided in paragraph "b", the annual registration fee for a special truck with a gross weight of six tons shall be one hundred dollars, and the annual registration fee for a special truck with a gross weight exceeding six tons but not exceeding eighteen tons shall be as follows:

For a gross weight exceeding:	And not exceeding:	The annual registration fee shall be:
6 Tons	7 Tons	$ 125
7 Tons	8 Tons	$ 155
8 Tons	9 Tons	$ 170
9 Tons	10 Tons	$ 190
10 Tons	11 Tons	$ 205
11 Tons	12 Tons	$ 225
12 Tons	13 Tons	$ 245
13 Tons	14 Tons	$ 265
14 Tons	15 Tons	$ 280
15 Tons	16 Tons	$ 295
16 Tons	17 Tons	$ 305
17 Tons	18 Tons	$ 315

b. ~~The~~ If the registration is a renewal for a special truck registered to the same owner prior to January 1, 2009, the annual registration fee ~~for a special truck~~ shall be eighty dollars for a gross weight of six tons, one hundred dollars for a gross weight of seven tons, one hundred twenty dollars for a gross weight of eight tons, and in addition, fifteen dollars for each ton over eight tons and not exceeding eighteen tons.

c. The registration fee for a special truck with a gross weight registration exceeding eighteen tons but not exceeding nineteen tons shall be three hundred twenty-five dollars and for a gross weight registration exceeding nineteen tons but not exceeding twenty tons the registration fee shall be three hundred seventy-five dollars.

d. The additional registration fee for a special truck for a gross weight registration in excess of twenty tons is twenty-five dollars for each ton over twenty tons and not exceeding thirty-two tons.

2. A person convicted of or found by audit to be using a motor vehicle registered as a special truck for any purpose other than permitted by section 321.1, subsection 76, shall, in addition to any other penalty imposed by law, be required to pay regular motor vehicle registration fees upon such motor vehicle.

Sec. 7. Section 321.122, subsection 1, Code 2007, is amended to read as follows:

1. The annual registration fee for truck tractors, road tractors, and motor trucks, except 2010 and subsequent model year motor trucks required to be registered under section 321.109 and motor trucks registered as special trucks, shall be based on the combined gross weight of the vehicle or combination of vehicles. All such trucks, truck tractors, or road tractors registered under this section shall be registered for a gross weight equal to or in excess of the unladen weight of the vehicle or combination of vehicles. The annual registration fee for such vehicles or combination of vehicles, except special trucks, shall be~~:~~ the applicable fee under paragraph "a" or "b".

a. (1) ~~For a combined gross weight of three tons or less sixty-five dollars and a vehicle which is more than ten model years old fifty-five dollars and a vehicle which is more than thirteen model years old forty-five dollars and a vehicle which is more than fifteen years old thirty-five dollars~~ For a combined gross weight of three tons or less, the annual registration fee is one hundred fifty dollars; for such a vehicle more than seven model years old, one hundred twenty dollars; for such a vehicle more than nine model years old, one hundred dollars; and for such a vehicle twelve model years old or older, fifty dollars.

~~b.~~ (2) For a combined gross weight exceeding three tons, the annual registration fee shall be as set forth in the following schedule:

For a combined gross weight exceeding:	And not exceeding:	The annual registration fee shall be:
3 Tons	4 Tons	$ ~~80~~ 165
4 Tons	5 Tons	$ ~~90~~ 180
5 Tons	6 Tons	$ ~~105~~ 195
6 Tons	7 Tons	$ ~~130~~ 215
7 Tons	8 Tons	$ ~~165~~ 220
8 Tons	9 Tons	$ ~~200~~ 225
9 Tons	10 Tons	$ 235
10 Tons	11 Tons	$ 270
11 Tons	12 Tons	$ 305
12 Tons	13 Tons	$ 340
13 Tons	14 Tons	$ 375
14 Tons	15 Tons	$ 445
15 Tons	16 Tons	$ 485
16 Tons	17 Tons	$ 525
17 Tons	18 Tons	$ 565
18 Tons	19 Tons	$ 610
19 Tons	20 Tons	$ 675
20 Tons	21 Tons	$ 715
21 Tons	22 Tons	$ 755
22 Tons	23 Tons	$ 795
23 Tons	24 Tons	$ 835
24 Tons	25 Tons	$ 965
25 Tons	26 Tons	$ 1,010
26 Tons	27 Tons	$ 1,060
27 Tons	28 Tons	$ 1,105
28 Tons	29 Tons	$ 1,150
29 Tons	30 Tons	$ 1,200

30 Tons	31 Tons	$1,245
31 Tons	32 Tons	$1,295
32 Tons	33 Tons	$1,340
33 Tons	34 Tons	$1,415
34 Tons	35 Tons	$1,465
35 Tons	36 Tons	$1,510
36 Tons	37 Tons	$1,555
37 Tons	38 Tons	$1,605
38 Tons	39 Tons	$1,650
39 Tons	40 Tons	$1,695

b. If the registration is a renewal for a motor vehicle with a combined gross weight of nine tons or less registered to the same owner prior to January 1, 2009, the following applies:

(1) For a combined gross weight of three tons or less, the annual registration fee is sixty-five dollars; for such a vehicle which is more than ten model years old, fifty-five dollars; for such a vehicle which is more than thirteen model years old, forty-five dollars; and for such a vehicle which is more than fifteen model years old, thirty-five dollars.

(2) For a combined gross weight exceeding three tons but not exceeding nine tons, the annual registration fee shall be as set forth in the following schedule:

For a combined gross weight exceeding:	And not exceeding:	The annual registration fee shall be:
3 Tons	4 Tons	$ 80
4 Tons	5 Tons	$ 90
5 Tons	6 Tons	$ 105
6 Tons	7 Tons	$ 130
7 Tons	8 Tons	$ 165
8 Tons	9 Tons	$ 200

c. For a combined gross weight exceeding forty tons, the annual registration fee shall be one thousand six hundred ninety-five dollars plus eighty dollars for each ton over forty tons.

Sec. 8. Section 321.152, Code 2007, is amended to read as follows:

321.152 ~~FEE FOR~~ COLLECTION FEES RETAINED BY COUNTY.

1. A county treasurer may retain for deposit in the county general fund the following:

~~1.~~ a. Four percent of the total collection for each annual or semiannual vehicle registration and each duplicate registration card or plate issued.

~~2.~~ b. Two dollars and fifty cents from each fee collected for certificates of title.

~~3.~~ c. Forty percent of all fees collected for certified copies of certificates of title.

~~4.~~ d. Sixty percent of all fees collected for perfection of security interests.

e. Twenty-five percent of each penalty collected for improper business-trade truck registration under section 321.120, subsection 5.

2. The moneys retained under subsection 1 shall be deducted, and reported to the department when the county treasurer transfers the money collected under this chapter. However, a deduction is not lawful unless the county treasurer has complied with sections 321.24 and 321.153.

3. This section does not apply to fees collected or retained by a county treasurer pursuant to participation in county issuance of driver's licenses under chapter 321M.

Sec. 9. Section 422.20, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections 22, 23, and 26, sections 252B.9, 321.120, 421.19, 421.28, 422.72, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 10. Section 422.72, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Unless otherwise expressly permitted by section 8A.504, section 421.17, subsections 22, 23, and 26, sections 252B.9, 321.120, 421.19, 421.28, 422.20, and 452A.63, and this section, a tax return, return information, or investigative or audit information shall not be divulged to any person or entity, other than the taxpayer, the department, or internal revenue service for use in a matter unrelated to tax administration.

Sec. 11. EFFECTIVE DATE AND APPLICABILITY. This division of this Act takes effect January 1, 2009, and applies to vehicles registered for registration years beginning in 2009 and subsequent years.

DIVISION II
TITLE FEES

Sec. 12. Section 312.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 20. a. The treasurer of state, before making the allotments provided for in this section, shall credit monthly to the TIME-21 fund created in section 312A.2, an amount equal to ten dollars from each fee for issuance of a certificate of title collected pursuant to sections 321.20; 321.20A; 321.23; 321.42; 321.46, other than a title issued for a returned vehicle under section 322G.12; section 321.47; and section 321.109 and an amount equal to eight dollars from each fee collected for issuance of a certificate of title pursuant to section 321.46 for a returned vehicle under section 322G.12 and from each fee collected for issuance of a salvage certificate of title pursuant to section 321.52.

b. This subsection is repealed June 30, 2028.

Sec. 13. Section 321.20, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as provided in this chapter, an owner of a vehicle subject to registration shall make application to the county treasurer of the county of the owner's residence, or if a nonresident, to the county treasurer of the county where the primary users of the vehicle are located, or if a lessor of the vehicle pursuant to chapter 321F which vehicle has a gross vehicle weight of less than ten thousand pounds, to the county treasurer of the county of the lessee's residence, or if a firm, association, or corporation with vehicles in multiple counties, the owner may make application to the county treasurer of the county where the primary user of the vehicle is located, for the registration and issuance of a certificate of title for the vehicle upon the appropriate form furnished by the department. However, upon the transfer of ownership, the owner of a vehicle subject to the proportional registration provisions of chapter 326 shall make application for registration and issuance of a certificate of title to either the department or the appropriate county treasurer. The application shall be accompanied by a fee of ~~ten~~ twenty dollars, and shall bear the owner's signature. A nonresident owner of two or more vehicles subject to registration may make application for registration and issuance of a certificate of title for all vehicles subject to registration to the county treasurer of the county where the primary user of any of the vehicles is located. The owner of a mobile home or manufactured home shall make application for a certificate of title under this section from the county treasurer of the county where the mobile home or manufactured home is located. The application shall contain:

Sec. 14. Section 321.20A, subsection 1, Code 2007, is amended to read as follows:

1. Notwithstanding other provisions of this chapter, the owner of a commercial vehicle subject to the proportional registration provisions of chapter 326 may make application to the department or the appropriate county treasurer for a certificate of title. The application for certificate of title shall be made within thirty days of purchase or transfer and shall be accompanied by a ~~ten~~ twenty dollar title fee and the appropriate use tax. The department or the county treasurer shall deliver the certificate of title to the owner if there is no security interest. If there

is a security interest, the title, when issued, shall be delivered to the first secured party. Delivery may be made using electronic means.

Sec. 15. Section 321.23, subsections 1 and 4, Code 2007, are amended to read as follows:

1. If the vehicle to be registered is a specially constructed, reconstructed, or foreign vehicle, such fact shall be stated in the application. A fee of ~~ten~~ twenty dollars shall be paid by the person making the application upon issuance of a certificate of title by the county treasurer. For a specially constructed or reconstructed motor vehicle subject to registration, the application shall be accompanied by a statement from the department authorizing the motor vehicle to be titled and registered in this state. The department shall cause a physical inspection to be made of all specially constructed or reconstructed motor vehicles, upon application for a certificate of title by the owner, to determine whether the motor vehicle complies with the definition of specially constructed motor vehicle or reconstructed motor vehicle in this chapter and to determine that the integral component parts are properly identified and that the rightful ownership is established before issuing the owner the authority to have the motor vehicle registered and titled. The purpose of the physical inspection under this section is not to determine whether the motor vehicle is in a condition safe to operate. The owner of a specially constructed or reconstructed vehicle shall apply for a certificate of title and registration for the vehicle at the county treasurer's office within thirty days of the inspection. For a foreign vehicle which has been registered outside this state, the owner shall surrender to the treasurer all registration plates, registration cards, and certificates of title, or if the vehicle to be registered is from a nontitle state, the evidence of foreign registration and ownership as may be prescribed by the department except as provided in subsection 2.

4. A vehicle which does not meet the equipment requirements of this chapter due to the particular use for which it is designed or intended, may be registered by the department upon payment of appropriate fees and after inspection and certification by the department that the vehicle is not in an unsafe condition. A person is not required to have a certificate of title to register a vehicle under this subsection. If the owner elects to have a certificate of title issued for the vehicle, a fee of ~~ten~~ twenty dollars shall be paid by the person making the application upon issuance of a certificate of title. If the department's inspection reveals that the vehicle may be safely operated only under certain conditions or on certain types of roadways, the department may restrict the registration to limit operation of the vehicle to the appropriate conditions or roadways. This subsection does not apply to snowmobiles as defined in section 321G.1. Section 321.382 does not apply to a vehicle registered under this subsection which is operated exclusively by a person with a disability who has obtained a persons with disabilities parking permit as provided in section 321L.2, if the persons with disabilities parking permit is carried in or on the vehicle and shown to a peace officer on request.

Sec. 16. Section 321.42, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. If a certificate of title is lost or destroyed, the owner or lienholder shall apply for a replacement copy of the original certificate of title. The owner or lienholder of a motor vehicle may also apply for a replacement copy of the original certificate of title upon surrender of the original certificate of title with the application. The application shall be made to the department or county treasurer who issued the original certificate of title. The application shall be signed by the owner or lienholder and accompanied by a fee of ~~ten~~ twenty dollars.

Sec. 17. Section 321.46, subsection 2, Code 2007, 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~~ twenty 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~~ ten dollars. However, a title fee shall not be charged to a manufactured 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. 18. Section 321.47, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If ownership of a vehicle is transferred by operation of law upon inheritance, devise or bequest, dissolution decree, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, a storage lien as provided in chapter 579, a judgment in an action for abandonment of a manufactured or mobile home as provided in chapter 555B, upon presentation of an affidavit relating to the disposition of a valueless mobile, modular, or manufactured home as provided in chapter 555C, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence or, in the case of a mobile home or manufactured home, the county treasurer of the county where the mobile home or manufactured home is located, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ~~ten~~ twenty dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to the vehicle. A person entitled to ownership of a vehicle under a decree of dissolution shall surrender a reproduction of a certified copy of the dissolution and upon fulfilling the other requirements of this chapter is entitled to a certificate of title and registration receipt issued in the person's name.

Sec. 19. Section 321.52, subsection 4, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A vehicle rebuilder or a person engaged in the business of buying, selling, or exchanging vehicles of a type required to be registered in this state, upon acquisition of a wrecked or salvage vehicle, shall surrender the certificate of title or manufacturer's or importer's statement of origin properly assigned, together with an application for a salvage certificate of title, to the county treasurer of the county of residence of the purchaser or transferee within thirty days after the date of assignment of the certificate of title for the wrecked or salvage motor vehicle. This subsection applies only to vehicles with a fair market value of five hundred dollars or more, based on the value before the vehicle became wrecked or salvage. Upon payment of a fee of ~~two~~ ten dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department. A salvage certificate of title may be assigned to an educational institution, a new motor vehicle dealer licensed under chapter 322, a person engaged in the business of purchasing bodies, parts of bodies, frames or component parts of vehicles for sale as scrap metal, a salvage pool, or an authorized vehicle recycler licensed under chapter 321H. An authorized vehicle recycler licensed under chapter 321H or a new motor vehicle dealer licensed under chapter 322 may assign or reassign an Iowa salvage certificate of title or a salvage certificate of title from another state to any person, and the provisions of section 321.24, subsection 5, requiring issuance of an Iowa salvage certificate of title shall not apply. A vehicle on which ownership has transferred to an insurer of the vehicle as a result of a settlement with the owner of the vehicle arising out of damage to, or unrecovered theft of, the vehicle shall be deemed

to be a wrecked or salvage vehicle and the insurer shall comply with this subsection to obtain a salvage certificate of title within thirty days after the date of assignment of the certificate of title of the vehicle.

Sec. 20. Section 321.109, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The annual fee for all motor vehicles including vehicles designated by manufacturers as station wagons, and 1993 and subsequent model years for multipurpose vehicles, except motor trucks, motor homes, ambulances, hearses, motorcycles, motorized bicycles, and 1992 and older model years for multipurpose vehicles, shall be equal to one percent of the value as fixed by the department plus forty cents for each one hundred pounds or fraction thereof of weight of vehicle, as fixed by the department. The weight of a motor vehicle, fixed by the department for registration purposes, shall include the weight of a battery, heater, bumpers, spare tire, and wheel. Provided, however, that for any new vehicle purchased in this state by a nonresident for removal to the nonresident's state of residence the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of ten dollars shall be paid. And provided, however, that for any used vehicle held by a registered dealer and not currently registered in this state, or for any vehicle held by an individual and currently registered in this state, when purchased in this state by a nonresident for removal to the nonresident's state of residence, the purchaser may make application to the county treasurer in the county of purchase for a transit plate for which a fee of three dollars shall be paid. The county treasurer shall issue a nontransferable certificate of registration for which no refund shall be allowed; and the transit plates shall be void thirty days after issuance. Such purchaser may apply for a certificate of title by surrendering the manufacturer's or importer's certificate or certificate of title, duly assigned as provided in this chapter. In this event, the treasurer in the county of purchase shall, when satisfied with the genuineness and regularity of the application, and upon payment of a fee of ~~ten~~ twenty dollars, issue a certificate of title in the name and address of the nonresident purchaser delivering the title to the owner. If there is a security interest noted on the title, the county treasurer shall mail to the secured party an acknowledgment of the notation of the security interest. The county treasurer shall not release a security interest that has been noted on a title issued to a nonresident purchaser as provided in this paragraph. The application requirements of section 321.20 apply to a title issued as provided in this subsection, except that a natural person who applies for a certificate of title shall provide either the person's social security number, passport number, or driver's license number, whether the license was issued by this state, another state, or another country. The provisions of this subsection relating to multipurpose vehicles are effective January 1, 1993, for all 1993 and subsequent model years. The annual registration fee for multipurpose vehicles that are 1992 model years and older shall be in accordance with section 321.124.

Sec. 21. EFFECTIVE DATE. This division of this Act takes effect January 1, 2009.

DIVISION III
TRAILER REGISTRATION FEES

Sec. 22. Section 312.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 21. a. The treasurer of state, before making the allotments provided for in this section, shall credit monthly to the TIME-21 fund created in section 312A.2 an amount equal to ten dollars from each trailer registration fee collected pursuant to section 321.123, subsection 1, paragraph "a", subparagraph (1), twenty dollars from each trailer registration fee collected pursuant to section 321.123, subsection 1, paragraph "a", subparagraph (2), and one-third of the amount collected from trailer registration fees pursuant to section 321.123, subsection 2.

b. This subsection is repealed June 30, 2028.

Sec. 23. Section 321.122, subsection 2, Code 2007, is amended by striking the subsection.

Sec. 24. Section 321.123, Code 2007, is amended to read as follows:

321.123 TRAILERS.

1. a. All trailers except farm trailers, mobile homes, and manufactured homes, unless otherwise provided in this section, are subject to ~~a~~ an annual registration fee ~~of ten dollars.~~ as follows:

(1) For trailers with an empty weight of two thousand pounds or less, the annual registration fee is twenty dollars.

(2) For trailers with an empty weight in excess of two thousand pounds, the annual registration fee is thirty dollars.

b. Trailers for which the empty weight is two thousand pounds or less are exempt from the certificate of title and lien provisions of this chapter.

c. For trailers and semitrailers licensed under chapter 326, the annual registration fee for the permanent registration plate shall be the applicable fee under paragraph "a". The registration fees for a permanent registration plate, at the option of the registrant, shall be remitted to the department at five-year intervals or on an annual basis. Fees collected under this section shall not be reduced or prorated under chapter 326.

~~1.~~ 2. a. Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, shall be subject to an annual fee of ~~twenty~~ thirty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar. When a travel trailer or fifth-wheel travel trailer is registered in Iowa for the first time or when title is transferred, the annual fee shall be prorated on a monthly basis. The annual fee shall be reduced to seventy-five percent of the full fee after the vehicle is more than six model years old.

b. A travel trailer may be stored under section 321.134, provided the travel trailer is not used for human habitation for any period during storage and is not moved upon the highways of the state. A travel trailer stored under section 321.134 is not subject to a manufactured or mobile home tax assessed under chapter 435.

~~2.~~ 3. Motor trucks or truck tractors pulling trailers or semitrailers shall be registered for the combined gross weight of the motor truck or truck tractor and trailer or semitrailer, except that:

a. Motor trucks registered for six tons or less not used for hire, pulling trailers or semitrailers used by a person engaged in farming to transport commodities produced by the owner, or to transport commodities or livestock purchased by the owner for use in the owner's own farming operation or used by any person to transport horses shall not be subject to registration for the gross weight of such trailer or semitrailer provided the combined gross weight does not exceed twelve tons, plus the tolerance provided for in section 321.466.

b. Motor trucks registered for six tons or less not used for hire, pulling trailers or semitrailers used by a person in the person's own operations shall not be subject to registration for the gross weight of such trailer or semitrailer provided the combined gross weight does not exceed eight tons, plus the tolerance provided for in section 321.466.

Sec. 25. EFFECTIVE DATE AND APPLICABILITY. This division of this Act takes effect January 1, 2009, and applies to trailers registered for registration years beginning in 2009 and subsequent years.

DIVISION IV
STUDIES

Sec. 26. TIME-21 FUNDING ANALYSIS. The department of transportation shall conduct an analysis of the additional revenues necessary to provide at least two hundred million dollars annually to the TIME-21 fund by FY 2011-2012. The analysis shall include but is not limited

to the amount of excise tax levied on motor fuel and adjustments that might be made to various fees collected by the department in order to create an appropriate balance of taxes and fees paid by Iowa drivers and out-of-state drivers. The department shall submit a report to the governor and the general assembly on or before December 31, 2008, regarding its analysis.

Sec. 27. PUBLIC TRANSIT FUNDING STUDY. The department of transportation, in cooperation with the office of energy independence and the department of natural resources, shall review the current revenues available for support of public transit and the sufficiency of those revenues to meet future needs. The review shall include but is not limited to identifying transit improvements needed to meet state energy independence goals and an assessment of how the state's support of public transit is positioned to meet the mobility needs of Iowa's growing senior population. The department shall submit a report to the governor and the general assembly on or before December 1, 2009.

DIVISION V
MOTORCYCLE OPERATOR'S LICENSE FEE

Sec. 28. Section 312.2, subsection 16,[1] Code Supplement 2007, is amended to read as follows:

16. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the motorcycle rider education fund established in section 321.180B, an amount equal to ~~one dollar~~ two dollars per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle. Moneys credited to the motorcycle rider education fund under this subsection shall be taken from moneys credited to the road use tax fund under section 423.43.

Sec. 29. Section 321.191, subsection 5, Code 2007, is amended to read as follows:

5. LICENSES VALID FOR MOTORCYCLES. An additional fee of ~~one dollar~~ two dollars per year of license validity is required to issue a license valid to operate a motorcycle.

Sec. 30. Section 321.145, subsection 2, paragraph b, subparagraph (2), if enacted by the Eighty-second General Assembly, 2008 Session,[2] is amended to read as follows:

(2) An amount equal to ~~one dollar~~ two dollars per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle shall be credited to the motorcycle rider education fund established under section 321.180B.

Sec. 31. If section 312.2, subsection 16, Code Supplement 2007, is stricken by a provision in another division of this Act[3] or another Act of the 2008 Session of the Eighty-second General Assembly, the section in this division of this Act amending section 312.2, subsection 16, Code Supplement 2007, is void.

DIVISION VI
USE TAX ON MOTOR VEHICLES REPEALED — FEE FOR NEW REGISTRATION IMPOSED
PART 1
ROAD USE TAX FUND

Sec. 32. Section 312.1, Code 2007, is amended to read as follows:

312.1 FUND CREATED.

1. There is hereby created, in the state treasury, a road use tax fund. ~~Said~~ The road use tax fund shall ~~embrace and~~ include all of the following:

~~1.~~ a. All the net proceeds of the registration of motor vehicles under chapter 321.

~~2.~~ b. All the net proceeds of the motor fuel tax or license fees under chapter 452A.

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[1] See this chapter, §31, 33 herein

[2] See this chapter, §36 herein

[3] See this chapter, §33 herein

~~3.~~ c. Revenue derived from the excise tax imposed upon the rental of automobiles, under chapter 423C, ~~as~~ to the extent provided by section ~~423C.5~~ 321.145, subsection 2.

~~4. To the extent provided in section 423.43, subsection 1, paragraph "b", from revenue derived from the use tax, under chapter 423 on motor vehicles, trailers, and motor vehicle accessories and equipment.~~

~~5.~~ d. Revenue derived from the use tax collected under section 423.26, to the extent provided under section 321.145, subsection 2.

e. Any other funds which may by law be credited to the road use tax fund.

2. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the road use tax fund and the funds to which moneys from the road use tax fund are credited shall be credited to the road use tax fund.

Sec. 33. Section 312.2, subsections 14 and 16, Code Supplement 2007, are amended by striking the subsections.

Sec. 34. Section 312.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 19. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the primary road fund an amount equal to ten percent of the revenues collected from the operation of section 321.105A, subsection 2, to be used for the commercial and industrial highway network.

Sec. 35. Section 321.52A, Code 2007, is amended to read as follows:

321.52A CERTIFICATE OF TITLE SURCHARGE — ALLOCATION OF MONEYS.

~~1.~~ In addition to the fee required for the issuance of a certificate of title under section 321.20, 321.20A, 321.23, 321.42, 321.46, 321.47, 321.48, 321.50, or 321.52, a surcharge of five dollars shall be required. Of each surcharge collected under those sections, the county treasurer shall remit five dollars to the office of treasurer of state for deposit as set forth in section 321.145, subsection 2.

~~2. For the fiscal year beginning July 1, 2002, 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. 36. Section 321.145, Code 2007, is amended to read as follows:

321.145 DISPOSITION OF MONEYS AND FEES.

1. Except for fines, forfeitures, court costs, and the collection fees retained by the county treasurer pursuant to section 321.152, and except as provided in subsection 2, moneys and motor vehicle ~~license~~ registration fees collected under this chapter shall be credited by the treasurer of state to the road use tax fund.

2. Revenues derived from trailer registration fees collected pursuant to sections 321.105 and 321.105A, fees charged for driver's licenses and nonoperator's identification cards, fees charged for the issuance of a certificate of title, the certificate of title surcharge collected pursuant to section 321.52A, and revenues credited pursuant to section 423.43, subsection 2, and section 423C.5 shall be deposited in a fund to be known as the statutory allocations fund under the control of the department and credited as follows:

a. Four million two hundred fifty thousand dollars per quarter shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

b. Moneys remaining after the operation of paragraph "a" shall be credited in order of priority as follows:

(1) An amount equal to four percent of the revenue from the operation of section 321.105A, subsection 2, shall be credited to the department, to be used for purposes of public transit assistance under chapter 324A.

(2) An amount equal to one dollar[4] per year of license validity for each issued or renewed driver's license which is valid for the operation of a motorcycle shall be credited to the motorcycle rider education fund established under section 321.180B.

(3) The amounts required to be transferred pursuant to section 321.34 from revenues available under this subsection shall be transferred and credited as provided in section 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17, 18, 19, 20, 20A, 20B, 21, 22, 23, and 24 for the various purposes specified in those subsections.

(4) Amounts certified by the railway finance authority pursuant to section 327I.25 and appropriated to the authority pursuant to section 327I.26, not to exceed two million dollars annually.

(5) The department may direct the treasurer of state to credit to the primary road fund any amount of such revenues to the extent necessary to reimburse that fund for the expenditures not otherwise eligible to be made from the primary road fund, which are made for repairing, improving, and maintaining bridges over the rivers bordering the state. Expenditures for those portions of bridges within adjacent states may be included when they are made pursuant to an agreement entered into under section 313.63, 313A.34, or 314.10.

c. Any such revenues remaining shall be credited to the road use tax fund.

Sec. 37. Section 423C.5, Code 2007, is amended to read as follows:

423C.5 DEPOSIT OF REVENUE.

The revenue arising from the operation of this chapter shall be credited to the ~~road use tax fund~~ statutory allocations fund created under section 321.145, subsection 2.

PART 2
FEE FOR NEW VEHICLE REGISTRATION

Sec. 38. Section 321.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 59A. "Registration fees", unless otherwise specified, means both the annual vehicle registration fee and the fee for new registration, to the extent applicable, for purposes of administering the provisions of this chapter concerning vehicle registration fees.

Sec. 39. Section 321.2, Code 2007, is amended to read as follows:

321.2 DEPARTMENT.

1. ~~The~~ Except as otherwise provided by law, the state department of transportation shall administer and enforce the provisions of this chapter.

2. The division of state patrol of the department of public safety shall enforce the provisions of this chapter relating to traffic on the public highways of the state, including those relating to the safe and legal operation of passenger cars, motorcycles, motor trucks and buses, and to see that proper safety rules are observed.

3. The state department of transportation and the department of public safety shall cooperate to insure the proper and adequate enforcement of the provisions of this chapter.

4. The director of revenue shall administer and enforce the collection of the fee for new registration as provided in section 321.105A.

Sec. 40. NEW SECTION. 321.105A FEE FOR NEW REGISTRATION.

1. DEFINITIONS. The following terms, when used in this section, shall have the following meanings, except in those instances where the context clearly indicates otherwise:

a. "Department" means the department of revenue.

b. "Director" means the director of revenue.

c. "Owner" means as defined in section 321.1. For purposes of the fee for new registration imposed on leased vehicles under subsection 3, "owner" means the "lessor".

[4] See this chapter, §30 herein

d. "Purchase" means any transfer, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, for consideration.

2. In addition to the annual registration fee required under section 321.105, a "fee for new registration" is imposed in the amount of five percent of the purchase price for each vehicle subject to registration. The fee for new registration shall be paid by the owner of the vehicle to the county treasurer at the time application is made for a new registration and certificate of title, if applicable. A new registration receipt shall not be issued until the fee has been paid. The county treasurer or the department of transportation shall require every applicant for a new registration receipt for a vehicle subject to registration to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, and other information relative to the purchase of the vehicle. On or before the tenth day of each month, the county treasurer or the department of transportation shall remit to the department of revenue the amount of the fees for new registration collected during the preceding month.

a. For purposes of this subsection, "purchase price" applies to the measure subject to the fee for new registration. "Purchase price" shall be determined in the same manner as "sales price" is determined for purposes of computing the tax imposed upon the sales price of tangible personal property under chapter 423, pursuant to the definition in section 423.1, subsection 47, subject to the following exemptions:

(1) Exempted from the purchase price of any vehicle subject to registration is the amount of any cash rebate which is provided by a motor vehicle manufacturer to the purchaser of the vehicle subject to registration so long as the rebate is applied to the purchase price of the vehicle.

(2) (a) In transactions, except those subject to subparagraph subdivision (b), in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the purchase price is only that portion of the purchase price which is valued in money, whether received in money or not, if the following conditions are met:

(i) The vehicle traded to the retailer is the type of vehicle normally sold in the regular course of the retailer's business.

(ii) The vehicle traded to the retailer is intended by the retailer to be ultimately sold at retail or is intended to be used by the retailer or another in the remanufacturing of a like vehicle.

(b) In a transaction between persons, neither of which is a retailer of vehicles subject to registration, in which a vehicle subject to registration is traded toward the purchase price of another vehicle subject to registration, the amount of the trade-in value allowed on the vehicle subject to registration traded is exempted from the purchase price.

(c) In order for the trade-in value to be excluded from the purchase price, the name or names on the title and registration of the vehicle being purchased must be the same name or names on the title and registration of the vehicle being traded. The following trades qualify under this subparagraph subdivision (c):

(i) A trade involving spouses, if the traded vehicle and the acquired vehicle are titled in the name of one or both of the spouses, with no outside party named on the title.

(ii) A trade involving a grandparent, parent, or child, including adopted and step relationships, if the name of one of the family members from the title of the traded vehicle is also on the title of the newly acquired vehicle.

(iii) A trade involving a business, if one of the owners listed on the title of the traded vehicle is a business, and the names on the title are separated by "or".

(iv) A trade in which the vehicle being purchased is titled in the name of an individual other than the owner of the traded vehicle due to the cosigning requirements of a financial institution.

(3) Exempted from the purchase price of a replacement motor vehicle owned by a motor vehicle dealer licensed under chapter 322 which is being registered by that dealer and is not otherwise exempt from the fee for new registration is the fair market value of a replaced motor vehicle if all of the following conditions are met:

(a) The motor vehicle being registered is being placed in service as a replacement motor vehicle for a motor vehicle registered by the motor vehicle dealer.

(b) The motor vehicle being registered is taken from the motor vehicle dealer's inventory.

(c) Use tax or the fee for new registration on the motor vehicle being replaced was paid by the motor vehicle dealer when that motor vehicle was registered.

(d) The replaced motor vehicle is returned to the motor vehicle dealer's inventory for sale.

(e) The application for registration and title of the motor vehicle being registered is filed with the county treasurer within two weeks of the date the replaced motor vehicle is returned to the motor vehicle dealer's inventory.

(f) The motor vehicle being registered is placed in the same or substantially similar service as the replaced motor vehicle.

b. For purposes of this subsection, the fee for new registration on a vehicle registered in this state by the manufacturer of that vehicle from a manufacturer's statement of origin is calculated on the base value of fifty percent of the retail list price of the vehicle.

c. The following are exempt from the fee for new registration imposed under this subsection, as long as a valid affidavit is filed with the county treasurer at the time of application for registration:

(1) Entities listed in section 423.3, subsections 17, 18, 19, 20, 21, 22, 26, 27, 28, 31, and 79, to the extent that those entities are exempt from the tax imposed on the sale of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users.

(2) Vehicles as defined in section 321.1, subsections 41, 64A, 71, 85, and 88, except such vehicles subject to registration which are designed primarily for carrying persons, when purchased for lease and actually leased to a lessee for use outside the state of Iowa and the subsequent sole use in Iowa is in interstate commerce or interstate transportation.

(3) (a) Vehicles subject to registration which are transferred from a business or individual conducting a business within this state as a sole proprietorship, partnership, or limited liability company to a corporation formed by the sole proprietorship, partnership, or limited liability company for the purpose of continuing the business when all of the stock of the corporation so formed is owned by the sole proprietor and the sole proprietor's spouse, by all the partners in the case of a partnership, or by all the members in the case of a limited liability company. This exemption is equally available where the vehicles subject to registration are transferred from a corporation to a sole proprietorship, partnership, or limited liability company formed by that corporation for the purpose of continuing the business when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

(b) This exemption also applies where the vehicles subject to registration are transferred from a corporation as part of the liquidation of the corporation to its stockholders if within three months of such transfer the stockholders retransfer those vehicles subject to registration to a sole proprietorship, partnership, or limited liability company for the purpose of continuing the business of the corporation when all of the incidents of ownership are owned by the same person or persons who were stockholders of the corporation.

(c) This exemption applies to corporations that have been in existence for not longer than twenty-four months.

(4) Vehicles subject to registration which are transferred from a corporation that is primarily engaged in the business of leasing vehicles subject to registration to a corporation that is primarily engaged in the business of leasing vehicles subject to registration when the transferor and transferee corporations are part of the same controlled group for federal income tax purposes.

(5) (a) Vehicles registered or operated under chapter 326 and used substantially in interstate commerce. For purposes of this subparagraph (5), "substantially in interstate commerce" means that a minimum of twenty-five percent of the miles operated by the vehicle accrues in states other than Iowa. This subparagraph (5) applies only to vehicles which are registered for a gross weight of thirteen tons or more.

(b) For purposes of this subparagraph (5), trailers and semitrailers registered or operated under chapter 326 are deemed to be used substantially in interstate commerce and to be registered for a gross weight of thirteen tons or more.

(c) For the purposes of this subparagraph (5), if a vehicle meets the requirement that twenty-five percent of the miles operated accrues in states other than Iowa in each year of the first four-year period of operation, the exemption from the fee for new registration shall continue until the vehicle is sold or transferred. If the vehicle is found to have not met the exemption requirements or the exemption was revoked, the value of the vehicle upon which the fee for new registration shall be imposed is based on the original purchase price if revocation or nonqualification for this exemption occurs during the first year following registration. If revocation or nonqualification for this exemption occurs after the first year following registration, the value of the vehicle upon which the fee shall be imposed is the book or market value, whichever is less, at the time the exemption requirements were not met or the exemption was revoked.

(6) Vehicles subject to registration in any state when purchased for rental or registered and titled by a motor vehicle dealer licensed pursuant to chapter 322 for rental use, and held for rental for a period of one hundred twenty days or more and actually rented for periods of sixty days or less by a person regularly engaged in the business of renting vehicles including but not limited to motor vehicle dealers licensed pursuant to chapter 322 who rent automobiles to users, if the rental of the vehicles is subject to taxation under chapter 423C.

(7) Vehicles subject to registration in this state for which the applicant for registration has paid to another state a state sales, use, or occupational tax. However, if the tax paid to another state is less than the fee for new registration calculated for the vehicle, the difference shall be the amount to be collected as the fee for new registration.

(8) A vehicle subject to registration in this state which is owned by a person who has moved from another state with the intention of changing residency to Iowa, provided that the vehicle was purchased for use in the state from which the applicant moved and was not, at or near the time of purchase, purchased for use in Iowa.

(9) A vehicle that was previously registered in this state and was subsequently registered in another state is not subject to the fee for new registration when it is again registered in this state, provided that the applicant for registration has maintained ownership of the vehicle since its initial registration in this state and has previously paid the use tax or fee for new registration for the vehicle in this state.

(10) Vehicles transferred by operation of law as provided in section 321.47.

(11) Vehicles for which ownership is transferred to or from a revocable or irrevocable trust, if no consideration is present.

(12) Vehicles transferred to the surviving corporation for no consideration as a result of a corporate merger according to the laws of this state in which the merging corporation is immediately extinguished and dissolved.

(13) Vehicles purchased in this state by a nonresident for removal to the nonresident's state of residence if the purchaser applies to the county treasurer for a transit plate under section 321.109.

(14) Vehicles purchased by a licensed motor vehicle dealer for resale.

(15) Vehicles purchased by a licensed wholesaler of new motor vehicles for resale.

(16) Homemade vehicles built from parts purchased at retail, upon which the consumer paid a tax to the seller, but only on such vehicles never before registered. This exemption does not apply for vehicles subject to registration which are made by a manufacturer engaged in the business for the purpose of sales or rental.

(17) Vehicles titled under a salvage certificate of title. However, when such a vehicle has been repaired and a regular certificate of title is applied for, the fee for new registration is due as follows:

(a) If the owner of the vehicle is a licensed recycler, unless the applicant is licensed as a vehicle dealer, the fee for new registration applies based on the fair market value of the vehicle, with deduction allowed for the cost of parts, supplies, and equipment for which sales tax was paid and which were used to rebuild the vehicle.

(b) If the owner is a person who is not licensed as a recycler or vehicle dealer, the fee for new registration applies based on the fair market value of the vehicle, with deduction allowed

for the cost of parts, frames, chassis, auto bodies, or supplies that were purchased to rebuild the vehicle and for which sales tax was paid.

(18) A vehicle delivered to a resident Native American Indian on the reservation.

(19) A vehicle transferred from one individual to another as a gift in a transaction in which no consideration is present.

(20) A vehicle given by a corporation as a gift to a retiring employee.

(21) A vehicle sold by an entity where the profits from the sale 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 sale of the vehicle are expended for any of the following purposes:

(a) Educational.

(b) Religious.

(c) Charitable. A charitable act is an act done out of goodwill, benevolence, and a desire to add to or to improve the good of humankind in general or any class or portion of humankind, with no pecuniary profit inuring to the person performing the service or giving the gift.

(22) A vehicle given or sold to be subsequently awarded as a raffle prize under chapter 99B.

(23) A vehicle won as a raffle prize under chapter 99B.

(24) A vehicle that is directly and primarily used in the recycling or reprocessing of waste products.

(25) Vehicles subject to registration under this chapter with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, when purchased for lease and titled by the lessor licensed pursuant to chapter 321F and actually leased for a period of twelve months or more if the lease of the vehicle is subject to the fee for new registration under subsection 3.

A lessor may maintain the exemption under this subparagraph for a qualifying lease that terminates at the conclusion or prior to the contracted expiration date if the lessor does not use the vehicle for any purpose other than for lease. Once the vehicle is used by the lessor for a purpose other than for lease, the exemption under this subparagraph no longer applies and, unless there is another exemption from the fee for new registration, the fee for new registration is due on the fair market value of the vehicle determined at the time the lessor uses the vehicle for a purpose other than for lease, payable to the department. If the lessor holds the vehicle exclusively for sale, the fee for new registration is due and payable on the purchase price of the vehicle at the time of purchase pursuant to this subsection.

(26) A vehicle repossessed by a licensed vehicle dealer pursuant to the uniform commercial code, chapter 554, provided there is a valid lien on the title and the dealer anticipates reselling the vehicle.

(27) A vehicle repossessed by a financial institution or an individual by means of a foreclosure affidavit pursuant to the uniform commercial code, chapter 554, provided there is a valid lien on the vehicle and the foreclosure affidavit is used for the sole purpose of retaining possession of the vehicle until a new buyer is found. However, if the financial institution or individual uses the foreclosure affidavit to take title to the vehicle and register the vehicle, the new registration fee[5] shall be due based on the outstanding loan amount on the vehicle.

(28) A damaged vehicle acquired by an insurance company from a client or financial institution, provided the insurance company has a vehicle dealers license.

(29) A vehicle returned to a manufacturer and titled in the manufacturer's name under section 322G.12.

(30) A vehicle purchased directly by a federal, state, or local governmental agency and titled in an individual's name pursuant to a governmental program authorized by law.

3. LEASED VEHICLES.

a. A fee for new registration is imposed in an amount equal to five percent of the leased price for each vehicle subject to registration with a gross vehicle weight rating of less than sixteen thousand pounds, excluding motorcycles and motorized bicycles, which is leased by a lessor licensed pursuant to chapter 321F for a period of twelve months or more. The fee for new regis-

[5] See chapter 1191, §128 herein

tration shall be paid by the owner of the vehicle to the county treasurer from whom the registration receipt or certificate of title is obtained. A registration receipt for a vehicle subject to registration or issuance of a certificate of title shall not be issued until the fee for new registration is paid in the initial instance.

b. The amount of the lease price subject to the fee for new registration shall be computed on each separate lease transaction by taking the total of the lease payments, plus the down payment, and excluding the following charges, if included as part of the lease payment:

(1) Title fee.

(2) Annual registration fees.

(3) Fee for new registration.

(4) Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.

(5) Optional service or warranty contracts subject to tax pursuant to section 423.2, subsection 1.

(6) Insurance.

(7) Manufacturer's rebate.

(8) Refundable deposit.

(9) Finance charges, if any, on items listed in subparagraphs (1) through (8).

c. If any or all of the items in paragraph "b", subparagraphs (1) through (8), are excluded from the lease price subject to the fee for new registration, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the fee for new registration is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the fee for new registration shall not be included in the computation of the lease price for the purpose of the fee for new registration under this section. The county treasurer or the department of transportation shall require every applicant for a registration receipt for a vehicle subject to a fee for new registration to supply information as the county treasurer or the director deems necessary as to the date of the lease transaction, the lease price, and other information relative to the lease of the vehicle.

d. On or before the tenth day of each month, the county treasurer or the department of transportation shall remit to the department of revenue the amount of the fees for new registration collected during the preceding month.

e. If the lease is terminated prior to the termination date contained in the lease agreement, no refund shall be allowed for a fee for new registration previously paid under this section, except as provided in section 322G.4.

4. ADMINISTRATION AND ENFORCEMENT — DIRECTOR OF REVENUE.

a. The director of revenue in consultation with the department of transportation shall administer and enforce the fee for new registration as nearly as possible in conjunction with the administration and enforcement of the state use tax law, except that portion of the law which implements the streamlined sales and use tax agreement. The director shall provide appropriate forms, or provide on the annual registration forms provided by the department of transportation, for reporting the fee for new registration liability.

b. Section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70, 422.71, 422.72, 422.74, and 422.75, section 423.14, subsection 2, and sections 423.23, 423.24, 423.25, 423.32, 423.33, 423.35, 423.37 through 423.42, 423.45, and 423.47, consistent with the provisions of this section, apply with respect to the fees for new registration authorized under this section in the same manner and with the same effect as if the fees for new registration were retail use taxes within the meaning of those statutes.

5. COLLECTIONS BY LICENSED DEALERS.

a. A licensed vehicle dealer maintaining a place of business in this state who sells a vehicle subject to registration for use in this state shall collect the fee for new registration at the time of making the sale. A dealer required to collect the fee for new registration shall give to the purchaser a receipt for the fee in the manner and form prescribed by the director. Fees collected by a dealer under this section shall be forwarded to the county treasurer in the same manner as annual registration fees.

b. If an amount of the fee for new registration represented by a dealer to the purchaser of a vehicle is computed upon a purchase price that is not subject to the fee for new registration or the amount represented is in excess of the actual amount subject to the fee and the amount represented is actually paid by the purchaser to the dealer, the excess amount of fee for new registration paid shall be returned to the purchaser upon notification to the dealer by the department that an excess payment exists.

c. If an amount of the fee for new registration represented by a dealer to a purchaser is computed upon a purchase price that is not subject to the fee for new registration or the amount represented is in excess of the actual amount subject to the fee and the amount represented is actually paid by the purchaser to the dealer, the excess amount of fee for new registration paid shall be returned to the purchaser upon proper notification to the dealer by the purchaser that an excess payment exists. "Proper" notification is written notification which allows a dealer at least sixty days to respond and which contains enough information to allow a dealer to determine the validity of a purchaser's claim that an excess amount of fee for new registration has been paid. No cause of action shall accrue against a dealer for excess fee for new registration paid until sixty days after proper notice has been given the dealer by the purchaser.

d. In the circumstances described in paragraphs "b" and "c", a dealer has the option to either return any excess amount of fee for new registration paid to a purchaser, or to remit the amount which a purchaser has paid to the dealer to the department.

6. REFUNDS.

a. A fee for new registration is not refundable, except in the following circumstances:

(1) If a vehicle is sold and later returned to the seller and the entire purchase price is refunded by the seller, the purchaser is entitled to a refund of the fee for new registration paid. To obtain a refund, the purchaser shall make application on forms provided by the department and show proof that the entire purchase price was returned and that the fee for new registration had been paid.

(2) If a vehicle manufacturer reimburses a purchaser for the fee for new registration paid on a returned defective vehicle, the manufacturer may obtain a refund from the department by providing proof that the fee was paid and the purchaser reimbursed in accordance with the provisions of chapter 322G.

(3) If the department determines that, as a result of a mistake, an amount of the fee for new registration has been paid which was not due, such amount shall be refunded to the vehicle owner by the department.

b. A claim for refund under this subsection that has not been filed with the department within three years after the fee for new registration was paid shall not be allowed by the director.

7. PENALTY FOR FALSE STATEMENT. A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to a fee for new registration is guilty of a fraudulent practice. A person who willfully makes a false statement in regard to the purchase price of such a vehicle with the intent to evade payment of the fee for new registration shall be assessed a penalty of seventy-five percent of the amount of the fee unpaid and required to be paid on the actual purchase price less trade-in allowance.

PART 3
MOTOR VEHICLE USE TAX — REPEAL

Sec. 41. Section 423.6, subsection 6, Code 2007, is amended to read as follows:

6. Tangible personal property or services the sales price of which is exempt from the sales tax under section 423.3, except subsections 39 and 73, as it relates to the sale, but not the lease or rental, of vehicles ~~subject to registration or~~ subject only to the issuance of a certificate of title and as it relates to aircraft subject to registration under section 328.20.

Sec. 42. Section 423.6, subsections 8, 10, 11, 12, 16, 17, 18, 24, and 25, Code 2007, are amended by striking the subsections.

Sec. 43. Section 423.14, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. The tax upon the use of all vehicles ~~subject to registration or~~ subject only to the issuance of a certificate of title or the tax upon the use of manufactured housing shall be collected by the county treasurer or the state department of transportation pursuant to ~~sections~~ section 423.26 ~~and 423.27~~, subsection 1. The county treasurer shall retain one dollar from each tax payment collected, to be credited to the county general fund.

Sec. 44. Section 423.26, Code 2007, is amended to read as follows:

423.26 VEHICLES SUBJECT ~~TO REGISTRATION OR~~ ONLY TO THE ISSUANCE OF TITLE — MANUFACTURED HOUSING — VEHICLE LEASE TRANSACTIONS NOT REQUIRING TITLE OR REGISTRATION.

1. a. The use tax imposed upon the use of vehicles ~~subject to registration or~~ subject only to the issuance of a certificate of title or imposed upon the use of manufactured housing shall be paid by the owner of the vehicle or of the manufactured housing to the county treasurer or the state department of transportation from whom the ~~registration receipt or~~ certificate of title is obtained. A ~~registration receipt for a vehicle subject to registration or~~ certificate of title shall not be issued until the tax has been paid. The county treasurer or the state department of transportation shall require every applicant for a ~~registration receipt for a vehicle subject to registration or~~ certificate of title to supply information as the county treasurer or the director deems necessary as to the time of purchase, the purchase price, installed purchase price, and other information relative to the purchase of the vehicle or manufactured housing. On or before the tenth day of each month, the county treasurer or the state department of transportation shall remit to the department the amount of the taxes collected during the preceding month.

b. A person who willfully makes a false statement in regard to the purchase price of a vehicle subject to taxation under this ~~section~~ subsection is guilty of a fraudulent practice. A person who willfully makes a false statement in regard to the purchase price of such a vehicle with the intent to evade the payment of tax shall be assessed a penalty of seventy-five percent of the amount of tax unpaid and required to be paid on the actual purchase price less trade-in allowance.

2. a. The use tax imposed upon the use of leased vehicles if the lease transaction does not require titling or registration of the vehicle shall be remitted to the department. Tax and the reporting of tax due to the department shall be remitted on or before fifteen days from the last day of the month that the tax becomes due. Failure to timely report or remit any of the tax when due shall result in a penalty and interest being imposed on the tax due pursuant to section 423.40, subsection 1, and section 423.42, subsection 1.

b. The amount subject to tax shall be computed on each separate lease transaction by taking the total of the lease payments, plus the down payment, and excluding all of the following:

(1) Title fee.

(2) Registration fees.

(3) Use tax pursuant to this subsection.

(4) Federal excise taxes attributable to the sale of the vehicle to the owner or to the lease of the vehicle by the owner.

(5) Optional service or warranty contracts subject to tax pursuant to section 423.2, subsection 1.

(6) Insurance.

(7) Manufacturer's rebate.

(8) Refundable deposit.

(9) Finance charges, if any, on items listed in subparagraphs (1) through (8).

c. If any or all of the items in paragraph "b", subparagraphs (1) through (8) are excluded from the taxable lease price, the owner shall maintain adequate records of the amounts of those items. If the parties to a lease enter into an agreement providing that the tax imposed under this subsection is to be paid by the lessee or included in the monthly lease payments to be paid by the lessee, the total cost of the tax shall not be included in the computation of lease price for the purpose of taxation under this subsection.

Sec. 45. Section 423.43, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

423.43 DEPOSIT OF REVENUES.

1. Except as provided in subsection 2, all revenue arising under the operation of the use tax under subchapter III shall be deposited into the general fund of the state.

2. All revenue derived from the use tax imposed pursuant to section 423.26 shall be credited to the statutory allocations fund created under section 321.145, subsection 2.

Sec. 46. Section 423.27, Code 2007, is repealed.

PART 4
CONFORMING AMENDMENTS

Sec. 47. Section 29A.101A, subsection 5, Code Supplement 2007, is amended to read as follows:

5. Rents or lease amounts unpaid for the period preceding the effective date of the lease termination shall be paid on a prorated basis. In the case of a vehicle lease, the lessor shall not impose an early termination charge, but any ~~taxes,~~ summonses, ~~and~~ title and registration fees, including the fee for new registration, and any other obligation and liability of the lessee in accordance with the terms of the lease, including reasonable charges to the lessee for excess wear, use, and mileage, that are due and unpaid at the time of termination of the lease shall be paid by the lessee.

Sec. 48. Section 321.17, Code 2007, is amended to read as follows:

321.17 MISDEMEANOR TO VIOLATE REGISTRATION PROVISIONS.

It is a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 2, paragraph "b", for any person to drive or move or for an owner knowingly to permit to be driven or moved upon the highway a vehicle of a type required to be registered under this chapter which is not registered, or for which the appropriate ~~fee has~~ fees have not been paid, except as provided in section 321.109, subsection 3.

Sec. 49. Section 321.19, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

All vehicles owned or leased for a period of sixty days or more by the government and used in the transaction of official business by the representatives of foreign governments or by officers, boards, or departments of the government of the United States, and by the state, counties, municipalities and other political subdivisions of the state including vehicles used by an urban transit company operated by a municipality or a regional transit system, and self-propelling vehicles used neither for the conveyance of persons for hire, pleasure, or business nor for the transportation of freight other than those used by an urban transit company operated by a municipality or a regional transit system, all fire trucks, providing they are not owned and operated for a pecuniary profit, and authorized emergency vehicles used only in disaster relief owned and operated by an organization not operated for pecuniary profit, are exempted from the payment of the registration fees imposed by this chapter, except as provided for urban transit companies in subsection 2, but are not exempt from the penalties provided in this chapter.

Sec. 50. Section 321.20, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The full legal name; social security number or Iowa driver's license number or Iowa nonoperator's identification card number; date of birth; bona fide residence; and mailing address of the owner and of the lessee if the vehicle is being leased. If the owner or lessee is a firm, association, or corporation, the application shall contain the bona fide business address and federal employer identification number of the owner or lessee. Up to three owners' names may be listed on the application. If the vehicle is a leased vehicle, the application shall state whether the notice of registration renewal shall be sent to the lessor or to the lessee and whether the lessor or the lessee shall receive the ~~registration fee~~ refund of the annual registration fee, if

any. Information relating to the lessee of a vehicle shall not be required on an application for registration and a certificate of title for a vehicle with a gross vehicle weight rating of ten thousand pounds or more.

Sec. 51. Section 321.20, subsection 1, paragraph e, Code 2007, is amended to read as follows:

e. The amount of the fee for new registration to be paid under section 321.105A or the amount of tax to be paid under section 423.26, subsection 1.

Sec. 52. Section 321.20A, Code 2007, is amended to read as follows:

321.20A CERTIFICATE OF TITLE AND REGISTRATION FEES — COMMERCIAL VEHICLES.

1. Notwithstanding other provisions of this chapter, the owner of a commercial vehicle subject to the proportional registration provisions of chapter 326 may make application to the department or the appropriate county treasurer for a certificate of title. The application for certificate of title shall be made within thirty days of purchase or transfer and shall be accompanied by a ten dollar title fee and the appropriate ~~use tax~~ fee for new registration. The department or the county treasurer shall deliver the certificate of title to the owner if there is no security interest. If there is a security interest, the title, when issued, shall be delivered to the first secured party. Delivery may be made using electronic means.

2. An owner of more than fifty commercial vehicles subject to the proportional registration provisions of chapter 326 who is issued a certificate of title under this section shall not be subject to annual registration fees until the commercial vehicle is driven or moved upon the highways. The annual registration fee due shall be prorated for the remaining unexpired months of the registration year. Ownership of the commercial vehicle shall not be transferred until annual registration fees have been paid to the department.

Sec. 53. Section 321.23, subsection 3, Code 2007, is amended to read as follows:

3. In the event an applicant for registration of a foreign vehicle for which a certificate of title has been issued is able to furnish evidence of being the registered owner of the vehicle to the county treasurer of the owner's residence, although unable to surrender such certificate of title, the county treasurer may issue a registration receipt and plates upon receipt of the required annual registration fee and the fee for new registration fee[6] but shall not issue a certificate of title thereto. Upon surrender of the certificate of title from the foreign state, the county treasurer shall issue a certificate of title to the owner, or person entitled thereto, of such vehicle as provided in this chapter. The owner of a vehicle registered under this subsection shall not be required to obtain a certificate of title in this state and may transfer ownership of the vehicle to a motor vehicle dealer licensed under chapter 322 if, at the time of the transfer, the certificate of title is held by a secured party and the dealer has forwarded to the secured party the sum necessary to discharge the security interest pursuant to section 321.48, subsection 1.

Sec. 54. Section 321.24, subsections 1, 3, and 10, Code Supplement 2007, are amended to read as follows:

1. Upon receipt of the application for title and payment of the required fees for a motor vehicle, trailer, or semitrailer, the county treasurer or the department shall, when satisfied as to the application's genuineness and regularity, and, in the case of a mobile home or manufactured home, that taxes are not owing under chapter 423 or 435, issue a certificate of title and, except for a mobile home or manufactured home, a registration receipt, and shall file the application, the manufacturer's or importer's certificate, the certificate of title, or other evidence of ownership, as prescribed by the department. The registration receipt shall be delivered to the owner and shall contain upon its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, the amount of the fee paid, ~~the amount of tax paid pursuant to section 423.26,~~ the type of fuel used, a description of the vehicle as determined by the department, and a form for notice of transfer of the vehicle. The name and address of

[6] See chapter 1191, §127 herein

any lessee of the vehicle shall not be printed on the registration receipt or certificate of title. Up to three owners may be listed on the registration receipt and certificate of title.

3. The certificate of title shall contain upon its face the identical information required upon the face of the registration receipt. In addition, the certificate of title shall contain a statement of the owner's title, the title number assigned to the owner or owners of the vehicle, ~~the amount of tax paid pursuant to section 423.26,~~ the name and address of the previous owner, and a statement of all security interests and encumbrances as shown in the application, upon the vehicle described, including the nature of the security interest, date of perfection, and name and address of the secured party.

10. A vehicle shall be registered for the registration year. A vehicle registered for the first time in this state shall be registered for the remaining unexpired months of the registration year and pay ~~a~~ an annual registration fee prorated for the remaining unexpired months of the registration year plus a fee for new registration if applicable pursuant to section 321.105A. Except for a vehicle registered under chapter 326, a vehicle registered for the first time during the eleventh month of the owner's registration year may be registered for the remaining unexpired months of the registration year as provided in this paragraph or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

Sec. 55. Section 321.26, subsection 2, Code 2007, is amended to read as follows:

2. The county treasurer may adjust the renewal or expiration date of vehicles when deemed necessary to equalize the number of vehicles registered in each twelve-month period or for the administrative efficiency of the county treasurer's office. The adjustment shall be accomplished by delivery of a written notice to the vehicle owner of the adjustment and allowance of a credit for the remaining months of the unused portion of the annual registration fee, rounded to the nearest whole dollar, which amount shall be deducted from the annual registration fee due at the time of registration. Upon receipt of the notification the owner shall, within thirty days, surrender the registration card and registration plates to the county treasurer of the county where the vehicle is registered, except that the registration plates shall not be surrendered if validation stickers or other emblems are used to designate the month and year of expiration of registration. Upon payment of the annual registration fee, less the credit allowed for the remaining months of the unused portion of the annual registration fee, the county treasurer shall issue a new registration card and registration plates, validation stickers, or emblems which indicate the month and year of expiration of registration.

Sec. 56. Section 321.30, subsection 1, paragraphs e and f, Code Supplement 2007, are amended to read as follows:

e. That the required ~~fee has~~ registration fees have not been paid except as provided in section 321.48.

f. ~~That~~ For a vehicle subject only to a certificate of title or a manufactured home, that the required use tax has not been paid.

Sec. 57. Section 321.30, subsection 3, paragraph b, Code Supplement 2007, is amended to read as follows:

b. If the applicant for registration of the vehicle has failed to pay the required annual registration ~~fees~~ fee or the fee for new registration of any vehicle owned or previously owned when the ~~registration~~ fee was required to be paid by the applicant, and for which vehicle the registration was suspended or revoked under section 321.101, subsection 1, paragraph "d", or section 321.101A, until the ~~fees are~~ fee is paid together with any accrued penalties.

Sec. 58. Section 321.34, subsection 2, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

In lieu of issuing new registration plates each registration year for a vehicle renewing registration, the department may reassign the registration plates previously issued to the vehicle

and may adopt and prescribe an annual validation sticker indicating payment of annual registration fees. The department shall issue one validation sticker for each set of registration plates. The sticker shall specify the month and year of expiration of the registration plates. The sticker shall be displayed only on the rear registration plate, except that the sticker shall be displayed on the front registration plate of a truck tractor.

Sec. 59. Section 321.34, subsection 5, paragraphs b and c, Code Supplement 2007, is amended to read as follows:

b. The county treasurer shall validate personalized registration plates in the same manner as regular registration plates are validated under this section at an annual fee of five dollars in addition to the regular annual registration fee. A person renewing a personalized registration plate within one month following the time requirements under section 321.40 may renew the personalized plate without paying the additional registration fee under paragraph "a" but shall pay the five-dollar fee in addition to the regular annual registration fee and any penalties subject to regular registration plate holders for late renewal.

c. The fees collected by the director under this ~~section~~ subsection shall be paid to the treasurer of state and credited by the treasurer of state as provided in section 321.145.

Sec. 60. Section 321.34, subsection 7, paragraph c, Code Supplement 2007, is amended to read as follows:

c. (1) The fees for a collegiate registration plate are as follows:

~~(1)~~ (a) A registration fee of twenty-five dollars.

~~(2)~~ (b) A special collegiate registration fee of twenty-five dollars.

(2) These fees are in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited by the treasurer of state to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43 and prior to the revenues being credited to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall credit monthly from ~~those revenues respectively~~ the statutory allocations fund created under section 321.145, subsection 2, to Iowa state university of science and technology, the university of northern Iowa, and the state university of Iowa respectively, the amount of the special collegiate registration fees collected in the previous month for collegiate registration plates designed for the university. The moneys credited are appropriated to the respective universities to be used for scholarships for students attending the universities.

Sec. 61. Section 321.34, subsection 10, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the Paul Ryan memorial fire fighter safety training fund created pursuant to section 100B.12 the amount of the special fees collected in the previous month for the fire fighter plates.

Sec. 62. Section 321.34, subsection 10A, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the emergency medical services fund created in section 135.25 the amount of the special fees collected in the previous month for issuance of emergency medical services plates.

Sec. 63. Section 321.34, subsection 11, paragraph c, Code Supplement 2007, is amended to read as follows:

c. (1) The special natural resources fee for letter number designated natural resources plates is forty-five dollars. The fee for personalized natural resources plates is forty-five dollars which shall be paid in addition to the special natural resources fee of forty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall credit monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the Iowa resources enhancement and protection fund created pursuant to section 455A.18, the amount of the special natural resources fees collected in the previous month for the natural resources plates.

(2) From the moneys credited to the Iowa resources enhancement and protection fund under ~~this paragraph "c",~~ subparagraph (1), ten dollars of the fee collected for each natural resources plate issued, and fifteen dollars from each renewal fee, shall be allocated to the department of natural resources wildlife bureau to be used for nongame wildlife programs.

Sec. 64. Section 321.34, subsection 11A, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated love our kids plates is thirty-five dollars. The fee for personalized love our kids plates is twenty-five dollars, which shall be paid in addition to the special love our kids fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the Iowa department of public health the amount of the special fees collected in the previous month for the love our kids plates. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

Sec. 65. Section 321.34, subsection 11B, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated motorcycle rider education plates is thirty-five dollars. The fee for personalized motorcycle rider education plates is twenty-five dollars, which shall be paid in addition to the special motorcycle rider education fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the department for use in accordance with section 321.180B, subsection 6, the amount of the special fees collected in the previous month for the motorcycle rider education plates.

Sec. 66. Section 321.34, subsection 13, paragraph d, Code Supplement 2007, is amended to read as follows:

d. A state agency may submit a request to the department recommending a special registration plate. The alternate fee for letter number designated plates is thirty-five dollars with a ten dollar annual special renewal fee. The fee for personalized plates is twenty-five dollars which is in addition to the alternative fee of thirty-five dollars with an annual personalized plate renewal fee of five dollars which is in addition to the special renewal fee of ten dollars. The alternate fees are in addition to the regular annual registration fee. The alternate fees collected under this paragraph shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of the revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The trea-

surer of state shall credit monthly from the statutory allocations fund created under section 321.145, subsection 2, the amount of the alternate fees collected in the previous month to the state agency that recommended the special registration plate.

Sec. 67. Section 321.34, subsection 16, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a member of the national guard, as defined in chapter 29A, may, upon written application to the department, order special registration plates with a national guard processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the applicant is a member of the national guard. The application shall be approved by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized national guard plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for national guard plates. Special registration plates with a national guard processed emblem shall be surrendered, as provided in subsection 12, in exchange for regular registration plates upon termination of the owner's membership in the active national guard.

Sec. 68. Section 321.34, subsection 17, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates with a Pearl Harbor processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized Pearl Harbor plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for Pearl Harbor plates.

Sec. 69. Section 321.34, subsection 18, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States may, upon written application to the department and presentation of satisfactory proof of the award of the purple heart medal, order special registration plates with a purple heart processed emblem. The design of the emblem shall include a representation of a purple heart medal and ribbon. The application is subject to approval by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized purple heart plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund

created in section 35A.11 the amount of the special fees collected in the previous month for purple heart plates.

Sec. 70. Section 321.34, subsection 19, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a retired member of the United States armed forces may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. For purposes of this subsection, a person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized armed forces retired plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for armed forces retired plates.

Sec. 71. Section 321.34, subsection 20, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a silver or a bronze star by the United States government, may, upon written application to the department and presentation of satisfactory proof of the award of the silver or bronze star, order special registration plates with a silver or bronze star processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized silver star and bronze star plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for silver star and bronze star plates.

Sec. 72. Section 321.34, subsection 20A, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a distinguished service cross, a navy cross, or an air force cross by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a distinguished service cross, navy cross, or air force cross processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized distinguished service cross, navy cross, and air force cross plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for distinguished service cross, navy cross, and air force cross plates.

Sec. 73. Section 321.34, subsection 20B, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a soldier's medal, a navy and marine corps medal, or an airman's medal by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a soldier's medal, navy and marine corps medal, or airman's medal processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized soldier's medal, navy and marine corps medal, and airman's medal plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for soldier's medal, navy and marine corps medal, and airman's medal plates.

Sec. 74. Section 321.34, subsection 21, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall credit monthly from the statutory allocations fund created under section 321.145, subsection 2, to the Iowa heritage fund created under section 303.9A the amount of the special fees collected in the previous month for the Iowa heritage plates.

Sec. 75. Section 321.34, subsection 22, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The annual special school transportation fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the school budget review committee in accordance with section 257.31, subsection 17, the amount of the special school transportation fees collected in the previous month for the education plates.

Sec. 76. Section 321.34, subsection 23, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated breast cancer awareness plates is thirty-five dollars. The fee for personalized breast cancer awareness plates is twenty-five dollars, which shall be paid in addition to the special breast cancer awareness fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the Iowa department of

public health the amount of the special fees collected in the previous month for the breast cancer awareness plates and such funds are appropriated to the Iowa department of public health. The Iowa department of public health shall distribute one hundred percent of the funds received monthly in the form of grants to support breast cancer screenings for both men and women who meet eligibility requirements like those established by the Susan G. Komen foundation. In the awarding of grants, the Iowa department of public health shall give first consideration to affiliates of the Susan G. Komen foundation and similar nonprofit organizations providing for breast cancer screenings at no cost in Iowa. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.

Sec. 77. Section 321.34, subsection 24, Code Supplement 2007, is amended to read as follows:

24. GOLD STAR PLATES. An owner referred to in subsection 12 who is the surviving spouse, parent, child, or sibling of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict may order special registration plates bearing a gold star emblem upon written application to the department accompanied by satisfactory supporting documentation as determined by the department. The gold star emblem shall be designed by the department in cooperation with the commission of veterans affairs. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized gold star plates shall be paid monthly to the treasurer of state and ~~credited to~~ deposited in the road use tax fund. ~~Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the~~ The treasurer of state shall transfer monthly from ~~those revenues~~ the statutory allocations fund created under section 321.145, subsection 2, to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for gold star plates.

Sec. 78. Section 321.39, subsections 3 and 4, Code 2007, are amended to read as follows:

3. For vehicles on which the first installment of an annual registration fee has been paid, at midnight on the last day of June or the first business day of July when June 30 falls on Saturday, Sunday, or a holiday; for vehicles on which the second installment of an annual registration fee has been paid, at midnight on the last day of December or the first business day of January when December 31 falls on Saturday, Sunday, or a holiday.

4. For vehicles registered without payment of annual registration fees as provided in section 321.19, when designated by the department.

5. Registration for every vehicle registered by the county treasurer shall expire upon transfer of ownership.

Sec. 79. Section 321.40, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Application for renewal of a vehicle registration shall be made on or after the first day of the month prior to the month of expiration of registration and up to and including the last day of the month following the month of expiration of registration. The registration shall be renewed upon payment of the appropriate annual registration fee. Application for renewal for a vehicle registered under chapter 326 shall be made on or after the first day of the month of expiration of registration and up to and including the last day of the month following the month of expiration of registration.

Sec. 80. Section 321.46, subsections 2, 3, 4, 6, and 7, Code 2007, are 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~~, an annual registration fee prorated for the remaining unexpired months of the registration year, and a fee for new registration if applicable. 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 manufactured 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.

3. The applicant shall be entitled to a credit for that portion of the annual registration fee of the vehicle sold, traded, or junked which had not expired prior to the transfer of ownership of the vehicle. The annual registration fee for the new registration for the vehicle acquired shall be reduced by the amount of the credit. The credit shall be computed on the basis of the number of months remaining in the registration year, rounded to the nearest whole dollar. The credit shall be subject to the following limitations:

a. The credit shall be claimed within thirty days from the date the vehicle for which credit is granted was sold, transferred, or junked. After thirty days, all credits shall be disallowed.

b. Any credit granted to the owner of a vehicle which has been sold, traded, or junked may only be claimed by that person toward the annual registration fee for another vehicle purchased and the credit may not be sold, transferred, or assigned to any other person.

c. When the amount of the credit is computed to be an amount of less than ten dollars, a credit shall be disallowed.

d. To claim a credit for the unexpired annual registration fee on a junked vehicle, the county treasurer shall disallow any claim for credit unless the owner presents a junking certificate or other evidence as required by the department to the county treasurer.

e. A credit shall not be allowed to any person who has made claim to receive a refund under section 321.126.

f. If the credit allowed exceeds the amount of the annual registration fee for the vehicle acquired, the owner may claim a refund under section 321.126, subsection 6, for the balance of the credit.

g. The credit shall be computed on the unexpired number of months computed from the date of purchase of the vehicle acquired.

4. If the annual registration fee upon application is delinquent, the applicant shall be required to pay the delinquent fee from the first day the annual registration fee was due prorated to the month of application for new title.

6. An applicant for a new registration for a vehicle transferred to the applicant by a spouse, parent, or child of the applicant, or by operation of law upon inheritance, devise or bequest, from the applicant's spouse, parent, or child, or by a former spouse pursuant to a decree of dissolution of marriage, is entitled to a credit to be applied to the annual registration fee for the transferred vehicle. A credit shall not be allowed unless the vehicle to which the credit applies is registered within the time specified under subsection 1. The credit shall be computed on the basis of the number of unexpired months remaining in the registration year of the former owner computed from the date the vehicle was transferred, computed to the nearest whole dollar. The credit may exceed the amount of the annual registration fee for the transferred vehicle. When the amount of the credit is computed to be an amount of less than ten dollars, the credit shall be disallowed. The credit shall not be sold, transferred, or assigned to any other person.

7. If a motor vehicle is leased and the lessee purchases the vehicle upon termination of the lease, the lessor shall, upon claim by the lessee with the lessor within thirty days of the purchase, assign the annual registration fee credit and registration plates for the leased motor vehicle to the lessee. Credit shall be applied as provided in subsection 3.

Sec. 81. Section 321.46A, Code 2007, is amended to read as follows:

321.46A CHANGE FROM PROPORTIONAL REGISTRATION — CREDIT.

An owner changing a vehicle's registration from proportional registration under chapter 326 to registration under this chapter shall be entitled to a credit on the vehicle's annual registration fees under this chapter. The credit shall be allowed when the owner surrenders to the county treasurer proof of proportional registration provided by the department. The amount of the credit shall be calculated based on the unexpired complete calendar months remaining in the registration year from the date the application is filed with the county treasurer.

Sec. 82. Section 321.52, subsections 1 and 3, Code Supplement 2007, are amended to read as follows:

1. When a vehicle is sold outside the state for purposes other than for junk, the owner, dealer or otherwise, shall detach the registration plates and registration card and shall indicate on the registration card the name and address of the foreign purchaser or transferee over the person's signature. Unless the registration plates are legally attached to another vehicle, the owner shall surrender the registration plates and registration card to the county treasurer, who shall cancel the records, destroy the registration plates, and forward the registration card to the department. The department shall make a notation on the records of the out-of-state sale and, after a reasonable period, may destroy the files for that particular vehicle. The department is not authorized to make a refund of annual registration fees on a vehicle sold out of state unless it receives the registration card completed as provided in this section.

3. When a vehicle for which a certificate of title is issued is junked or dismantled by the owner, the owner shall detach the registration plates and surrender the plates to the county treasurer, unless the plates are properly assigned to another vehicle. The owner shall also surrender the certificate of title to the county treasurer. Upon surrendering the certificate of title and application for junking certificate, the county treasurer shall issue to the person, without fee, a junking certificate, which shall authorize the holder to possess, transport or transfer ownership of the junked vehicle by endorsement of the junking certificate. The county treasurer shall hold the surrendered certificate of title, registration receipt, application for junking certificate, and, if applicable, the registration plates for a period of fourteen days following the issuance of a junking certificate under this subsection. Within the fourteen-day period the person who was issued the junking certificate and to whom the vehicle was titled or assigned may surrender to the county treasurer the junking certificate, and upon the person's payment of appropriate fees and taxes and payment of any credit for annual registration fees received by the person for the vehicle under section 321.46, subsection 3, the county treasurer shall issue to the person a certificate of title for the vehicle. After the expiration of the fourteen-day period, a county treasurer shall not issue a certificate of title for a junked vehicle for which a junking certificate is issued. The county treasurer shall cancel the record of the vehicle and forward the certificate of title to the department.

However, upon application the department upon a showing of good cause may issue a certificate of title after the fourteen-day period for a junked vehicle for which a junking certificate has been issued. For purposes of this subsection, "good cause" means that the junking certificate was obtained by mistake or inadvertence. If a person's application to the department is denied, the person may make application for a certificate of title under the bonding procedure as provided in section 321.24, if the vehicle qualifies as an antique vehicle under section 321.115, subsection 1, or the person may seek judicial review as provided under sections 17A.19 and 17A.20.

Sec. 83. Section 321.70, Code 2007, is amended to read as follows:

321.70 DEALER VEHICLES.

A dealer registered under this chapter shall not be required to register any vehicle owned by the dealer which is being held for sale or trade, provided the annual registration fee was not delinquent at the time the vehicle was acquired by the dealer. When a dealer ceases to hold

any vehicle for sale or trade or the vehicle otherwise becomes subject to registration under this chapter the annual registration fee and delinquent annual registration fee, if any, shall be due for the registration year.

Sec. 84. Section 321.101, subsection 1, paragraph d, Code Supplement 2007, is amended to read as follows:

d. When the department determines that the required annual registration fee has not been paid and the fee is not paid upon reasonable notice and demand.

Sec. 85. Section 321.101A, Code 2007, is amended to read as follows:

321.101A REVOCATION OF REGISTRATION BY COUNTY TREASURER.

The county treasurer may revoke the registration and registration plates of a vehicle if the annual registration ~~fees are~~ fee or the fee for new registration is paid by check, electronic payment, or credit card and the check, electronic payment, or credit card is not honored by the payer's financial institution or credit card company, upon reasonable notice and demand. The owner of the vehicle or person in possession of the registration and registration plates for the vehicle shall immediately return the revoked registration and registration plates to the appropriate county treasurer's office.

Sec. 86. Section 321.105, Code 2007, is amended to read as follows:

321.105 ANNUAL REGISTRATION FEE REQUIRED.

1. An annual registration fee shall be paid for each vehicle operated upon the public highways of this state unless the vehicle is specifically exempted under this chapter. If a vehicle, which has been registered for the current registration year, is transferred during the registration year, the transferee shall reregister the vehicle as provided in section 321.46.

2. The annual registration fee shall be paid to the county treasurer at the same time the application is made for the registration or reregistration of the motor vehicle or trailer. An owner may, when applying for registration or reregistration of a motor vehicle or trailer, request that the plates be mailed to the owner's post-office address. The owner's request shall be accompanied by a mailing fee as determined annually by the director in consultation with the Iowa county treasurers association.

3. Upon application by a financial institution, as defined in section 422.61, and approval of the application by the county treasurer, the county treasurer in any county may authorize the financial institution to receive applications for renewal of vehicle registrations and payment of the annual registration fees. The annual registration fees shall be delivered to the county treasurer at the time the county treasurer has processed the vehicle registration application. ~~Registration~~ Annual registration fees received with vehicle registration applications shall be designated as public funds only upon receipt of such funds by the county treasurer from the financial institution.

4. In addition to the payment of an annual registration fee for each trailer and semitrailer to be issued an annual registration plate, an additional registration fee may be paid for a period of two or four subsequent registration years.

5. Seriously disabled veterans who have been provided with an automobile or other vehicle by the United States government under the provisions of sections 1901 to 1903, Title 38 of the United States Code, 38 U.S.C. § 1901 et seq. (1970), shall be exempt from payment of any automobile registration fee provided in this chapter, and shall be provided, without fee, with a registration plate. The disabled veteran, to be able to claim the above benefit, must be a resident of the state of Iowa. The disabled veteran may obtain a special or personalized plate under section 321.34 by paying the difference between the fee for a regular registration plate and the fee for the special or personalized registration plate.

Sec. 87. Section 321.106, subsections 1, 2, and 4, Code 2007, are amended to read as follows:

1. When a vehicle is registered under chapter 326 or a motor truck, truck tractor, or road

tractor is registered for a combined gross weight exceeding five tons and there is no delinquency and the registration is made in February or succeeding months through November, the annual registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of December for a vehicle registered on a calendar year basis on which there is no delinquency. However, except for a vehicle registered under chapter 326, when such a vehicle is registered in November, the vehicle may be registered for the remaining unexpired months of the registration year or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

2. When a vehicle is registered on a birth month basis and there is no delinquency and the registration is made in the month after the beginning of the registration year or succeeding months, the annual registration fee shall be prorated for the remaining unexpired months of the registration year. A fee shall not be required for the month of the owner's birthday for a vehicle on which there is no delinquency. However, when a vehicle registered on a birth month basis is registered during the eleventh month of the registration year, the vehicle may be registered for the remaining unexpired months of the registration year or for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

4. A reduction in the annual registration fee shall not be allowed by the department until the applicant files satisfactory evidence to prove that there is no delinquency in registration.

Sec. 88. Section 321.109, subsection 3, Code 2007, is amended to read as follows:

3. The owner of an unregistered motor vehicle or motor vehicle for which the registration is delinquent may make application to the county treasurer of the county of residence or, if the unregistered or delinquent motor vehicle is purchased by a nonresident of the state, to the county treasurer in the county of purchase, for a temporary thirty-day permit for a fee of twenty-five dollars. The permit shall authorize the motor vehicle to be driven or towed upon the highway, but shall not authorize a motor truck or truck tractor to haul or tow a load. The permit fee shall not be considered a registration fee or exempt the owner from payment of all other fees, registration fees, and penalties due. If the annual registration fee for the motor vehicle is delinquent, the annual registration fee and penalty shall continue to accrue until paid. The permit fee shall not be prorated, refunded, or used as credit as provided under section 321.46. The permit shall be displayed in the upper left-hand corner of the rear window of all motor vehicles, except motorcycles. Permits issued for a motorcycle shall be attached to the rear of the motorcycle.

Sec. 89. Section 321.110, Code 2007, is amended to read as follows:

321.110 REJECTING FRACTIONAL DOLLARS.

When the annual registration fee, computed according to section 321.109, subsection 1, totals a fraction over a certain number of dollars the fee shall be arrived at by computing to the nearest even dollar.

Sec. 90. Section 321.113, Code 2007, is amended to read as follows:

321.113 AUTOMATIC REDUCTION.

1. The annual registration fee for a motor vehicle shall not be automatically reduced under this section unless the ~~registration~~ fee is based on the value and weight of the motor vehicle as provided in section 321.109, subsection 1.

2. If a motor vehicle is more than five model years old, the part of the annual registration fee that is based on the value of the vehicle shall be seventy-five percent of the rate as fixed when the motor vehicle was new.

3. If a motor vehicle is more than six model years old, the part of the annual registration fee that is based on the value of the vehicle shall be fifty percent of the rate as fixed when the motor vehicle was new.

4. If a 1994 model year or newer motor vehicle is nine model years old or older the annual

registration fee is thirty-five dollars. For purposes of determining the portion of the annual registration fee under this subsection that is based upon the value of the motor vehicle, sixty percent of the annual registration fee is attributable to the value of the vehicle.

5. a. If a 1993 model year or older motor vehicle has been titled in the same person's name since the vehicle was new or the title to the vehicle was transferred prior to January 1, 2002, the part of the annual registration fee that is based on the value of the vehicle shall be ten percent of the rate as fixed when the motor vehicle was new.

b. If the title of a 1993 model year or older motor vehicle is transferred to a new owner or if such a motor vehicle is brought into the state on or after January 1, 2002, the annual registration fee shall not be based on the weight and list price of the motor vehicle, but shall be as follows:

(1) For a motor vehicle that is model year 1969 or older: ..... $ 16.00

(2) For a motor vehicle that is model year 1970 through 1989: ..... $ 23.00

(3) For a motor vehicle that is model year 1990 through 1993: ..... $ 27.00

For purposes of determining the portion of the annual registration fee under this paragraph "b" that is based upon the value of the motor vehicle, sixty percent of the annual registration fee is attributable to the value of the vehicle.

Sec. 91. Section 321.117, Code 2007, is amended to read as follows:

321.117 MOTORCYCLE, AMBULANCE, AND HEARSE FEES.

For all motorcycles the annual registration fee shall be twenty dollars. For all motorized bicycles the annual registration fee shall be seven dollars. When the motorcycle is more than five model years old, the annual registration fee shall be ten dollars. The annual registration fee for ambulances and hearses shall be fifty dollars. Passenger car plates shall be issued for ambulances and hearses.

Sec. 92. Section 321.119, Code 2007, is amended to read as follows:

321.119 CHURCH BUSES.

For motor vehicles designed to carry nine passengers or more which are owned and used exclusively by a church or religious organization to transport passengers to and from activities of or sponsored by the church or religious organization and not operated for rent or hire for purposes unrelated to the activities of the church or religious organization, the annual registration fee shall be twenty-five dollars.

Sec. 93. Section 321.121, Code 2007, is amended to read as follows:

321.121 SPECIAL TRUCKS FOR FARM USE.

1. The annual registration fee for a special truck shall be eighty dollars for a gross weight of six tons, one hundred dollars for a gross weight of seven tons, one hundred twenty dollars for a gross weight of eight tons, and in addition, fifteen dollars for each ton over eight tons and not exceeding eighteen tons. The annual registration fee for a special truck with a gross weight registration exceeding eighteen tons but not exceeding nineteen tons shall be three hundred twenty-five dollars and for a gross weight registration exceeding nineteen tons but not exceeding twenty tons the annual registration fee shall be three hundred seventy-five dollars. The additional annual registration fee for a special truck for a gross weight registration in excess of twenty tons is twenty-five dollars for each ton over twenty tons and not exceeding thirty-two tons.

2. A person convicted of or found by audit to be using a motor vehicle registered as a special truck for any purpose other than permitted by section 321.1, subsection 76, shall, in addition to any other penalty imposed by law, be required to pay regular annual motor vehicle registration fees ~~upon~~ for such motor vehicle.

Sec. 94. Section 321.123, unnumbered paragraph 1, Code 2007, is amended to read as follows:

All trailers except farm trailers, mobile homes, and manufactured homes, unless otherwise provided in this section, are subject to ~~a~~ an annual registration fee of ten dollars. Trailers for which the empty weight is two thousand pounds or less are exempt from the certificate of title and lien provisions of this chapter. Fees collected under this section shall not be reduced or prorated under chapter 326.

Sec. 95. Section 321.123, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Travel trailers and fifth-wheel travel trailers, except those in manufacturer's or dealer's stock, shall be subject to an annual registration fee of twenty cents per square foot of floor space computed on the exterior overall measurements, but excluding three feet occupied by any trailer hitch as provided by and certified to by the owner, to the nearest whole dollar. When a travel trailer or fifth-wheel travel trailer is registered in Iowa for the first time or when title is transferred, the annual registration fee shall be prorated on a monthly basis. The annual registration fee shall be reduced to seventy-five percent of the full fee after the vehicle is more than six model years old.

Sec. 96. Section 321.125, Code 2007, is amended to read as follows:

321.125 EFFECT OF EXEMPTION.

The exemption of a motor vehicle from ~~a~~ an annual registration fee or a fee for new registration shall not exempt the operator of such vehicle from the performance of any other duty imposed on the operator by this chapter.

Sec. 97. Section 321.126, Code 2007, is amended to read as follows:

321.126 REFUNDS OF ANNUAL REGISTRATION FEES.

Refunds of unexpired annual vehicle registration fees shall be allowed in accordance with this section, except that no refund shall be allowed and paid if the unused portion of the fee is less than ten dollars. Subsections 1 and 2 do not apply to vehicles registered by the county treasurer. The refunds shall be made as follows:

1. If the vehicle is destroyed by fire or accident, or junked and its identity as a vehicle entirely eliminated, the owner in whose name the vehicle was registered at the time of destruction or dismantling shall return the plates to the department and within thirty days thereafter make a statement of such destruction or dismantling and make claim for refund. With reference to the destruction or dismantling of a vehicle, no refund shall be allowed unless a junking certificate has been issued, as provided in section 321.52.

2. If the vehicle is stolen, the owner shall give notice of the theft to the department within five days. If the vehicle is not recovered by the owner thirty days prior to the end of the current registration year, the owner shall make a statement of the theft and make claim for refund.

3. If the vehicle is placed in storage by the owner upon the owner's entry into the military service of the United States, the owner shall return the plates to the county treasurer or the department and make a statement regarding the storage and military service and make claim for refund. Whenever the owner of a vehicle so placed in storage desires to again register the vehicle, the county treasurer or department shall compute and collect the fees for registration for the registration year commencing in the month the vehicle is removed from storage.

4. If the vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for proportional registration under chapter 326, the owner of the registered vehicle shall surrender the registration plates to the county treasurer and may file a claim for refund. In lieu of a refund, a credit for the annual registration fees paid to the county treasurer may be applied by the department to the owner or lessee's proportional registration fees upon the surrender of the county plates and registration.

5. A refund for trailers and semitrailers issued a multiyear registration plate shall be paid by the department upon application.

6. If a vehicle is sold or junked, the owner in whose name the vehicle was registered may make claim to the county treasurer or department for a refund of the sold or junked vehicle's annual registration fee. Also if the owner of a vehicle receives a vehicle registration fee credit under section 321.46, subsection 3, and the credit allowed exceeds the amount of the annual registration fee for the vehicle acquired, the owner may claim a refund for the balance of the credit. The refund is subject to the following limitations:

a. If a vehicle registration fee credit has not been received by the owner of the vehicle under section 321.46, subsection 3, the refund shall be computed on the basis of the number of unexpired months remaining in the registration year at the time the vehicle was sold or junked. The refund shall be rounded to the nearest whole dollar. Section 321.127, subsection 1, does not apply.

b. The refund shall only be allowed if the owner makes claim for the refund within six months after the date of the vehicle's sale, trade, or junking.

c. This subsection does not apply to vehicles registered under chapter 326.

7. If the vehicle was leased and an affidavit was filed by the lessor or the lessee as provided in section 321.46, the lessor or the lessee, as applicable, may make a claim for a refund with the county treasurer of the county where the vehicle was registered within six months of the vehicle's surrender to the lessor. The refund shall be paid to either the lessor or the lessee, as specified on the application for title and registration pursuant to section 321.20.

8. If the owner of the vehicle moves out of state, the owner may make a claim for a refund by returning the Iowa registration plates, along with evidence of the vehicle's registration in another jurisdiction, to the county treasurer of the county in which the vehicle was registered within six months of the out-of-state registration. For purposes of section 321.127, the unexpired months remaining in the registration year shall be calculated on the basis of the effective date of the out-of-state registration. However, for the purpose of timely issuance of the refund, the claim for a refund under this subsection is considered to be filed on the date the registration documents are received by the county treasurer.

9. Notwithstanding any provision of this section to the contrary, there shall be no refund of proportional registration fees unless the state which issued the base plate for the vehicle allows such refund. If an owner subject to proportional registration leases the vehicle for which the refund is sought, the claim shall be filed in the names of both the lessee and the lessor and the refund payment made payable to both the lessor and the lessee. The term "owner" for purposes of this section shall include a person in whom is vested right of possession or control of a vehicle which is subject to a lease, contract, or other legal arrangement vesting right of possession or control in addition to the term as defined in section 321.1, subsection 49.

Sec. 98. Section 321.127, subsection 1, Code 2007, is amended to read as follows:

1. The refund of the annual registration fee for vehicles shall be computed on the basis of the number of unexpired months remaining in the registration year from date of filing of the claim for refund with the county treasurer, computed to the nearest dollar.

Sec. 99. Section 321.132, Code 2007, is amended to read as follows:

321.132 WHEN LIEN ATTACHES.

The lien of the original annual registration fee attaches, at the time the fee is first payable, as provided by law, and the lien of all renewals of registration attach on the first day of each succeeding registration year.

Sec. 100. Section 321.134, Code Supplement 2007, is amended to read as follows:

321.134 MONTHLY PENALTY.

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 annual 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 be-

coming 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 annual 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. For payments made through a county treasurer's authorized website only, if the last day of the month falls on a Saturday, Sunday, or a holiday, the electronic payment must be initiated by midnight on the first business day of the next month. All other electronic payments must be initiated by midnight on the last day of the month preceding the delinquent date.

2. The annual registration fee for trucks, truck tractors, and road tractors, as provided in sections 321.121 and 321.122, may be payable in two equal semiannual installments if the annual registration fee exceeds the annual registration fee for a vehicle with a gross weight exceeding five tons. The penalties provided in subsection 1 shall be computed on the amount of the first installment only and on the first day of the seventh month of the registration period the same rate of penalty shall apply to the second installment, until the fee is paid. Semiannual installments do not apply to commercial vehicles, as defined under section 326.2, subject to proportional registration, with a base state other than the state of Iowa, as defined in section 326.2, subsection 1. The penalty on vehicles registered under chapter 326 accrues August 1 of each year except as provided in section 326.6. The department shall not allow the annual registration fee for a commercial vehicle registered under chapter 326 to be paid in two equal semiannual installments for five years after the registrant has paid the annual registration fee late for two consecutive years.

3. If a penalty applies to ~~a~~ an annual vehicle registration fee provided for in sections 321.121 and 321.122, the same penalty shall be assessed on the fees collected to increase the registered gross weight of the vehicle, if the increased gross weight is requested within forty-five days from the date the delinquent vehicle is registered for the current registration period.

4. Notwithstanding subsections 1 through 3, if a vehicle registration is delinquent for twenty-four months or more, a flat penalty and fee shall be assessed for the delinquent period in addition to the current annual registration fee. The flat penalty and fee shall be one hundred fifty percent of the current annual registration fee.

5. The department shall waive the penalties imposed by this section for an owner who is in the military service of the United States and who has been relocated as a result of being placed on active duty on or after September 11, 2001. The department shall adopt rules to implement this subsection, including, if necessary, procedures for refunding penalties collected prior to March 29, 2004.

Sec. 101. Section 321.135, Code 2007, is amended to read as follows:

321.135 WHEN FEES DELINQUENT.

Except as otherwise provided, ~~delinquencies begin~~ annual registration fees become delinquent and penalties accrue the first of the month following the purchase of a new vehicle, and thirty days following the date a vehicle is brought into the state.

Sec. 102. Section 321.151, Code 2007, is amended to read as follows:

321.151 DUTY AND LIABILITY OF TREASURER.

The county treasurer shall collect the registration fee, the fee for new registration, and penalties on each vehicle registered by the county treasurer and shall be responsible on the county treasurer's bond for such amount. The county treasurer shall remit such amount to the treasurer of state as provided in this chapter. Fees collected pursuant to participation in county issuance of driver's licenses under chapter 321M shall be governed by the provisions of that chapter.

Sec. 103. Section 321.152, subsection 1, Code 2007, is amended to read as follows:

1. Four percent of the total collection, excluding the amount of any fee for new registration,

for each annual or semiannual vehicle registration and each duplicate registration card or plate issued.

Sec. 104. Section 321.152, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 5. One dollar from each fee for new registration collected pursuant to section 321.105A.

Sec. 105. Section 321.159, Code 2007, is amended to read as follows:
321.159 EXCEPTIONAL CASES — ANNUAL REGISTRATION FEE.
The department shall have the power to fix the annual registration fee on all makes and models of motor vehicles which are not now being furnished or upon which the statement from the factory cannot be obtained.
For a current year model of a motor vehicle for which the manufacturer or importer of the motor vehicle has not provided the weight and list price, the department shall set the annual registration fee at ten dollars greater than the annual registration fee for the previous year model. Once the manufacturer or importer provides the required information, the information shall be used to set the annual registration fee or the registration renewal fee for the succeeding registration or registration renewal time for the motor vehicle.

Sec. 106. Section 321.170, Code 2007, is amended to read as follows:
321.170 PLATES FOR EXEMPT VEHICLES.
The department shall furnish, on application, free of charge, distinguishing plates for motor vehicles exempted from ~~a~~ annual registration ~~fee~~ fees and shall keep a separate record thereof.

Sec. 107. Section 322G.4, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:
Refunds shall be made to the consumer and lienholder of record, if any, as their interests appear. If applicable, refunds shall be made to the lessor and lessee as follows: the lessee shall receive the lessee's cost less a reasonable offset for use, and the lessor shall receive the lease price less the aggregate deposit and rental payments previously paid to the lessor for the leased vehicle. If it is determined that the lessee is entitled to a refund pursuant to this chapter, the consumer's lease agreement with the lessor is terminated upon payment of the refund and no penalty for early termination shall be assessed. The department of revenue shall refund to the manufacturer any use tax or fee for new registration which the manufacturer refunded to the consumer, lessee, or lessor under this section, if the manufacturer provides to the department of revenue a written request for a refund and evidence that the use tax or fee for new registration was paid when the vehicle was purchased and that the manufacturer refunded the use tax or fee for new registration to the consumer, lessee, or lessor.

Sec. 108. Section 322G.12, unnumbered paragraph 1, Code 2007, is amended to read as follows:
A manufacturer who accepts the return of a motor vehicle pursuant to a settlement, determination, or decision under this chapter shall notify the state department of transportation, report the vehicle identification number of that motor vehicle within ten days after the acceptance, and obtain a new certificate of title for the vehicle in the manufacturer's name pursuant to section 321.46. In obtaining a new certificate of title, the manufacturer shall title the vehicle in the county of the transferor's residence and shall be exempt from the registration fee requirements of section 321.46. ~~For purposes of chapter 423, a manufacturer's acceptance of the return of a motor vehicle, as described in this section, shall not be considered "use", as defined in section 423.1~~ and the fee for new registration under section 321.105A. The new certificate of title, and all subsequent registration receipts and certificates of title issued for the motor vehicle, shall contain a designation indicating that the motor vehicle was returned to the manufacturer pursuant to this chapter or a similar law of another state. The state department of transportation shall determine the manner in which the designation is to be indicated on registration receipts and certificates of title and may determine that a "REBUILT" or "SALVAGE"

designation supersedes the designation required by this paragraph and include the "REBUILT" or "SALVAGE" designation on the registration receipt and certificate of title in lieu of the designation required by this paragraph.

Sec. 109. Section 326.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "Registration fee" means the annual motor vehicle registration fee imposed pursuant to section 321.105, unless otherwise specified.

Sec. 110. Section 327I.26, Code 2007, is amended to read as follows:

327I.26 APPROPRIATION TO AUTHORITY.

~~Notwithstanding section 423.43, and prior to the application of section 423.43, subsection 1, paragraph "b", there~~ There shall be deposited into the general fund of the state and is appropriated to the authority from ~~eighty percent of the revenues derived from the operation of section 423.26~~ the statutory allocations fund created under section 321.145, subsection 2, the amounts certified by the authority under section 327I.25. However, the total amount deposited into the general fund and appropriated to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys appropriated to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 327I.25.

Sec. 111. Section 331.557, subsection 3, Code 2007, is amended to read as follows:

3. Collect the use tax on vehicles subject ~~to registration~~ only to a certificate of title and on manufactured housing as provided in ~~sections~~ section 423.14~~,~~ and section 423.26~~, and 423.27~~, subsection 1.

Sec. 112. Section 423.5, subsection 3, Code 2007, is amended to read as follows:

3. The use of leased vehicles, if the lease transaction does not require titling or registration of the vehicle, on the amount subject to tax as calculated pursuant to section ~~423.27~~ 423.26, subsection 2.

Sec. 113. Section 423.36, subsection 8, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) Taxes imposed under ~~sections~~ section 423.26 ~~and 423.27~~ and chapter 423C.

Sec. 114. Section 423.57, Code Supplement 2007, is amended to read as follows:

423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection ~~3~~ 1, and sections 423.45, 423.46, and 423.47.

Sec. 115. Section 423B.4, unnumbered paragraphs 2 and 3, Code 2007, are amended to read as follows:

Payment of a local vehicle tax shall be evidenced by a notation on the state registration certificate. The director of the department of transportation shall prescribe by rule the type of notation. A local vehicle tax shall not be refunded even when annual state registration fees are refunded.

Penalties for late payment which are comparable to the penalties for late payment of annual state registration fees shall be imposed by the ordinance imposing a local vehicle tax. Willful violation of a local vehicle tax ordinance is a simple misdemeanor.

Sec. 116. Section 455D.11C, subsection 1, Code 2007, is amended to read as follows:

1. A waste tire management fund is created within the state treasury. ~~Moneys~~ For the fiscal

year beginning July 1, 2002, through the fiscal year beginning July 1, 2006, moneys received from each five dollar surcharge on the issuance of a certificate of title shall be deposited as provided in section 321.52A, ~~subsection 2~~ Code 2007. Notwithstanding section 8.33, any unexpended balance in the fund at the end of each fiscal year shall be retained in the fund. Notwithstanding section 12C.7, any interest or earnings on investments from moneys in the fund shall be credited to the fund. Moneys from the fund that are expended by the department in closing or bringing into compliance a waste tire collection site pursuant to section 455D.11A and later recouped by the department shall be credited to the fund.

Sec. 117. Section 455G.3, subsection 1, Code 2007, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section ~~423.43~~ 321.145, subsection ~~1~~ 2, paragraph "a", and sections 455G.8, 455G.9, and 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 118. Section 455G.6, subsection 4, Code 2007, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the ~~use tax~~ moneys credited under section ~~423.43~~ 321.145, subsection ~~1~~ 2, paragraph "a", and deposited in the fund or an account of the fund.

Sec. 119. Section 455G.8, subsection 2, Code 2007, is amended to read as follows:

2. ~~USE TAX~~ STATUTORY ALLOCATIONS FUND. ~~The revenues derived from the use tax imposed under chapter 423, subchapter III.~~ The ~~proceeds of the use tax~~ moneys credited from the statutory allocations fund under section ~~423.43~~ 321.145, subsection ~~1~~ 2, paragraph "a", shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board.

Sec. 120. Section 321.115, subsection 1, as enacted by 2007 Iowa Acts, chapter 143, section 12, is amended to read as follows:

1. A motor vehicle twenty-five years old or older may be registered as an antique vehicle ~~upon payment of.~~ The annual registration fee is the fee provided ~~for~~ in section 321.113, 321.122, or 321.124. The owner of a motor vehicle registered under this subsection may display authentic Iowa registration plates from the model year of the motor vehicle, furnished by the person and approved by the department, in lieu of the current and valid Iowa registration plates issued for the vehicle, provided that the current and valid Iowa registration plates and

the registration card issued for the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.

Sec. 121. Section 321.173, as amended by 2008 Iowa Acts, House File 2213,[7] is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section does not apply to the fee for new registration administered by the department of revenue pursuant to section 321.105A.

Sec. 122. 2007 Iowa Acts, chapter 179, section 6, is amended to read as follows:

SEC. 6. Section 423.57, Code 2007, as amended by this Act, is amended to read as follows:

423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection ~~3~~ 1, and sections 423.45, 423.46, and 423.47.

Sec. 123. Section 423.44, Code 2007, is repealed.

PART 5
CONTINGENT CONFORMING AMENDMENTS

Sec. 124. Section 423.5, subsection 3, Code 2007, as amended by this division of this Act, is amended to read as follows:

3. ~~The~~ An excise tax at the rate of five percent is imposed on the use of leased vehicles, if the lease transaction does not require titling or registration of the vehicle, on the amount subject to tax as calculated pursuant to section 423.26, subsection 2.[8]

Sec. 125. Section 423.43, subsection 1, as enacted by this division of this Act, is amended to read as follows:

1. a. Except as provided in subsection 2, all revenue arising under the operation of the use tax under subchapter III shall be deposited into the general fund of the state.

b. Subsequent to the deposit into the general fund of the state and after the transfer of such revenues collected under chapter 423B, the department shall transfer one-sixth of such remaining revenues to the secure an advanced vision for education fund created in section 423F.2. This paragraph is repealed December 31, 2029.

Sec. 126. The sections of 2008 Iowa Acts, House File 2663,[9] amending section 312.1, subsection 4, section 327I.26, section 423.5, subsection 3, section 455G.3, subsection 1, section 455G.6, subsection 4, and section 455G.8, subsection 2, Code 2007, are repealed.

Sec. 127. The sections of 2008 Iowa Acts, House File 2663,[10] amending section 312.2, subsection 14, section 321.34, subsections 7, 10, 10A, 11, 11A, 11B, 13, 16, 17, 18, 19, 20, 20A, 20B, 21, 22, 23, and 24, section 423.43, and section 423.57, Code Supplement 2007, are repealed.

Sec. 128. The sections of 2008 Iowa Acts, House File 2663,[11] amending 2007 Iowa Acts, chapter 179, section 6, and providing for such amendment's effective date, are repealed.

Sec. 129. CONTINGENT EFFECTIVE DATE. This part 5 of this division of this Act takes effect only upon the enactment of 2008 Iowa Acts, House File 2663.[12]

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[7] Chapter 1018, §21 herein
[8] See chapter 1191, §87 herein
[9] Chapter 1134 herein
[10] Chapter 1134 herein
[11] Chapter 1134 herein
[12] Chapter 1134 herein

PART 6
EFFECT ON PRIOR LAW

Sec. 130. PRIOR USE TAX LIABILITY. The enactment of this division of this Act does not affect a person's liability for any use tax, penalty, or interest owed by the person prior to the effective date of this division of this Act.

Sec. 131. EFFECTIVE DATE. The following sections of this division of this Act take effect January 1, 2009:

1. The section amending section 321.115, subsection 1, as enacted by 2007 Iowa Acts, chapter 143, section 12.
2. The section amending 2007 Iowa Acts, chapter 179.

Approved April 22, 2008

CHAPTER 1114

CHILD IN NEED OF ASSISTANCE PROCEEDINGS
— ATTENDANCE OF CHILD

H.F. 2338

AN ACT relating to attendance at child in need of assistance proceedings.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 232.91, subsection 3, Code Supplement 2007, is amended to read as follows:

3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child. A foster parent, relative, or other individual with whom a child has been placed for preadoptive care shall have the right to be heard in any proceeding involving the child. If a child is of an age appropriate to attend the hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing.

Approved April 22, 2008

CHAPTER 1115

ELECTIONS, VOTING, AND VOTER REGISTRATION — MISCELLANEOUS PROVISIONS

H.F. 2620

AN ACT relating to the conduct of elections and voter registration, making penalties applicable, and including effective date, applicability date, and transition provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
ELECTION OF SCHOOL CORPORATION BOARDS OF DIRECTORS

Section 1. Section 39.24, Code 2007, is amended to read as follows:

39.24 SCHOOL OFFICERS.

Members of boards of directors of community and independent school districts, and boards of directors of merged areas shall be elected at the school election. Their terms of office shall be ~~three~~ four years, except as otherwise provided by section 260C.11 ~~or~~, 260C.13, 275.23A, 275.37, or 275.37A.

Sec. 2. Section 260C.11, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The governing board of a merged area is a board of directors composed of one member elected from each director district in the area by the electors of the respective district. Members of the board shall be residents of the district from which elected. Successors shall be chosen at the ~~annual~~ regular school elections for members whose terms expire. The term of a member of the board of directors is ~~three~~ four years and commences at the organization meeting. Vacancies on the board shall be filled at the next regular meeting of the board by appointment by the remaining members of the board. A member so chosen shall be a resident of the district in which the vacancy occurred and shall serve until a member is elected pursuant to section 69.12 to fill the vacancy for the balance of the unexpired term. A vacancy is defined in section 277.29. A member shall not serve on the board of directors who is a member of a board of directors of a local school district or a member of an area education agency board.

Sec. 3. Section 260C.12, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of directors of the merged area shall organize at the first regular meeting in October ~~of each year~~ following the regular school election. Organization of the board shall be effected by the election of a president and other officers from the board membership as board members determine. The board of directors shall appoint a secretary and a treasurer who shall each give bond as prescribed in section 291.2 and who shall each receive the salary determined by the board. The secretary and treasurer shall perform duties under chapter 291 and additional duties the board of directors deems necessary. However, the board may appoint one person to serve as the secretary and treasurer. If one person serves as the secretary and treasurer, only one bond is necessary for that person. The frequency of meetings other than organizational meetings shall be as determined by the board of directors but the president or a majority of the members may call a special meeting at any time.

Sec. 4. Section 260C.13, subsection 1, Code 2007, is amended to read as follows:

1. The board of a merged area may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than June 1 ~~for the regular school election to be held the next following September~~ of the year of the regular school election. As soon as possible after adoption of the boundary changes, notice of changes in the director district boundaries shall be submitted by

the merged area to the county commissioner of elections in all counties included in whole or in part in the merged area.

Sec. 5. Section 260C.15, subsection 1, Code 2007, is amended to read as follows:

1. Regular elections held ~~annually~~ by the merged area for the election of members of the board of directors as required by section 260C.11, for the renewal of the twenty and one-fourth cents per thousand dollars of assessed valuation levy authorized in section 260C.22, or for any other matter authorized by law and designated for election by the board of directors of the merged area, shall be held on the date of the school election as fixed by section 277.1. The election notice shall be made a part of the local school election notice published as provided in section 49.53 in each local school district where voting is to occur in the merged area election and the election shall be conducted by the county commissioner of elections pursuant to chapters 39 ~~to~~ through 53 and section 277.20.

Sec. 6. Section 260C.22, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. In addition to the tax authorized under section 260C.17, the voters in ~~any~~ a merged area may at the ~~annual~~ regular school election vote a tax not exceeding twenty and one-fourth cents per thousand dollars of assessed value in any one year for a period not to exceed ten years for the purchase of grounds, construction of buildings, payment of debts contracted for the construction of buildings, purchase of buildings and equipment for buildings, and the acquisition of libraries, for the purpose of paying costs of utilities, and for the purpose of maintaining, remodeling, improving, or expanding the community college of the merged area. If the tax levy is approved under this section, the costs of utilities shall be paid from the proceeds of the levy. The tax shall be collected by the county treasurers and remitted to the treasurer of the merged area as provided in section 331.552, subsection 29. The proceeds of the tax shall be deposited in a separate and distinct fund to be known as the voted tax fund, to be paid out upon warrants drawn by the president and secretary of the board of directors of the merged area district for the payment of costs incurred in providing the school facilities for which the tax was voted.

Sec. 7. Section 273.8, subsections 1 and 7, Code 2007, are amended to read as follows:

1. BOARD OF DIRECTORS. The board of directors of an area education agency shall consist of not less than five nor more than nine members, each a resident of and elected in the manner provided in this section from a director district that is approximately equal in population to the other director districts in the area education agency. Each director shall serve a ~~three-year~~ four-year term which commences at the organization meeting.

7. BOUNDARY LINE CHANGES. To the extent possible the board shall provide that changes in the boundary lines of director districts of area education agencies shall not lengthen or diminish the term of office of a director of an area education agency board. Initial terms of office shall be set by the board so that as nearly as possible the terms of ~~one-third~~ one-half of the members expire ~~annually~~ biennially.

Sec. 8. Section 273.8, subsection 2, paragraphs a and b, Code 2007, are amended to read as follows:

a. Notice of the election shall be published by the area education agency administrator not later than July 15 of the odd-numbered year in at least one newspaper of general circulation in the director district. The cost of publication shall be paid by the area education agency.

b. A candidate for election to the area education agency board shall file a statement of candidacy with the area education agency secretary not later than August 15 of the odd-numbered year, on forms prescribed by the department of education. The statement of candidacy shall include the candidate's name, address, and school district. The list of candidates shall be sent by the secretary of the area education agency in ballot form by certified mail to the presidents of the boards of directors of all school districts within the director district not later than September 1. In order for the ballot to be counted, the ballot must be received in the secretary's office by the end of the normal business day on September 30 or be clearly postmarked by an

officially authorized postal service not later than September 29 and received by the secretary not later than noon on the first Monday following September 30.

Sec. 9. Section 273.8, subsection 4, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of directors of each area education agency shall meet and organize at the first regular meeting in October ~~of each year~~ following the regular school election at a suitable place designated by the president. Directors whose terms commence at the organization meeting shall qualify by taking the oath of office required by section 277.28 at or before the organization meeting.

Sec. 10. Section 274.7, Code 2007, is amended to read as follows:

274.7 DIRECTORS.

The affairs of each school corporation shall be conducted by a board of directors, the members of which in all community or independent school districts shall be chosen for a term of ~~three~~ four years.

Sec. 11. Section 275.1, subsections 2 and 5, Code 2007, are amended to read as follows:

2. "Initial board" means the board of a newly reorganized district that is selected pursuant to section 275.25 or 275.41 and functions until the organizational meeting following the ~~fourth~~ third regular school election held after the effective date of the reorganization.

5. "Regular board" means the board of a reorganized district that begins to function at the organizational meeting following the ~~fourth~~ third regular school election held after the effective date of the school reorganization, and is comprised of members who were elected to the current terms or were appointed to replace members who were elected.

Sec. 12. Section 275.12, subsection 2, Code 2007, is amended to read as follows:

2. The petition filed under subsection 1 shall also state the name of the proposed school district and the number of directors which may be either five or seven and the method of election of the school directors of the proposed district. The method of election of the directors shall be one of the following optional plans:

a. Election at large from the entire district by the electors of the entire district.

b. Division of the entire school district into designated geographical single director or multidirector subdistricts on the basis of population for each director, to be known as director districts, each of which ~~director districts~~ shall be represented on the school board by one or more directors who shall be residents of the director district but who shall be elected by the vote of the electors of the entire school district. The boundaries of the director districts and the area and population included within each district shall be such as justice, equity, and the interests of the people may require. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the ~~annual~~ regular school election. ~~Insofar~~ As far as ~~may be~~ practicable, the boundaries of the districts shall follow established political or natural geographical divisions.

c. Election of not more than one-half of the total number of school directors at large from the entire district and the remaining directors from and as residents of designated single-member or multimember director districts into which the entire school district shall be divided on the basis of population for each director. In such case, all directors shall be elected by the electors of the entire school district. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the ~~annual~~ regular school election.

d. Division of the entire school district into designated geographical single director or multidirector subdistricts on the basis of population for each director, to be known as director districts, each of which ~~director districts~~ shall be represented on the school board by one or more directors who shall be residents of the director district and who shall be elected by the voters of the director district. Place of voting in the director districts shall be designated by the com-

missioner of elections. Changes in the boundaries of director districts shall not be made during a period commencing sixty days prior to the date of the ~~annual~~ regular school election.

e. In districts having seven directors, election of three directors at large by the electors of the entire district, ~~one~~ no more than two at each ~~annual~~ regular school election, and election of the remaining directors as residents of and by the electors of individual geographic subdistricts established on the basis of population and identified as director districts, no more than two at each regular school election. Boundaries of the subdistricts shall follow precinct boundaries, ~~insofar~~ as far as practicable, and shall not be changed less than sixty days prior to the ~~annual~~ regular school election.

Sec. 13. Section 275.25, subsection 3, Code 2007, is amended to read as follows:

3. The directors who are elected and qualify to serve shall serve until their successors are elected and qualify. At the special election, the three newly elected ~~director~~ directors receiving the most votes shall be elected to serve until ~~the director's successor qualifies~~ their successors qualify after the ~~fourth~~ third regular school election date occurring after the effective date of the reorganization~~;~~ and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the ~~third~~ second regular school election date occurring after the effective date of the reorganization~~; and the two newly elected directors receiving the next largest number of votes shall be elected to serve until the directors' successors qualify after the second regular school election date occurring after the effective date of the reorganization~~. However, in districts that include all or a part of a city of fifteen thousand or more population and in districts in which the proposition to establish a new corporation provides for the election of seven directors, the ~~three newly elected directors receiving the most votes shall be elected to serve until the directors' successors qualify after the fourth regular school election date occurring after the effective date of the reorganization~~ timelines specified in this subsection for the terms of office apply to the four newly elected directors receiving the most votes and then to the three newly elected directors receiving the next largest number of votes.

Sec. 14. Section 275.37, Code 2007, is amended to read as follows:

275.37 INCREASE IN NUMBER OF DIRECTORS.

At the next succeeding ~~annual~~ regular 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, either one or two of the newly elected ~~director~~ directors who received the fewest votes in the election shall be assigned a term of ~~either one year or~~ two years ~~if~~ as necessary in order that as nearly as possible ~~one-third~~ one-half of the members of the board shall be elected ~~each year~~ biennially. 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. 15. Section 275.37A, Code 2007, is amended to read as follows:

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~~ four terms expiring, ~~one director~~ three directors shall be elected. At the second election in that district, if ~~two~~ three 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~~ three terms expiring, ~~no~~ two directors shall be elected. At the second election in that district, if ~~two~~ four terms are expiring, ~~two~~ three 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~~ one-half of the members of the board shall be elected ~~each year~~ biennially and so that each district will be continuously represented.

Sec. 16. Section 275.38, Code 2007, is amended to read as follows:

275.38 IMPLEMENTING CHANGED METHOD OF ELECTION.

If change in the method of election of school directors is approved at a regular or special school election, the directors who were serving unexpired terms or were elected concurrently with approval of the change of method shall serve out the terms for which they were elected. If the plan adopted is that described in section 275.12, subsection 2, paragraph ~~"b," "c," "d," or "e,"~~ "b", "c", "d", or "e", the board shall at the earliest practicable time designate the districts from which residents are to be elected as school directors at each of the next ~~three~~ two succeeding ~~annual~~ regular school elections, arranging so far as possible for elections of directors as residents of the respective districts to coincide with the expiration of terms of incumbent members residing in those districts. If an increase in the size of the board from five to seven members is approved concurrently with the change in method of election of directors, the board shall make the necessary adjustment in the manner prescribed in section 275.37, as well as providing for implementation of the districting plan under this section.

Sec. 17. Section 275.41, subsection 3, Code 2007, is amended to read as follows:

3. Prior to the effective date of the reorganization, the initial board shall approve a plan that commences at the ~~second~~ first regular school election held after the effective date of the merger and is completed at the ~~fourth~~ third regular school election held after the effective date of the merger, to replace the initial board with the regular board. If the petition specifies a number of directors on the regular board to be different from the number of directors on the initial board, the plan shall provide that the number specified in the petition for the regular board is in place by the time the regular board is formed. The plan shall provide that as nearly as possible ~~one-third~~ one-half of the members of the board shall be elected ~~each year~~ biennially, and if a special election was held to elect a member to create an odd number of members on the board, the term of that member shall end at the organizational meeting following the ~~fourth~~ third regular school election held after the effective date.

Sec. 18. Section 277.1, Code 2007, is amended to read as follows:

277.1 REGULAR ELECTION.

The regular election shall be held ~~annually~~ biennially on the second Tuesday in September of each odd-numbered year in each school district for the election of officers of the district and merged area and for the purpose of submitting to the voters any matter authorized by law.

Sec. 19. Section 277.25, Code 2007, is amended to read as follows:

277.25 DIRECTORS IN NEW DISTRICTS.

At the first election in newly organized districts the directors shall be elected as follows:

1. In districts having three directors, ~~one director~~ two directors shall be elected for ~~one year, one for~~ two years, and one for ~~three~~ four years.

2. In districts having five directors, ~~two~~ three shall be elected for ~~one year, two for~~ two years, and ~~one~~ two for ~~three~~ four years.

3. In districts having seven directors, ~~two~~ four shall be elected for ~~one year, two for~~ two years, and three for ~~three~~ four years.

Sec. 20. Section 278.2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Petitions filed under this section shall be filed with the secretary of the school board at least seventy-five days before the date of the ~~annual~~ regular school election, if the question is to be included on the ballot at that election. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

Sec. 21. EFFECTIVE DATE, APPLICABILITY, AND TRANSITION. This division of this Act, being deemed of immediate importance, takes effect upon enactment, for purposes of the transition from election of directors of community and independent school districts, merged areas, and area education agencies annually for terms of three years each to the staggered election of such directors biennially for terms of four years each. This Act shall be applied so that the first election at which directors, due to the expiration of predecessor director terms, shall be elected to serve regular four-year terms is the regular school election held in September 2009 or the director district conventions held in September 2009.

The board of directors of each affected school district and each merged area and area education agency shall review the expiration dates of the terms of office of its directors and shall adopt by resolution a plan for shortening or lengthening terms of members for the annual school election or director district convention held in September 2007 and September 2008 so that all members whose terms expire at the regular school election or director district convention held in September 2009 will be elected to four-year terms with the remaining members of the board having their terms expire at the regular school election or director district convention held in September 2011. The board shall submit a copy of the resolution adopting its plan to the office of the state commissioner of elections no later than August 1, 2008. In developing the plan, the board of directors shall take into consideration the terms for which the members were elected and the number of votes the members received in relation to the number of votes other candidates received at the applicable election or director district convention.

DIVISION II
VOTING CENTERS FOR CERTAIN ELECTIONS

Sec. 22. Section 49.9, Code 2007, is amended to read as follows:

49.9 PROPER PLACE OF VOTING.

~~No~~ Except as provided in section 49.11, subsection 1A, a person shall not vote in any precinct but that of the person's residence.

Sec. 23. Section 49.11, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. a. Establish voting centers for the regular city election, city primary election, city runoff election, regular school election, and special elections. Any registered voter who is eligible to vote in the regular city election may vote at any voting center in the city. Any registered voter who is eligible to vote at the regular school election may vote at any voting center in the school district. Any registered voter who is eligible to vote in a special election may vote at any voting center established for that special election. For purposes of section 48A.7A, a voting center shall be considered the polling place for the precinct in which a person resides.

b. The county commissioner of elections shall designate the location of each voting center to be used in the election.

c. A voting center designated under this subsection is subject to the requirements of section 49.21 relating to accessibility to persons who are elderly and persons with disabilities and relating to the posting of signs. The location of each voting center shall be published by the county commissioner of elections in the same manner as the location of polling places is required to be published.

d. Pursuant to section 39A.2, subsection 1, paragraph "b", subparagraph (3), a person commits the crime of election misconduct in the first degree if the person knowingly votes or attempts to vote at more than one voting center for the same election.

DIVISION III
DATES OF SPECIAL ELECTIONS

Sec. 24. Section 39.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Unless otherwise provided by law, special elections on public measures are limited to the following dates:

a. For a county, on the day of the general election, on the day of the regular city election, on the date of a special election held to fill a vacancy in the same county, or on the first Tuesday in March, the first Tuesday in May, or the first Tuesday in August of each year.

b. For a city, on the day of the general election, on the day of the regular city election, on the date of a special election held to fill a vacancy in the same city, or on the first Tuesday in March, the first Tuesday in May, or the first Tuesday in August of each year.

c. For a school district or merged area, in the odd-numbered year, the first Tuesday in February, the first Tuesday in April, the last Tuesday in June, or the second Tuesday in September. For a school district or merged area, in the even-numbered year, the first Tuesday in February, the first Tuesday in April, the second Tuesday in September, or the first Tuesday in December.

Sec. 25. Section 47.6, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The governing body of ~~any~~ a political subdivision which has authorized a special election to which section 39.2 ~~is~~, subsections 1, 2, and 3, are applicable shall by written notice inform the commissioner who will be responsible for conducting the election of the proposed date of the special election. If a public measure will appear on the ballot at the special election the governing body shall submit the complete text of the public measure to the commissioner with the notice of the proposed date of the special election.

Sec. 26. Section 47.6, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. A city council or a county board of supervisors that has authorized a public measure to be submitted to the voters at a special election held pursuant to section 39.2, subsection 4, shall file the full text of the public measure with the commissioner no later than five p.m. on the forty-sixth day before the election.

b. If there are vacancies in county offices to be filled at the special election, candidates shall file their nomination papers with the commissioner not later than five p.m. on the forty-sixth day before the election.

c. If there are vacancies in city offices to be filled at the special election, candidates shall file their nomination papers with the city clerk not later than five p.m. on the forty-seventh day before the election. The city clerk shall deliver the nomination papers to the commissioner not later than five p.m. on the forty-sixth day before the election. Candidates for city offices in cities in which a primary election may be necessary shall file their nomination papers with the city clerk not later than five p.m. on the fifty-fourth day before the election. The city clerk shall deliver the nomination papers to the commissioner not later than five p.m. on the fifty-third day before the election.

Sec. 27. Section 69.12, subsection 1, paragraph a, Code 2007, 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 before the election, if it is a general election.

(2) Fifty-two or more days 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 city election or fifty-nine or more days before a special city election.

(3) Forty-five or more days before the election, if it is a regularly scheduled school election.

(4) ~~Forty~~ Sixty or more days before the election, if it is a special election.

Sec. 28. Section 69.12, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) The candidate filing deadline specified in section 376.4 for ~~a regularly scheduled~~ the regular city election or the filing deadline specified in section 372.13, subsection 2, for a special city election.

Sec. 29. Section 75.1, unnumbered paragraph 3, Code 2007, is amended to read as follows:

When a proposition to authorize an issuance of bonds has been submitted to the electors under this section and the proposal fails to gain approval by the required percentage of votes, such proposal, or any proposal which incorporates any portion of the defeated proposal, shall not be submitted to the electors for a period of six months from the date of such regular or special election and may only be submitted on a date specified in section 39.2, subsection 4, paragraph "a", "b", or "c", as applicable.

Sec. 30. Section 99F.7, subsection 11, paragraphs a and c, Code Supplement 2007, are amended to read as follows:

a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the registered voters of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted ~~at a general election or~~ at ~~a special~~ an election ~~called for that purpose~~ held on a date specified in section 39.2, subsection 4, paragraph "a". To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued.

c. If a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the operation of gambling games at pari-mutuel racetracks at ~~a special~~ an election ~~at the earliest practicable time~~ held on a date specified in section 39.2, subsection 4, paragraph "a". If the operation of gambling games at the pari-mutuel racetrack is not approved by a majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack.

Sec. 31. Section 145A.7, Code 2007, is amended to read as follows:

145A.7 SPECIAL ELECTION.

When a protesting petition is received, the officials receiving the petition shall call a special election of all registered voters of that political subdivision ~~for the purpose~~ upon the question of approving or rejecting the order setting out the proposed merger plan. The election shall be held on a date specified in section 39.2, subsection 4, paragraph "a" or "b", as applicable. The vote will be taken by ballot in the form provided by sections 49.43 to 49.47, and the election shall be initiated and held as provided in chapter 49. A majority vote of those registered voters voting at ~~said~~ the special election shall be sufficient to approve the order and thus include the political subdivision within the merged area.

Sec. 32. Section 257.18, subsection 1, Code 2007, is amended to read as follows:

1. An instructional support program that provides additional funding for school districts is established. A board of directors that wishes to consider participating in the instructional support program shall hold a public hearing on the question of participation. The board shall set forth its proposal, including the method that will be used to fund the program, in a resolution

and shall publish the notice of the time and place of a public hearing on the resolution. Notice of the time and place of the public hearing shall be published not less than ten nor more than twenty days before the public hearing in a newspaper which is a newspaper of general circulation in the school district. At the hearing, or no later than thirty days after the date of the hearing, the board shall take action to adopt a resolution to participate in the instructional support program for a period not exceeding five years or to direct the county commissioner of elections to submit the question of participation in the program for a period not exceeding ten years to the registered voters of the school district at ~~the next regular school election or at a special~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". If the board submits the question at an election and a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and certify the results of the election to the department of management.

Sec. 33. Section 257.18, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If the board does not provide for an election and adopts a resolution to participate in the instructional support program, the district shall participate in the instructional support program 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~~ the question to approve or disapprove the action of the board in adopting the instructional support program be submitted to the voters of the school district. 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~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". If a majority of those voting on the question at the election favors disapproval of the action of the board, the district shall not participate in the instructional support program. If a majority of those voting on the question favors approval of the action, the board shall certify the results of the election to the department of management and the district shall participate in the program.

Sec. 34. Section 257.29, unnumbered paragraph 1, Code 2007, is amended to read as follows:

An educational improvement program is established to provide additional funding for school districts in which the regular program district cost per pupil for a budget year is one hundred ten percent of the regular program state cost per pupil for the budget year and which have approved the use of the instructional support program established in section 257.18. A board of directors that wishes to consider participating in the educational improvement program shall hold a hearing on the question of participation and the maximum percent of the regular program district cost of the district that will be used. The hearing shall be held in the manner provided in section 257.18 for the instructional support program. Following the hearing, the board may 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~~ an election held ~~not later than the following February 1~~ on a date specified in section 39.2, subsection 4, paragraph "c". If a majority of those voting on the question favors participation in the program, the board shall adopt a resolution to participate and shall certify the results of the election to the department of management and the district shall participate in the program. If a majority of those voting on the question does not favor participation, the district shall not participate in the program.

Sec. 35. Section 257.29, unnumbered paragraph 5, Code 2007, is amended to read as follows:

Once approved at an election, the authority of the board to use the educational improvement program shall continue until the board votes to rescind the educational improvement program

or the voters of the school district by majority vote order the discontinuance of the program. The board shall ~~call~~ submit at an election ~~to vote on~~ held on a date specified in section 39.2, subsection 4, paragraph "c", the proposition whether to discontinue the program upon the receipt of a petition signed by not less than one hundred eligible electors or thirty percent of the number of electors voting at the last preceding school election, whichever is greater.

Sec. 36. Section 260C.28, subsection 3, Code 2007, is amended to read as follows:

3. If the board of directors wishes to certify for a levy under subsection 2, the board shall direct the county commissioner of elections to ~~call an election to~~ submit the question of such authorization for the board at ~~a regular or special~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". If a majority of those voting on the question at the election favors authorization of the board to make such a levy, the board may certify for a levy as provided under subsection 2 during each of the ten years following the election. If a majority of those voting on the question at the election does not favor authorization of the board to make a levy under subsection 2, the board ~~shall not~~ may submit the question to the voters again ~~until three hundred fifty-five days have elapsed from the~~ at an election held on a date specified in section 39.2, subsection 4, paragraph "c".

Sec. 37. Section 260C.39, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Any merged area may combine with any adjacent merged area after a favorable vote by the electors of each of the areas involved. If the boards of directors of two or more merged areas agree to a combination, the question shall be submitted to the electors of each area at ~~a special~~ an election ~~to be~~ held on a date specified in section 39.2, subsection 4, paragraph "c" and held on the same day in each area. ~~The special election shall not be held within thirty days of any general election.~~ Prior to the ~~special~~ election, the board of each merged area shall notify the county commissioner of elections of the county in which the greatest proportion of the merged area's taxable base is located who shall publish notice of the election according to section 49.53. The two respective county commissioners of elections shall conduct the election pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county board of supervisors and the county ~~commissioners~~ commissioner of elections ~~who conducted the election~~ of each county in the merged areas shall certify the results to the board of directors of each merged area.

Sec. 38. Section 275.18, unnumbered paragraph 1, Code 2007, is amended to read as follows:

When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of the proposed school corporation have been determined as provided in this chapter, the area education agency administrator with whom the petition is filed shall give written notice of the ~~proposed date of the~~ election to the county commissioner of elections of the county in the proposed school corporation 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 November 30 of~~ question shall be submitted to the voters at an election held on a date specified in section 39.2, subsection 4, paragraph "c" in the calendar year prior to the calendar year in which the reorganization will take effect.

Sec. 39. Section 275.23A, subsection 2, Code 2007, 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 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 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. 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~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". 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. 40. Section 275.24, Code 2007, is amended to read as follows:

275.24 EFFECTIVE DATE OF CHANGE.

When a school district is enlarged, reorganized, or changes its boundary pursuant to sections 275.12 to 275.22, the change shall take effect on July 1 following the date of the reorganization election held pursuant to section 275.18 ~~if the election was held by the prior November 30. Otherwise the change shall take effect on July 1 one year later.~~

Sec. 41. Section 275.35, unnumbered paragraph 1, Code 2007, is amended to read as follows:

~~Any existing or hereafter created or enlarged~~ A 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, by the school board of such district to the electors at ~~any regular or special school~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". 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~~ through 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.

Sec. 42. Section 275.36, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If a petition for a change in the number of directors or in the method of election of school

directors is filed with the school board of a school district pursuant to the requirements of section 278.2, the school board shall submit such proposition to the voters at ~~the regular school~~ an election ~~or a special election held not later than February 1~~ held on a date specified in section 39.2, subsection 4, paragraph "c". 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.

Sec. 43. Section 275.38, Code 2007, is amended to read as follows:

275.38 IMPLEMENTING CHANGED METHOD OF ELECTION.

If change in the method of election of school directors is approved at ~~a regular or special school~~ an election, the directors who were serving unexpired terms or were elected concurrently with approval of the change of method shall serve out the terms for which they were elected. If the plan adopted is that described in section 275.12, subsection 2, paragraph ~~"b," "c," "d," or "e,"~~ "b", "c", "d", or "e", the board shall at the earliest practicable time designate the districts from which residents are to be elected as school directors at each of the next three succeeding annual school elections, arranging so far as possible for elections of directors as residents of the respective districts to coincide with the expiration of terms of incumbent members residing in those districts. If an increase in the size of the board from five to seven members is approved concurrently with the change in method of election of directors, the board shall make the necessary adjustment in the manner prescribed in section 275.37, as well as providing for implementation of the districting plan under this section.

Sec. 44. Section 275.55, unnumbered paragraphs 1 and 2, Code 2007, are amended to read as follows:

~~The~~ After the final hearing on the dissolution proposal, 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~~ submit the proposition to the voters at an election held on a date specified in section 39.2, subsection 4, paragraph "c". ~~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.

The board shall give written notice of the proposed date of the election to the county commissioner of elections. ~~The proposed date shall be pursuant to section 39.2, subsections 1 and 2 and section 47.6, subsections 1 and 2.~~ The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which the previous notice was published about the hearing, which publication shall not be less than four nor more than twenty days prior to the election.

Sec. 45. Section 277.2, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

277.2 ELECTIONS ON PUBLIC MEASURES.

Unless otherwise stated, the date of an election on a public measure authorized to be held by a school district is limited to the dates specified in section 39.2, subsection 4, paragraph "c".

Sec. 46. Section 278.1, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The board may, with approval of sixty percent of the voters~~,~~ voting in ~~a regular or special~~ an election in the school district, make extended time contracts not to exceed twenty years in duration for rental of buildings to supplement existing schoolhouse facilities; and where it is deemed advisable for buildings to be constructed or placed on real estate owned by the school district, these contracts may include lease-purchase option agreements, the amounts to be

paid out of the physical plant and equipment levy fund. The election shall be held on a date specified in section 39.2, subsection 4, paragraph "c".

Sec. 47. Section 279.39, Code 2007, is amended to read as follows:

279.39 SCHOOL BUILDINGS.

The board of any school corporation shall establish attendance centers and provide suitable buildings for each school in the district and may at the regular or a special meeting ~~call a special election~~ resolve to submit to the registered voters of the district at an election held on a date specified in section 39.2, subsection 4, paragraph "c", the question of voting a tax or authorizing the board to issue bonds, or both.

Sec. 48. Section 297.11, Code 2007, is amended to read as follows:

297.11 USE FORBIDDEN.

If ~~at any time~~ the voters of such district at a regular election forbid such use of any such schoolhouse or grounds, the board shall not ~~thereafter~~ permit such use until the ~~said~~ action of such voters ~~shall have been~~ is rescinded by the voters at ~~a regular~~ an election~~, or at a special election called for that purpose~~ held on a date specified in section 39.2, subsection 4, paragraph "c".

Sec. 49. Section 298.9, Code 2007, is amended to read as follows:

298.9 SPECIAL LEVIES.

If the voter-approved physical plant and equipment levy, consisting solely of a physical plant and equipment property tax levy, is ~~voted at a special~~ approved by the voters at the regular school election and certified to the board of supervisors after the regular levy is made, the board shall at its next regular meeting levy the tax and cause it to be entered upon the tax list to be collected as other school taxes. If the certification is filed prior to May 1, the annual levy shall begin with the tax levy of the year of filing. If the certification is filed after May 1 in a year, the levy shall begin with the levy of the fiscal year succeeding the year of the filing of the certification.

Sec. 50. Section 298.18, unnumbered paragraphs 4 and 6, Code 2007, are amended to read as follows:

The amount estimated and certified to apply on principal and interest for any one year may exceed two dollars and seventy cents per thousand dollars of assessed value by the amount approved by the voters of the school corporation, but not exceeding four dollars and five cents per thousand of the assessed value of the taxable property within any school corporation, provided that the registered voters of such school corporation have first approved such increased amount at ~~a special election, which may be held at the same time as the regular school~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c". The proposition submitted to the voters at such ~~special~~ election shall be in substantially the following form:

Notice of the election shall be given by the county commissioner of elections according to section 49.53. ~~The election shall be held on a date not less than four nor more than twenty days after the last publication of the notice. At such election the ballot used for the submission of said proposition shall be in substantially the form for submitting special questions at general elections.~~ The county commissioner of elections shall conduct the election pursuant to the provisions of chapters 39 ~~to~~ through 53 and certify the results to the board of directors. ~~Such~~ The proposition shall not be deemed carried or adopted unless the vote in favor of such proposition is equal to at least sixty percent of the total vote cast for and against ~~said~~ the proposition at ~~said~~ the election. Whenever such a proposition has been approved by the voters of a school corporation as hereinbefore provided, no further approval of the voters of such school corporation shall be required as a result of any subsequent change in the boundaries of such school corporation.

Sec. 51. Section 298.18A, subsection 2, Code 2007, is amended to read as follows:

2. The adjustment shall not result in a total amount levied in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit provided in section 298.18. An

adjustment in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit shall be subject to the ~~special~~ election provisions for increases of up to four dollars and five cents per thousand dollars of assessed valuation provisions of section 298.18.

Sec. 52. Section 298.21, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of directors of any school corporation when authorized by the voters at ~~the regular~~ an election ~~or at a special election called for that purpose~~ held on a date specified in section 39.2, subsection 4, paragraph "c", may issue the negotiable, interest-bearing school bonds of ~~said~~ the corporation for borrowing money for any or all of the following purposes:

Sec. 53. Section 300.2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of directors of a school district may, and upon receipt of a petition signed by eligible electors equal in number to at least twenty-five percent of the number of voters at the last preceding school election, shall, direct the county commissioner of elections to submit to the registered voters of the school district the question of whether to levy a tax of not to exceed thirteen and one-half cents per thousand dollars of assessed valuation for public educational and recreational activities authorized under this chapter. ~~If at the time of filing the petition, it is more than three months until the next regular school election, the board of directors shall submit the question at a special election within sixty days. Otherwise, the~~ The question shall be submitted at ~~the next regular school~~ an election held on a date specified in section 39.2, subsection 4, paragraph "c".

Sec. 54. Section 330.17, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The council of any city or county which owns or acquires an airport may, and upon the council's receipt of a valid petition as provided in section 362.4, or receipt of a petition by the board of supervisors as provided in section 331.306 shall, ~~at a regular city election or a general election if one is to be held within seventy-four days from the filing of the petition, or otherwise~~ at ~~a special~~ an election ~~called for that purpose~~ held on a date specified in section 39.2, subsection 4, paragraph "a" or "b", as applicable, submit to the voters the question as to whether the management and control of the airport shall be placed in an airport commission. If a majority of the voters favors placing the management and control of the airport in an airport commission, the commission shall be established as provided in this chapter.

Sec. 55. NEW SECTION. 331.309 ELECTIONS ON PUBLIC MEASURES.

Unless otherwise stated, the dates of elections on public measures authorized in this chapter are limited to those specified for counties in section 39.2.

Sec. 56. Section 346.27, subsection 10, unnumbered paragraph 1, Code 2007, is amended to read as follows:

After the incorporation of an authority, and before the sale of any issue of revenue bonds, except refunding bonds, the authority shall ~~call an election to decide~~ submit to the voters the question of whether the authority shall issue and sell revenue bonds. The ballot shall state the amount of the bonds and the purposes for which the authority is incorporated. All registered voters of the county shall be entitled to vote on the question. The question may be submitted at ~~a general election or at a special~~ an election held on a date specified in section 39.2, subsection 4, paragraph "a" or "b", as applicable. An affirmative vote of a majority of the votes cast on the question is required to authorize the issuance and sale of revenue bonds.

Sec. 57. Section 347.13, subsection 12, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Submit to the voters at ~~any regular or special~~ an election held on a date specified in section 39.2, subsection 4, paragraph "a", a proposition to sell or lease any sites and buildings, except-

ing those described in subsection 11 ~~hereof~~, and upon such proposition being carried by a majority of the total number of votes cast at such election, may proceed to sell such property at either public or private sale, and apply the proceeds only for:

Sec. 58. Section 347.14, subsection 15, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Submit to the voters at ~~a regular or special~~ an election held on a date specified in section 39.2, subsection 4, paragraph "a", a proposition to sell or lease a county public hospital for use as a private hospital or as a merged area hospital under chapter 145A or to sell or lease a county hospital in conjunction with the establishment of a merged area hospital. The authorization of the board of hospital trustees submitting the proposition may, but is not required to, contain conditions which provide for maintaining hospital care within the county, for the retention of county public hospital employees and staff, and for the continuation of the board of trustees for the purpose of carrying out provisions of contracts. The property listed in section 347.13, subsection 11, may be included in the proposition, but the proceeds from the property shall be used for the purposes listed in section 347.13, subsection 12, or for the purpose of providing health care for residents of the county. Proceeds from the sale or lease of the county hospital or other assets of the board of trustees shall not be used for the prepayment of health care services for residents of the county with the purchaser or lessee of the county hospital or to underwrite the sale or lease of the county hospital. The proposition submitted to the voters of the county shall not be set forth at length, but it shall be in substantially the following form:

Sec. 59. Section 347.23, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Any hospital organized and existing as a city hospital may become a county hospital organized and managed as provided for in this chapter, upon a proposition for such purpose being submitted to and approved by a majority of the electors of both the city in which such hospital is located and of the county under whose management it is proposed that such hospital be placed~~, at any general or special election called for such purpose~~. The proposition shall be placed upon the ballot by the board of supervisors when requested by a petition signed by eligible electors of the county equal in number to five percent of the votes cast for president of the United States or governor, as the case may be, at the last general election. The proposition ~~may~~ shall be submitted at ~~the next general election or at a special~~ an election ~~called for that purpose~~ held on a date specified in section 39.2, subsection 4, paragraph "a". Upon the approval of the proposition the hospital, its assets and liabilities, will become the property of the county and this chapter will govern its future management. The question shall be submitted in substantially the following form: "Shall the municipal hospital of . . . . . , Iowa, be transferred to and become the property of, and be managed by the county of . . . . . , Iowa?"

Sec. 60. Section 347.23A, subsection 1, Code 2007, is amended to read as follows:

1. A hospital established as a memorial hospital under chapter 37 or a county hospital supported by revenue bonds and organized under chapter 347A may become, in accordance with the provisions of this section, a county hospital organized and managed as provided for in this chapter. If the hospital is established by a city as a memorial hospital, the city must be located in the county which will own and manage the hospital. A proposition for the change must be submitted to and approved by a majority of the electors of the county which will own and manage the hospital as provided for in this chapter. In addition, if the hospital is a memorial hospital organized by a city under chapter 37, the proposition must also be approved by a majority of the electors of that city. The proposition ~~may~~ shall be submitted to the electors at ~~any general or special~~ an election called by the county board of supervisors ~~for this purpose~~ and held on a date specified in section 39.2, subsection 4, paragraph "a".

Sec. 61. NEW SECTION. 362.11 ELECTIONS ON PUBLIC MEASURES.

Unless otherwise stated, the dates of elections on public measures authorized in the city code are limited to those specified for cities in section 39.2.

Sec. 62. Section 368.19, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The committee shall approve or disapprove the petition or plan as amended, within ninety days of the final hearing, and shall file its decision for record and promptly notify the parties to the proceeding of its decision. If a petition or plan is approved, the board shall ~~set a date not less than thirty days nor more than ninety days after approval for a special~~ submit the proposal at an election ~~on the proposal~~ held on a date specified in section 39.2, subsection 4, paragraph "a" or "b", whichever is applicable, and the county commissioner of elections shall conduct the election. In a case of incorporation or discontinuance, registered voters of the territory or city may vote, and the proposal is authorized if a majority of those voting approves it. In a case of annexation or severance, registered voters of the territory and of the city may vote, and the proposal is authorized if a majority of the total number of persons voting approves it. In a case of consolidation, registered voters of each city to be consolidated may vote, and the proposal is authorized only if it receives a favorable majority vote in each city. The county commissioner of elections shall publish notice of the election as provided in section 49.53 and shall conduct the election in the same manner as other special ~~city~~ elections.

Sec. 63. Section 372.2, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Within fifteen days after receiving a valid petition, the council shall publish notice of the date that a special ~~city~~ election will be held to determine whether the city shall change to a different form of government. The election date shall be ~~not more than sixty days after the publication~~ as specified in section 39.2, subsection 4, paragraph "b". If the next election date specified in that paragraph is more than sixty days after the publication, the council shall publish another notice fifteen days before the election. The notice shall include a statement that the filing of a petition for appointment of a home rule charter commission will delay the election until after the home rule charter commission has filed a proposed charter. Petition requirements and filing deadlines shall also be included in the notice.

Sec. 64. Section 372.3, Code 2007, is amended to read as follows:

372.3 HOME RULE CHARTER.

If a petition for appointment of a home rule charter commission is filed with the city clerk not more than ten days after the council has published the first notice announcing the date of the special election on adoption of another form of government, the special election shall not be held until the charter proposed by the home rule charter commission is filed. Both forms must be published as provided in section 372.9 and submitted to the voters at the special election.

Sec. 65. Section 372.9, subsection 3, Code 2007, is amended to read as follows:

3. The proposed home rule charter must be submitted at a special ~~city~~ election on a date ~~selected by the mayor and council~~ specified in section 39.2, subsection 4, paragraph "b", and in accordance with section 47.6. However, the date of the ~~election~~ last publication must be not less than thirty nor more than sixty days ~~after~~ before the ~~last publication of the proposed home rule charter~~ election.

Sec. 66. Section 372.13, subsection 11, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Council members shall be elected according to the council representation plans under sections 372.4 and 372.5. However, the council representation plan may be changed, by petition and election, to one of those described in this subsection. Upon receipt of a valid petition, as defined in section 362.4, requesting a change to a council representation plan, the council shall submit the question at a special ~~city~~ election ~~to be held within sixty days~~. If a majority of the persons voting at the special election approves the changed plan, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve

the changed plan, the council shall not submit another proposal to change a plan to the voters within the next two years.

Sec. 67. Section 376.2, unnumbered paragraph 2, Code 2007, 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. 68. Section 423B.1, subsection 5, Code Supplement 2007, is amended to read as follows:

5. The county commissioner of elections shall submit the question of imposition of a local option tax at ~~a state general election or at a special~~ an election held ~~at any time other than the time of a city regular election~~ on a date specified in section 39.2, subsection 4, paragraph "a". The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the type and rate of tax and in the case of a vehicle tax the classes that will be exempt and in the case of a local sales and services tax the date it will be imposed which date shall not be earlier than ninety days following the election. The ballot proposition shall also specify the approximate amount of local option tax revenues that will be used for property tax relief and shall contain a statement as to the specific purpose or purposes for which the revenues shall otherwise be expended. If the county board of supervisors decides under subsection 6 to specify a date on which the local option sales and services tax shall automatically be repealed, the date of the repeal shall also be specified on the ballot. The rate of the vehicle tax shall be in increments of one dollar per vehicle as set by the petition seeking to impose the tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 69. Section 423E.2, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Upon receipt by a county board of supervisors of a petition requesting imposition of a local sales and services tax for infrastructure purposes, signed by eligible electors of the whole county equal in number to five percent of the persons in the whole county who voted at the last preceding state general election, the board shall within thirty days direct the county commissioner of elections to submit the question of imposition of the tax to the registered voters of the whole county at an election held on a date specified in section 39.2, subsection 4, paragraph "a".

Sec. 70. Section 423E.2, subsection 3, Code Supplement 2007, is amended to read as follows:

3. The county commissioner of elections shall submit the question of imposition of a local sales and services tax for school infrastructure purposes at ~~a state general election or at a special~~ an election held ~~at any time other than the time of a city regular election~~ on a date specified in section 39.2, subsection 4, paragraph "a". The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the rate of tax, the date the tax will be imposed and repealed, and shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended. The content of the ballot proposition shall be substantially similar to the petition of the board of supervisors

or motions of a school district or school districts requesting the election as provided in subsection 2, as applicable, including the rate of tax, imposition and repeal ~~date~~ dates, and the specific purpose or purposes for which the revenues will be expended. The dates for the imposition and repeal of the tax shall be as provided in subsection 1. The rate of tax shall not be more than one percent. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

Sec. 71. APPLICABILITY DATE. This division of this Act applies to elections held on or after January 1, 2009.

DIVISION IV
VOTER REGISTRATION

Sec. 72. NEW SECTION. 44.18 AFFILIATION ON VOTER REGISTRATION FORM.

1. A nonparty political organization that nominated a candidate whose name appeared on the general election ballot for a federal office, for governor, or for any other statewide elective office in any of the preceding ten years may request registration of voters showing their affiliation with the nonparty political organization pursuant to this section.

2. The organization shall file the following documents with the state registrar of voters on or before December 1 of an even-numbered year:

a. A petition in the form prescribed by the registrar and signed by no fewer than eight hundred fifty eligible electors residing in at least five counties in the state. The petition shall include the official name of the organization; the organization's name as the organization requests it to appear on the voter registration form if different from the organization's official name; and the name, address, and telephone number of the contact person for the organization. Each person who signs the petition shall include the person's signature, printed name, residence address with house number, street name, city, and county, and the date the person signed the petition.

b. A copy of the nonparty political organization's articles of incorporation, bylaws, constitution, or other document relating to establishment of the organization. Such copy shall be certified as a true copy of the original by the custodian of the original document.

c. An application form prescribed by the state registrar of voters. The form shall include all of the following:

(1) The official name of the nonparty political organization.

(2) The name, address, and telephone number of the contact person for the organization who is responsible for the application.

(3) The signature of the chief executive officer of the organization approving the application.

(4) The organization's name as the organization requests it to appear on the voter registration form if different from the organization's official name.

3. The nonparty political organization's name and its name as listed on the voter registration form shall conform to the requirements of section 43.121. The registrar shall not invalidate the application solely because the registrar finds the official name of the organization or the name to be included on the voter registration form to be unacceptable. If the registrar finds the name to be unacceptable, the registrar shall contact the organization and provide assistance in identifying an appropriate official name for the organization and for identifying the organization on the voter registration form. A determination by the registrar that the official name or voter registration form name requested is acceptable for use within the voter registration system is final.

4. The registrar and the voter registration commission may require biennial filings to update contact information.

5. Beginning in January 2011, and each odd-numbered year thereafter, the registrar and the voter registration commission may review the number of voters registered as affiliated with a nonparty political organization. If the number of registrants, including both active and inactive voters, is fewer than 150, the commission shall declare the organization to be dormant for

purposes of voter registration and may revise the voter registration form and instructions and electronic voter registration system to remove the organization from the list of nonparty political organizations with which a voter may register as affiliated. However, a change shall not be made to the record of political affiliation of individual registrants unless the registrant requests the change.

6. If a political party, as defined in section 43.2, fails to receive a sufficient number of votes in a general election to retain status as a political party and the former political party organizes as a nonparty political organization, the organization may request registration of voters showing their affiliation with the organization. A change shall not be made to the record of political party affiliation of individual registrants unless the registrant requests the change.

Sec. 73. Section 48A.7A, subsection 1, paragraph b, subparagraph (2), unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

If the photographic identification presented does not contain the person's current address in the precinct, the person shall also present one of the following documents that shows the person's name and current address in the precinct:

Sec. 74. Section 48A.7A, subsection 3, Code Supplement 2007, is amended to read as follows:

3. At any time before election day, and after the deadline for registration in section 48A.9, a person who appears in person at the commissioner's office or at a satellite absentee voting station ~~after the deadline for registration in section 48A.9,~~ or whose ballot is delivered to a health care facility pursuant to section 53.22 may register to vote and vote an absentee ballot by following the procedure in this section for registering to vote on election day. A person who wishes to vote in person at the polling place on election day and who has not registered to vote before the deadline for registering in section 48A.9, is required to register to vote at the polling place on election day following the procedure in this section. However, the person may complete the voter registration application at the commissioner's office and, after the commissioner has reviewed the completed application, may present the application to the appropriate precinct election official along with proof of identity and residency.

Sec. 75. Section 48A.7A, subsection 4, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The form of the written oath required of a person attesting to the identity and residency of the registrant shall read as follows:

I, ... (name of registered voter), do solemnly swear or affirm all of the following:

I am a preregistered voter in this precinct or I registered to vote in this precinct today, and a registered voter did not sign an oath on my behalf. I have not signed an oath attesting to the identity and residence of any other person in this election.

I am a resident of the . . . . . precinct, ... ward or township, city of . . . . . , county of . . . . . , Iowa.

I reside at . . . . . (street address) in . . . . . (city or township).

I personally know . . . . . (name of registrant), and I personally know that . . . . . (name of registrant) is a resident of the . . . . . precinct, ... ward or township, city of . . . . . , county of . . . . . , Iowa.

I understand that any false statement in this oath is a class "D" felony punishable by no more than five years in confinement and a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars.

. . . . . .
Signature of Registered Voter

Subscribed and sworn before me on . . . . . (date).

. . . . . .
Signature of Precinct Election Official

Sec. 76. Section 48A.11, subsection 1, paragraph i, Code Supplement 2007, is amended to read as follows:

i. Political party ~~registration~~ affiliation as defined in section 43.2 or nonparty political organization affiliation if approved for inclusion on the form pursuant to section 44.18.

Sec. 77. Section 48A.11, subsection 1, paragraph k, Code Supplement 2007, is amended by striking the paragraph.

Sec. 78. Section 48A.12, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The mail voter registration form prescribed by the federal election assistance commission shall be accepted for voter registration in Iowa if all required information is provided, if it is signed by the registrant, and if the form is timely received.

Sec. 79. Section 48A.26, subsection 4, Code 2007, is amended to read as follows:

4. If the registrant applied by mail to register to vote and did not answer either "yes" or "no" to the question in section 48A.11, subsection 3, paragraph "a", the application shall be processed~~, but the registration shall be designated as valid only for elections that do not include candidates for federal offices on the ballot~~. ~~The acknowledgment shall advise the applicant that the status of the registration is local and the reason for the registration being assigned local status. The commissioner shall enclose a new registration by mail form for the applicant to use. If the original application is received during the twelve days before the close of registration for an election that includes candidates for federal offices on the ballot, the commissioner shall provide the registrant with an opportunity to complete the form before the close of registration.~~ If the application is complete and proper in all other respects and information on the application is verified, as required by section 48A.25A, the applicant shall be registered to vote and sent an acknowledgment.

Sec. 80. Section 48A.27, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. If a registered voter submits a change of name, telephone number, or address ~~is submitted~~ under this subsection, the commissioner shall not change the political party or nonparty political organization affiliation in the ~~elector's~~ registered voter's prior registration other than that indicated by the ~~elector~~ registered voter.

Sec. 81. Section 48A.37, subsection 2, Code Supplement 2007, is amended to read as follows:

2. Electronic records shall include a status code designating whether the records are active, inactive, ~~local, or~~ pending, or canceled. Inactive records are records of registered voters to whom notices have been sent pursuant to section 48A.28, subsection 3, and who have not returned the card or otherwise responded to the notice, and those records have been designated inactive pursuant to section 48A.29. Inactive records are also records of registered voters to whom notices have been sent pursuant to section 48A.26A and who have not responded to the notice. ~~Local records are records of applicants who did not answer either "yes" or "no" to the question in section 48A.11, subsection 3, paragraph "a".~~ Pending records are records of applicants whose applications have not been verified pursuant to section 48A.25A. Canceled records are records that have been canceled pursuant to section 48A.30. All other records are active records. An inactive record shall be made active when the registered voter votes at an election, registers again, or reports a change of name, address, telephone number, or political party or organization affiliation. A pending record shall be made active upon verification. ~~A local record shall be valid for any election for which no candidates for federal office appear on the ballot. A registrant with only a local record shall not vote in a federal election unless the registrant submits a new voter registration application before election day indicating that the applicant is a citizen of the United States.~~

Sec. 82. Section 49.74, Code 2007, is amended to read as follows:

49.74 ~~REGISTERED~~ VOTERS ENTITLED TO VOTE AFTER CLOSING TIME.

Every ~~registered~~ voter who is on the premises of the voter's precinct polling place at the time the polling place is to be closed for any election shall be permitted to vote in that election. Wherever possible, when there are persons on the premises of a polling place awaiting an opportunity to claim their vote at the time the polling place is to be closed, the election board shall cause those persons to move inside the structure in which the polling place is located and shall then shut the doors of the structure and shall not admit any additional persons to the polling place for the purpose of voting. If it is not feasible to cause persons on the premises of a polling place awaiting an opportunity to claim their vote at the time the polling place is to be closed to move inside the structure in which the polling place is located, the election board shall cause those persons to be designated in some reasonable manner and shall not receive votes after that time from any persons except those ~~registered~~ voters so designated.

DIVISION V
CHALLENGES AND PROVISIONAL VOTING

Sec. 83. Section 39A.3, subsection 1, paragraph a, Code 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Files a challenge containing false information under section 48A.14 or 49.79.

Sec. 84. Section 39A.5, subsection 1, paragraph b, subparagraph (3), Code Supplement 2007, is amended by striking the subparagraph.

Sec. 85. Section 48A.14, subsections 3 and 4, Code 2007, are amended to read as follows:

3. A challenge shall contain a statement signed by the challenger in substantially the following form: "I am a registered voter in (name of county) County, Iowa. I swear or affirm that information contained on this challenge is true. I understand that knowingly filing a challenge containing false information is an aggravated misdemeanor."

4. A challenge may be filed at any time. A challenge filed less than seventy days before a regularly scheduled election shall not be processed until after the pending election unless the challenge is filed within twenty days of the commissioner's receipt of the challenged registrant's registration form or notice of change to an existing registration. A challenge filed against a person registering to vote pursuant to section 48A.7A is considered a challenge to a person offering to vote and must be filed under section 49.79.

Sec. 86. Section 49.79, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The challenged person is not a resident at the address where the person is registered. However, a person who is reporting a change of address at the polls on election day pursuant to section 48A.27, subsection 2, paragraph "a", subparagraph (3), or who is registering to vote pursuant to section 48A.7A, shall not be challenged for this reason.

Sec. 87. Section 49.79, Code Supplement 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 3. a. The state commissioner of elections shall prescribe a form to be used for challenging a prospective voter at the polls. The form shall include a space for the challenger to provide the challenger's printed name, signature, address, and telephone number. The form shall also contain the following statement signed by the challenger: "I am a registered voter in (name of county) County, Iowa. I swear or affirm that information contained in this challenge is true. I understand that knowingly filing a challenge containing false information is an aggravated misdemeanor."

b. The special precinct board shall reject a challenge that lacks the name, address, telephone number, and signature of the challenger.

NEW SUBSECTION. 4. A separate written challenge shall be made against each prospective voter challenged.

NEW SUBSECTION. 5. A challenger may withdraw a challenge at the polling place on election day or at any time before the meeting of the special precinct counting board by notifying the commissioner in writing of the withdrawal.

Sec. 88. Section 49.81, Code 2007, is amended to read as follows:

49.81 PROCEDURE FOR ~~CHALLENGED~~ VOTER TO CAST PROVISIONAL BALLOT.

1. A prospective voter who is prohibited under section 48A.8, subsection 4, section 49.77, subsection 4, or section 49.80 from voting except under this section shall be notified by the appropriate precinct election official that the voter may cast a provisional ballot. If a booth meeting the requirement of section 49.25 is not available at that polling place, the precinct election officials shall make alternative arrangements to insure the ~~challenged~~ voter the opportunity to vote in secret. The ~~marked ballot, folded~~ voter shall mark the ballot, fold it or insert it in a secrecy envelope as required by section 49.84, ~~shall be delivered to a precinct election official who shall~~ and immediately seal it in an envelope of the type prescribed by subsection 4. The voter shall deliver the sealed envelope to a precinct election official who shall ~~be deposited~~ deposit it in an envelope marked "provisional ballots" ~~and~~. The ballot shall be considered as having been cast in the special precinct established by section 53.20 for purposes of the postelection canvass.

2. Each person who casts a provisional ballot under this section shall receive a printed statement in ~~substantially the following form:~~

~~Your qualifications as a registered voter have been challenged for the following reasons:~~

~~I. .....~~

~~II. .....~~

~~III. .....~~

~~You must show identification before your ballot can be counted. Please bring or mail a copy of a current and valid photo identification card to the county commissioner's office or bring or mail a copy of one of the following current documents that show your name and address:~~

~~a. Utility bill.~~

~~b. Bank statement.~~

~~c. Paycheck.~~

~~d. Government check.~~

~~e. Other government document.~~

~~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 before ..... a.m./p.m. on ..... at ..... If your ballot is not counted you will receive, by mail, notification of this fact and the reason that the ballot was not counted~~ a form prescribed by the state commissioner by rule adopted in accordance with chapter 17A. The statement shall contain, at a minimum, the following information:

a. The reason the person is casting a provisional ballot.

b. If the person is casting a provisional ballot because the person failed to provide a required form of identification, a list of the types of acceptable identification and notification that the person must show identification before the ballot can be counted.

c. If the person is casting a provisional ballot because the person's qualifications as a registered voter have been challenged, the allegations contained in the written challenge, a description of the challenge process, and the person's right to address the challenge.

d. A statement that if the person's ballot is not counted, the person will receive, by mail, notification of this fact and the reason the ballot was not counted.

e. Other information deemed necessary by the state commissioner.

3. Any eligible elector may present written statements or documents, supporting or oppos-

ing the counting of any provisional ballot, to the precinct election officials on election day, until the hour for closing the polls. Any statements or documents so presented shall be delivered to the commissioner when the election supplies are returned.

4. The individual envelopes used for each provisional ballot cast pursuant to subsection 1 shall have space for the voter's name, date of birth, and address and shall have printed on them the following:

I am a United States citizen, at least eighteen years of age. I believe I am a registered voter of this county and I am eligible to vote in this election. ~~I registered to vote in . . . . . county on or about . . . . . at . . . . . My name at that time was . . . . . I have not moved to a different county since that time. I am a United States citizen, at least eighteen years of age.~~

. . . . . .
(signature of voter) (date)

The following information is to be provided by the precinct election official:
Reason for ~~challenge~~ casting provisional ballot:
. . . . . .
. . . . . .
~~Did not present required identification form.~~

. . . . . .
(signature of precinct election official)

The precinct election official shall attach a completed voter registration form from each provisional voter unless the person's registration status is listed in the election register as active or pending. If a voter is casting a provisional ballot because the voter's qualifications as a registered voter have been challenged, the precinct election official shall attach the signed challenge to the provisional ballot envelope.

DIVISION VI
GENERAL CHANGES TO ELECTIONS PROVISIONS

Sec. 89. Section 39A.2, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. DURESS. Intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, a person to do or to refrain from doing 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.

(2A) To sign a petition nominating a candidate for public office or a petition requesting an election for which a petition may legally be submitted.

(3) To exercise a right under chapters 39 through 53.

Sec. 90. Section 39A.2, subsection 1, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. VOTING EQUIPMENT TAMPERING. Intentionally altering or damaging any computer software or any physical part of a voting machine, automatic tabulating equipment, or any other part of a voting system.

Sec. 91. Section 49.20, Code 2007, is amended to read as follows:

49.20 COMPENSATION OF MEMBERS.

The members of election boards shall be deemed temporary state employees who are compensated by the county in which they serve, and shall receive compensation at a rate established by the board of supervisors, which shall be not less than ~~three dollars and fifty cents per hour~~ the minimum wage established in section 91D.1, subsection 1, paragraph "b", while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense at a rate determined by the board of supervisors, except that persons who have advised the commissioner prior to their appointment to the election board that they are willing

to serve without pay at elections conducted for any school district or a city of three thousand five hundred or less population, shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in the course of the canvass that the election record certificate has been properly executed by the election board.

Sec. 92. Section 49.21, Code 2007, is amended to read as follows:

49.21 POLLING PLACES — ACCESSIBILITY — SIGNS.

1. It is the responsibility of the commissioner to designate a polling place for each precinct in the county. Each polling place designated shall be accessible to persons with disabilities. However, if the commissioner is unable to provide an accessible polling place for a precinct, the commissioner shall apply for a temporary waiver of the accessibility requirement. The state commissioner shall adopt rules in accordance with chapter 17A prescribing standards for determining whether a polling place is accessible and the process for applying for a temporary waiver of accessibility.

2. a. Upon the application of the commissioner, the authority which has control of any buildings or grounds supported by taxation under the laws of this state shall make available the necessary space therein for the purpose of holding elections, without charge for the use thereof.

b. Except as otherwise provided by law, the polling place in each precinct in the state shall be located in a central location if a building is available. However, first consideration shall be given to the use of public buildings supported by taxation.

~~In the selection of polling places, preference shall also be given to the use of buildings accessible to persons who are elderly and persons with disabilities.~~

3. a. On the day of an election, the commissioner shall post a sign stating "vote here" at the entrance to each driveway leading to the building where a polling place is located. The sign must be visible from the street or highway fronting the driveway, but shall not encroach upon the right-of-way of such street or highway.

b. 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. 93. Section 49.25, subsection 1, Code Supplement 2007, is amended to read as follows:

1. In any county or portion of a county for which voting machines have been acquired under section 52.2 the commissioner shall determine pursuant to section 49.26, in advance of each election conducted for a city of three thousand five hundred or less population, or any school district, and individually for each precinct, whether voting in that election shall be by machine or by paper ballot. In counties in which conventional paper ballots are not used, the commissioner shall furnish voting equipment for use by voters with disabilities.

Sec. 94. Section 49.68, Code 2007, is amended to read as follows:

49.68 STATE COMMISSIONER TO FURNISH INSTRUCTIONS.

1. The state commissioner with the approval of the attorney general shall prepare, and from time to time revise, written instructions to the voters relative to ~~voting~~ the rights of voters, and shall furnish each commissioner with copies of the instructions. Such instructions shall cover the following matters:

a. The procedure for registering to vote after the registration deadline has passed.

b. Instructions for voters who are required by law to show identification before voting.

c. General information on voting rights under applicable federal and state laws, including the following:

(1) Information on the right of an individual to cast a provisional ballot and the procedure for casting a provisional ballot.

(2) Federal and state laws regarding prohibitions on acts of fraud, misrepresentation, coercion, or duress.

d. Instructions on how to contact the appropriate officials if a voter believes the voter's rights have been violated.

2. The state commissioner shall prepare instructions relative to voting for each voting system in use in the state and shall furnish the county commissioner with copies of the instructions. Such instructions shall cover the following matters:

~~1.~~ a. The manner of obtaining ballots.

~~2.~~ b. The manner of marking ballots.

~~3.~~ c. That unmarked or improperly marked ballots will not be counted.

~~4.~~ d. The method of gaining assistance in marking ballots.

~~5.~~ e. That any erasures or identification marks, or otherwise spoiling or defacing a ballot, will render it invalid.

~~6.~~ f. Not to vote a spoiled or defaced ballot.

~~7.~~ g. How to obtain a new ballot in place of a spoiled or defaced one.

~~8.~~ h. Any other matters thought necessary.

Sec. 95. Section 49.70, Code 2007, is amended to read as follows:

49.70 PRECINCT ELECTION OFFICIALS FURNISHED INSTRUCTIONS.

The commissioner shall cause copies of ~~the foregoing~~ each set of instructions to be printed in large, clear type, under the heading of "Rights of Voters" and "Instructions for ~~Voters"~~ Voting", as applicable, and shall furnish the precinct election officials with a sufficient number of ~~such~~ each set of instructions as will enable them to comply with section 49.71.

Sec. 96. Section 49.71, Code Supplement 2007, is amended to read as follows:

49.71 POSTING INSTRUCTION CARDS AND SAMPLE BALLOTS.

The precinct election officials, before the opening of the polls, shall cause ~~the~~ each set of instructions ~~for voters~~ required pursuant to section 49.70 to be securely posted as follows:

1. ~~One~~ At least one copy of the instructions for voting prescribed in section 49.68, subsection 2, in each voting booth.

2. ~~Not less than four copies,~~ At least one copy of the instructions for voting prescribed in section 49.68, subsection 2, with an equal number of sample ballots, in and about the polling place.

3. At least one copy of the instructions relating to rights of voters, as prescribed in section 49.68, subsection 1, in and about the polling place.

Sec. 97. Section 49.73, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

At all elections, except as otherwise permitted by this section, the polls shall be opened at seven ~~o'clock~~ a.m., ~~or as soon thereafter as vacancies on the precinct election board have been filled~~ if at least one official from each of the political parties referred to in section 49.13 is present. On the basis of voter turnout for recent similar elections and factors considered likely to so affect voter turnout for the forthcoming election as to justify shortened voting hours for that election, the commissioner may direct that the polls be opened at twelve ~~o'clock~~ noon for:

Sec. 98. Section 49.77, subsection 2, Code Supplement 2007, is amended to read as follows:

2. ~~One of the precinct election officials shall announce the voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3, or 5.~~ If the declaration of eligibility is not printed on each page of the election register, any of those persons present pursuant to section 49.104, subsection 2, 3, or 5, may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials. If the declaration of eligibility is printed on the election register, voters shall also sign a voter roster which the precinct election official shall make available for viewing ~~a listing of those voters who have signed declarations of eligibility~~. Any of those persons present pursuant to section 49.104, subsection 2, 3, or 5, may upon request view the ~~listing~~ roster of those voters who have signed declarations of eligibility, so long as the person does not interfere with the functions of the precinct election officials.

Sec. 99. Section 49.88, Code 2007, is amended to read as follows:

49.88 LIMITATION ON PERSONS IN BOOTH AND TIME FOR VOTING.

1. No more than one person shall be allowed to occupy any voting booth at any time. ~~No person shall occupy such booth for more than three minutes to cast a vote. Nothing in this section shall prohibit assistance to voters under section 49.90.~~ The use of cameras, cellular telephones, pagers, or other electronic communications devices in the voting booth is prohibited.

2. a. Nothing in this section shall prohibit assistance to voters under section 49.90.

b. This section does not prohibit a voter from taking minor children into the voting booth with the voter.

Sec. 100. Section 49.104, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Reporters, photographers, and other staff representing the news media. However, representatives of the news media, while present at or in the immediate vicinity of the polling places, shall not interfere with the election process in any way.

Sec. 101. Section 50.9, Code 2007, is amended to read as follows:

50.9 RETURN OF BALLOTS NOT VOTED.

Ballots not voted, or spoiled by voters while attempting to vote, shall be returned by the precinct election officials to the commissioner, and a receipt taken for the ballots. The spoiled ballots shall be preserved for twenty-two months following elections for federal offices and for six months following elections for all other offices. The commissioner shall record the number of ballots sent to the polling places but not voted. The ballots not voted shall be destroyed after the end of the period for contesting the election. However, if a contest is requested, the ballots not voted shall be preserved until the election contest is concluded.

Sec. 102. NEW SECTION. 50.15A UNOFFICIAL RESULTS OF VOTING — GENERAL ELECTION ONLY.

1. In order to provide the public with an early source of election results before the official canvass of votes, the state commissioner of elections, in cooperation with the commissioners of elections, shall conduct an unofficial canvass of election results following the closing of the polls on the day of a general election. The unofficial canvass shall report election results for national offices, statewide offices, the office of state representative, the office of state senator, and other offices or public measures at the discretion of the state commissioner of elections.

2. After the polls close on election day, the commissioner of elections shall periodically provide election results to the state commissioner of elections as the precincts in the county report election results to the commissioner pursuant to section 50.11. If the commissioner determines that all precincts will not report election results before the office is closed, the commissioner shall report the most complete results available prior to leaving the office at the time the office is closed as provided in section 50.11. The commissioner shall specify the number of precincts included in the report to the state commissioner of elections.

The state commissioner of elections shall tabulate unofficial election results as the results are received from the commissioners of elections and shall periodically make the reports of the results available to the public.

3. Before the day of the general election, the state commissioner of elections shall provide a form and instructions for reporting unofficial election results pursuant to this section.

Sec. 103. Section 50.49, unnumbered paragraph 4, Code 2007, 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 affirmative 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. 104. Section 53.23, subsection 3, paragraph b, Code Supplement 2007, is amended to read as follows:

b. If the board finds any ballot not enclosed in a secrecy envelope and the ballot is folded in such a way that any of the votes cast on the ballot are visible, the two special precinct election officials, one from each of the two political parties referred to in section 49.13, subsection 2, shall place the ballot in a secrecy envelope. No one shall examine the ballot. ~~Each of the special precinct election officials shall sign the secrecy envelope.~~

Sec. 105. Section 423A.4, subsection 4, Code Supplement 2007, is amended to read as follows:

4. a. A city or county shall impose or repeal a hotel and motel tax or increase or reduce the tax rate only after an election at which a majority of those voting on the question favors imposition, repeal, or change in rate. 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 423A.7, 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 the regular city election or the county's general election or at the time of a special election.~~

b. If the tax applies only within the corporate boundaries of a city, only the registered voters of the city shall be permitted to vote. The election shall be held at the time of the regular city election or at a special election called for that purpose. If the tax applies only in the unincorporated areas of a county, only the registered voters of the unincorporated areas of the county shall be permitted to vote. The election shall be held at the time of the general election or at a special election called for that purpose.

DIVISION VII
LOCAL REDISTRICTING

Sec. 106. Section 68B.32A, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Establish an expedited procedure for reviewing complaints forwarded by the state commissioner of elections to the board for a determination as to whether a supervisor district plan adopted pursuant to section 331.210A was drawn for improper political reasons as described in section 42.4, subsection 5. The expedited procedure shall be substantially similar to the process used for other complaints filed with the board except that the provisions of section 68B.32D shall not apply.

Sec. 107. Section 331.210A, subsection 2, paragraph e, Code 2007, is amended to read as follows:

e. The plan approved by the board of supervisors shall be submitted to the state commissioner of elections for approval. If the state commissioner or the ethics and campaign disclosure board finds that the plan does not meet the standards of section 42.4, the state commissioner shall reject the plan, and the board of supervisors shall direct the commission to prepare and adopt an acceptable plan.

For purposes of determining whether the standards of section 42.4 have been met, an eligible elector may file a complaint with the state commissioner of elections within fourteen days after a plan is approved by the board of supervisors of the county in which the eligible elector resides, on a form prescribed by the commissioner, alleging that the plan was drawn for improper political reasons as described in section 42.4, subsection 5. If a complaint is filed with

the state commissioner of elections, the state commissioner shall forward the complaint to the ethics and campaign disclosure board established in section 68B.32 for resolution.

If, after the initial proposed supervisor district plan or precinct plan has been submitted to the state commissioner for approval, it is necessary for the temporary county redistricting commission to make subsequent attempts at adopting an acceptable plan, the subsequent plans do not require public hearings.

Approved April 22, 2008

CHAPTER 1116

LOBBYING BY STATE AGENCIES — RESTRICTIONS

S.F. 2427

AN ACT prohibiting certain lobbying activities of state agencies and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 68B.8 LOBBYING ACTIVITIES BY STATE AGENCIES.

A state agency of the executive branch of state government shall not use or permit the use of its public funds for a paid advertisement or public service announcement thirty days prior to or during a legislative session for the purpose of encouraging the passage, defeat, approval, or modification of a bill that is being considered or was considered during the previous legislative session, by the general assembly.

Sec. 2. Section 68B.25, Code 2007, is amended to read as follows:

68B.25 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates a provision of sections 68B.2A through ~~68B.7~~ 68B.8, sections 68B.22 through 68B.24, or sections 68B.35 through 68B.38 is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

Approved April 24, 2008

CHAPTER 1117

COUNCIL ON HOMELESSNESS

S.F. 2161

AN ACT providing for the establishment of a council on homelessness.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 16.100A COUNCIL ON HOMELESSNESS.

1. A council on homelessness is established consisting of thirty-eight voting members. At least one voting member at all times shall be a member of a minority group.

2. Members of the council shall consist of all of the following:

a. Twenty-six members of the general public appointed to two-year staggered terms by the governor in consultation with the nominating committee under subsection 4, paragraph "a".

(1) Voting members from the general public may include, but are not limited to the following types of individuals and representatives of the following programs: homeless or formerly homeless individuals and their family members, youth shelters, faith-based organizations, local homeless service providers, emergency shelters, transitional housing providers, family and domestic violence shelters, private business, local government, and community-based organizations.

(2) Five of the twenty-six voting members selected from the general public shall be individuals who are homeless, formerly homeless, or family members of homeless or formerly homeless individuals.

(3) One of the twenty-six members selected from the general public shall be a representative of the Iowa state association of counties.

(4) One of the twenty-six members selected from the general public shall be a representative of the Iowa league of cities.

b. Twelve agency director members consisting of all of the following:

(1) The director of the department of education or the director's designee.

(2) The director of the department of economic development or the director's designee.

(3) The director of human services or the director's designee.

(4) The attorney general or the attorney general's designee.

(5) The director of the department of human rights or the director's designee.

(6) The director of public health or the director's designee.

(7) The director of the department of elder affairs or the director's designee.

(8) The director of the department of corrections or the director's designee.

(9) The director of the department of workforce development or the director's designee.

(10) The director of the department of public safety or the director's designee.

(11) The director of the department of veterans affairs or the director's designee.

(12) The executive director of the Iowa finance authority or the executive director's designee.

3. An agency director's designee may vote on council matters in the absence of the director.

4. a. A nominating committee initially comprised of all twelve agency director members shall nominate persons to the governor to fill the general public member positions. Following appointment of all twenty-six general public members, the composition of the nominating committee may be modified by rule.

b. The council may establish other committees and subcommittees comprised of members of the council.

5. A vacancy on the council shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the remainder of the unexpired term.

6. a. A majority of the members of the council constitutes a quorum. Any action taken by the council must be adopted by the affirmative vote of a majority of its membership.

b. The council shall elect a chairperson and vice chairperson from the membership of the council. The chairperson and vice chairperson shall serve two-year terms. The chairperson and vice chairperson shall not both be either general public members or agency directors. The chairperson shall rotate between agency director members and general public members.

c. The council shall meet at least six times per year. Meetings of the council may be called by the chairperson or by a majority of the members.

d. General public members shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties. Expense payments shall be made from appropriations made for purposes of this section.

7. The Iowa finance authority shall provide staff assistance and administrative support to the council.

8. The duties of the council shall include but are not limited to the following:

a. Develop a process for evaluating state policies, programs, statutes, and rules to determine whether any state policies, programs, statutes, or rules should be revised to help prevent and alleviate homelessness.

b. Evaluate whether state agency resources could be more efficiently coordinated with other state agencies to prevent and alleviate homelessness.

c. Work to develop a coordinated and seamless service delivery system to prevent and alleviate homelessness.

d. Use existing resources to identify and prioritize efforts to prevent persons from becoming homeless and to eliminate factors that keep people homeless.

e. Identify and use federal and other funding opportunities to address and reduce homelessness within the state.

f. Work to identify causes and effects of homelessness and increase awareness among policymakers and the general public.

g. Advise the governor's office, the Iowa finance authority, state agencies, and private organizations on strategies to prevent and eliminate homelessness.

9. The council shall conduct a study of issues relating to the following:

a. Low-income seniors and low-income persons with any form of disability, including but not limited to physical disability, developmental disability, mental illness, co-occurring mental illness and substance abuse disorders, or AIDS and AIDS-related conditions. For purposes of this section, "AIDS" and "AIDS-related conditions" mean the same as defined in section 141A.1.

b. Low-income and moderate-income persons unable to afford transportation or housing near work, and adequate affordable housing able to support economic growth and development of a community, including new construction, community redevelopment, and urban renewal.

c. Low-income persons residing in existing affordable housing that is in danger of becoming unaffordable or lost, and persons determined to be or at risk of becoming homeless.

d. Affordable rental housing, access to available financing for housing, first-time home buyers, and relationships between landlords and tenants.

10. a. The council shall make annual recommendations to the governor regarding matters which impact homelessness on or before September 15.

b. The council shall prepare and file with the governor and the general assembly on or before the first day of December in each odd-numbered year, a report on homelessness in Iowa.

c. The council shall assist in the completion of the state's continuum of care application to the United States department of housing and urban development.

11. a. The Iowa finance authority, in consultation with the council, shall adopt rules pursuant to chapter 17A for carrying out the duties of the council pursuant to this section.

b. The council shall establish internal rules of procedure consistent with the provisions of this section.

c. Rules adopted or internal rules of procedure established pursuant to paragraph "a" or "b" shall be consistent with the requirements of the federal McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11301, et seq.

12. The council shall comply with the requirements of chapters 21 and 22. The Iowa finance authority shall be the official repository of council records.

Approved April 25, 2008

CHAPTER 1118

SOLID WASTE DISPOSAL —
MISCELLANEOUS CHANGES

S.F. 2276

AN ACT relating to the disposal of solid waste by changing permitting requirements and updating and clarifying existing provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.301, Code 2007, is amended to read as follows:

455B.301 DEFINITIONS.

As used in this part 1 of division IV, unless the context clearly indicates a contrary intent:

1. "Actual cost" means the operational, remedial and emergency action, closure, postclosure, and monitoring costs of a sanitary disposal project for the lifetime of the project.

2. "Beneficial use" means a specific utilization of a solid by-product as a resource that constitutes reuse rather than disposal, does not adversely affect human health or the environment, and is approved by the department.

~~2.~~ 3. "Beverage" means wine as defined in section 123.3, subsection 37, alcoholic liquor as defined in section 123.3, subsection 5, beer as defined in section 123.3, subsection 7, wine cooler or drink, tea, potable water, soda water and similar carbonated soft drinks, mineral water, fruit juice, vegetable juice, or fruit or vegetable drinks, which are intended for human consumption.

~~3.~~ 4. "Beverage container" means a sealed glass, plastic, or metal bottle, can, jar, or carton containing a beverage.

~~4.~~ 5. "Biodegradable" means degradable through a process by which fungi or bacteria secrete enzymes to convert a complex molecular structure to simple gasses and organic compounds.

~~5.~~ 6. "Closure" means actions that will prevent, mitigate, or minimize the threat to public health and the environment posed by a closed sanitary landfill, including but not limited to application of final cover, grading and seeding of final cover, installation of an adequate monitoring system, and construction of ground and surface water diversion structures, if necessary.

~~6.~~ 7. "Closure plan" means the plan which specifies the methods and schedule by which an operator will complete or cease disposal operations of a sanitary disposal project, prepare the area for long-term care, and make the area suitable for other uses.

~~7.~~ 8. "Degradable" means capable of decomposing by biodegradation, photodegradation, or chemical process into harmless component parts after exposure to natural elements for not more than three hundred sixty-five days.

~~8.~~ 9. "Financial assurance instrument" means an instrument submitted by an applicant to ensure the operator's financial capability to provide reasonable and necessary ~~response during~~ remedial responses.

a. The instrument shall be sufficient to ensure adequate response ~~the lifetime of the project and for the thirty years following closure, and to provide for the closure of the facility and postclosure care required by rules adopted by the commission in the event that the operator fails to correctly perform closure and postclosure care requirements~~ pursuant to section 455B.304, subsection 6.

b. The instrument shall be sufficient to ensure the proper closure and postclosure care of the project, and corrective action, if necessary, in the event the operator fails to correctly perform those requirements.

c. The ~~form~~ instrument may ~~include the~~ provide for one or more of the following:

(1) The establishment of a secured trust fund~~,~~.

(2) The use of a cash or surety bond~~, or the~~.

(3) The obtaining of insurance.

(4) The satisfaction of a corporate financial test.
(5) The satisfaction of a local government financial test.
(6) The obtaining of a corporate guarantee.
(7) The obtaining of a local government guarantee.
(8) The use of a local government dedicated fund.
(9) The obtaining of an irrevocable letter of credit.

~~8A.~~ 10. "Incinerator" means any enclosed device using controlled flame combustion that does not meet the criteria for classification as a boiler and is not listed as an industrial furnace. "Incinerator" does not include thermal oxidizers used for the treatment of gas emissions.

~~9.~~ 11. "Leachate" means fluid that has percolated through solid waste and which contains contaminants consisting of dissolved or suspended materials, chemicals, or microbial waste products from the solid waste.

~~10.~~ 12. "Lifetime of the project" means the projected period of years that a landfill will receive waste, from the time of opening until closure, based on the volume of waste to be received projected at the time of submittal of the initial project plan and the calculated refuse capacity of the landfill based upon the design of the project.

~~11.~~ 13. "Manufacturer" means a person who by labor, art, or skill transforms raw material into a finished product or article of trade.

~~12.~~ 14. "Photodegradable" means degradable through a process in which ultraviolet radiation in sunlight causes a chemical change in a material.

~~13.~~ 15. "Postclosure" and "postclosure care" mean the time and actions taken for the care, maintenance, and monitoring of a sanitary disposal project after closure that will prevent, mitigate, or minimize the threat to public health, safety, and welfare and the threat to the environment posed by the closed facility.

~~14.~~ 16. "Postclosure plan" means the plan which specifies the methods and schedule by which the operator will perform the necessary monitoring and care for the area after closure of a sanitary disposal project.

~~15.~~ 17. "Private agency" means a private agency as defined in section 28E.2.

~~16.~~ 18. "Public agency" means a public agency as defined in section 28E.2.

~~17.~~ 19. "Resource recovery system" means the recovery and separation of ferrous metals and nonferrous metals and glass and aluminum and the preparation and burning of solid waste as fuel for the production of electricity.

20. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. "Rubble" includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this chapter, "rubble" does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or other industrial process wastes unless those wastes are approved by the department.

~~18.~~ 21. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

~~19.~~ 22. "Sanitary landfill" means a sanitary disposal project where solid waste is buried between layers of earth.

~~20.~~ 23. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by section 321.1, subsection 90. ~~However, this division does not prohibit the use of dirt, stone, brick, or similar inorganic material for fill, landscaping, excavation or grading at places other than~~ This definition does not prohibit the use of rubble at places other than a sanitary disposal project. ~~Solid waste~~ "Solid waste" does not include ~~hazardous waste as defined in section 455B.411 or source,~~ any of the following:

a. Hazardous waste regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

b. Hazardous waste as defined in section 455B.411, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the commission.

c. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979~~, or petroleum~~.

d. Petroleum contaminated soil ~~which~~ that has been remediated to acceptable state or federal standards.

Sec. 2. Section 455B.304, subsections 2, 11, and 17, Code 2007, are amended to read as follows:

2. The commission shall adopt rules that allow the use of wet or dry sludge from publicly owned treatment works for land application. A sale of wet or dry sludge for the purpose of land application shall be accompanied by a written agreement signed by both parties which contains a general analysis of the contents of the sludge. The heavy metal content of the sludge shall not exceed that allowed by rules of the commission. An owner of a publicly owned treatment works which sells wet or dry sludge is not subject to any action by the purchaser to recover damages for harm to person or property caused by sludge that is delivered pursuant to a sale unless it is a result of a violation of the written agreement or if the heavy metal content of the sludge exceeds that allowed by rules of the commission. Nothing in this section shall provide immunity to any person from action by the department pursuant to section 455B.307. ~~The rules adopted under this subsection shall be generally consistent with those rules of the department existing on January 1, 1982, regarding the land application of municipal sewage sludge except that they may provide for different methods of application for wet sludge and dry sludge.~~

11. ~~By July 1, 1990, a~~ A sanitary landfill disposal project operating with a permit shall have a trained, tested, and certified operator. ~~A certification program shall be devised or approved by rule of the department~~ The department shall adopt by rule a certification program.

17. The commission shall adopt rules to establish a special waste authorization program. For purposes of this subsection, "special waste" means any industrial process waste, pollution control waste, or toxic waste which presents a threat to human health or the environment or a waste with inherent properties which make the disposal of the waste in a sanitary landfill difficult to manage. Special waste does not include domestic, office, commercial, medical, or industrial waste that does not require special handling or limitations on its disposal. Special waste does not include hazardous wastes which are regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934, ~~or hazardous wastes as defined in section 455B.411, subsection 3~~ nor does it include hazardous waste as defined in section 455B.411, except to the extent that the commission has adopted rules allowing the disposal of certain wastes.

Sec. 3. Section 455B.304, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 19. The commission shall adopt rules for determining when the utilization of a solid by-product, including energy recovery, constitutes beneficial use rather than the disposal of solid waste. Materials approved for beneficial use at a sanitary landfill shall be exempt from the tonnage fee imposed by section 455B.310 to the extent authorized by rule or permit.

Sec. 4. Section 455B.305, Code 2007, is amended to read as follows:

455B.305 ISSUANCE OR RENEWAL OF PERMITS BY DIRECTOR.

1. The director shall issue, revoke, suspend, modify, or deny permits for the construction and operation of sanitary disposal projects.

a. A permit shall be issued by the director or, at the director's direction, by a local board of health~~,~~ for each sanitary disposal project operated in this state. The permit shall be issued in the name of the city or county or, where applicable, in the name of the public or private agency operating the project. Permits issued pursuant to this section are in addition to any other licenses, permits, or variances authorized or required by law, including but not limited to chapter 335.

b. Each sanitary disposal project shall be inspected ~~annually~~ periodically by the department or a local board of health. ~~The permits issued pursuant to this section are in addition to any other licenses, permits or variances authorized or required by law, including, but not limited to, chapter 335.~~

c. A permit may be suspended or revoked by the director if a sanitary disposal project is found not to meet the requirements of part 1 or the rules ~~issued under~~ adopted pursuant to part 1. The suspension or revocation of a permit may be appealed to the department.

~~2. Beginning July 1, 1988, the director shall not issue a permit for the construction or operation of a new sanitary disposal project unless the permit applicant, in conjunction with all local governments using the sanitary disposal project, has filed a plan as required by section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306.~~

~~3. Beginning July 1, 1988, the director shall not renew or reissue a permit which had been initially issued prior to that date for a sanitary disposal project, unless the permit applicant, in conjunction with all local governments using the sanitary disposal project, has filed a plan as required by section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306.~~

~~4. Beginning July 1, 1994, the director shall not renew or reissue a permit which had been initially issued or renewed prior to that date for a sanitary disposal project, unless and until the permit applicant, in conjunction with all local governments using the sanitary disposal project, documents that steps are being taken to begin implementing the plan filed pursuant to section 455B.306. For those sections for which the department has not developed rules, the permit shall contain conditions and a schedule for meeting all applicable requirements of section 455B.306. However, a permit may be issued for the construction and operation of a new sanitary disposal project in accordance with subsection 2.~~

~~5. Beginning July 1, 1997, the director shall not renew or reissue a permit which had been renewed or reissued prior to that date for a sanitary landfill, unless and until the permit applicant, in conjunction with all local governments using the landfill, documents that alternative methods of solid waste disposal other than use of a sanitary landfill have been implemented as set forth in the plan filed pursuant to section 455B.306. However, the director may issue a permit for the construction and operation of a new sanitary landfill in accordance with subsection 2 and a permit may be renewed or reissued for a sanitary landfill which had received an initial permit but the permit had not been previously renewed or reissued prior to July 1, 1997 in accordance with subsection 3.~~

~~After July 1, 1997, however, no new landfill permits shall be issued unless the applicant, in conjunction with all local governments which will use the landfill, certifies that the landfill is needed as a part of an alternative disposal method, or unless the applicant provides documentation which satisfies the director that alternatives have been studied and are not either technically or economically feasible. The decision of the director is subject to review by the commission at its next meeting.~~

~~6. Beginning July 1, 1992, the director shall not issue a permit for a sanitary landfill unless the sanitary landfill is equipped with a leachate control system. Beginning July 1, 1994, the director shall not renew or reissue a permit for an existing sanitary landfill unless the sanitary landfill is equipped with a leachate control system. During the period from July 1, 1992, through June 30, 1994, the director may require an existing sanitary landfill to install a leachate control system if leachate from the sanitary landfill is adversely impacting the public health or safety or the environment. During the period from July 1, 1992, through June 30, 1994, the director shall require an existing sanitary landfill to install a leachate control system if the sanitary landfill has not submitted a completed hydrogeological plan to the department. The director may exempt a permit applicant from these requirements if the director determines that certain conditions regarding, but not limited to, existing physical conditions, topography, soil, geology, and climate, are such that a leachate control system is unnecessary. The director may~~

~~exempt a permit applicant from the requirements of this subsection if the permittee certifies that a risk assessment of the site indicates that a current or potential threat to environmental health does not exist such that an exposed individual has no greater than a one in one million risk of developing cancer and for noncarcinogens a hazard index of less than one. The director shall use the United States environmental protection agency's risk assessment guidance for the superfund as a basis for determining whether to grant the exemption. The exemption in this subsection shall apply only to sanitary landfill cells in existence prior to July 1, 1992, or the vertical expansion above a cell in which waste was deposited prior to July 1, 1992. A sanitary landfill permittee desiring an exemption shall apply to the director and certify a completion date for a risk assessment study by December 1, 1994. If an exemption is not granted, or if the risk assessment study concludes that a leachate control system is required, a permittee shall certify a completion date and increments of progress for the installation of a leachate control system. The department shall retain the discretion to approve or disapprove a risk assessment study or a proposed completion date under this subsection. If a schedule for a risk assessment study or the installation of a leachate control system is approved by the department and satisfactory progress is being made toward completion of the study or the installation of the leachate control system, the permittee shall not be subject to penalties for failure to meet the requirements of this subsection.~~

2. The director shall not issue or renew a permit for a municipal solid waste landfill unless the permit applicant, in conjunction with all local governments using the landfill, has documented its implementation of solid waste disposal methods other than final disposal in a sanitary landfill.

3. The director shall not issue or renew a permit for a sanitary landfill unless the landfill is equipped with a leachate control system.

~~7.~~ 4. The director shall not issue or renew a permit for a transfer station operating as part of an agreement between two planning areas pursuant to section 455B.306, subsection 2, ~~until~~ unless the applicant, in conjunction with all local governments using the transfer station, ~~documents that alternative methods of solid waste disposal other than final disposal in a sanitary landfill have been implemented as set forth in the plan filed pursuant to section 455B.306~~ has documented its implementation of solid waste disposal methods other than final disposal in a sanitary landfill.

Sec. 5. Section 455B.306, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. A city, county, ~~and a~~ or private agency operating, or planning to operate, a municipal solid waste sanitary disposal project shall file with the director one of two types of comprehensive plans detailing the method by which the city, county, or private agency will comply with this part 1. The first type is a comprehensive plan in which solid waste is disposed of in a sanitary landfill within the planning area. The second type is a comprehensive plan in which all solid waste is consolidated at, and transported from, a transfer station for disposal at a sanitary landfill in another comprehensive planning area or state.

a. All cities and counties shall also file with the director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents.

b. ~~For the purposes of this section, a~~ A public agency managing the waste stream for cities or counties pursuant to chapter 28E~~,~~ shall file one comprehensive plan on behalf of its members~~, which~~. Filing of a comprehensive plan constitutes full compliance by the public agency's members with the filing requirements of this section.

c. If both a public agency managing the waste stream for a city or county pursuant to chapter 28E, and one or more of the public agency's member cities or counties file a comprehensive plan under this subsection, the director shall, following notice to the agency, make a determination that any plan filed by a member city or county is compatible with the comprehensive plan of the chapter 28E public agency. If the director determines that ~~the comprehensive plan of~~ a ~~city~~ city's or ~~county~~ county's comprehensive plan is not compatible with the comprehen-

sive plan of a ~~chapter 28E~~ public agency, as defined in chapter 28E, the director shall require the city or county to provide justification for the approval of the comprehensive plan based upon the following factors: the innovative nature of the comprehensive plan, the urgency of the plan's implementation, ~~or other~~ any unique features of the city's or county's comprehensive plan ~~of the city or county, and that~~, and whether the plan otherwise complies with the provisions of this chapter.

d. This subsection does not prevent the director from approving pilot projects which otherwise comply with the provisions of this chapter.

e. The director shall review each comprehensive plan submitted and may reject, suggest modification, or approve the proposed plan. The director shall aid in the development of comprehensive plans for compliance with this part. The director shall make available to ~~a city, county, and private agency appropriate~~ cities, counties, and private agencies the forms appropriate for the submission of comprehensive plans, and the director may hold hearings for the purpose of implementing this part.

f. The director, and any governmental agencies with primary responsibility for the development and conservation of energy resources, shall provide research and assistance, ~~,~~ when cities and counties operating, or planning to operate, sanitary disposal projects request aid in planning and implementing resource recovery systems.

g. A comprehensive plan filed by a private agency operating, or planning to operate, a sanitary disposal project required ~~pursuant to~~ by section 455B.302 shall be developed in cooperation and consultation with the city or county responsible ~~to provide for the establishment and operation of~~ for establishing and operating a sanitary disposal project.

h. ~~A~~ The director shall review a completed plan for the control and treatment of leachate, ~~submitted~~ to meet the requirements of section ~~455B.305~~ 455B.306, subsection ~~6, shall be reviewed by the director, and the director~~ 7, paragraph "b", and shall reject the plan, suggest modifications, or approve ~~the completed plan~~ it within six months of ~~submittal of the plan~~ the time the plan was submitted. If ~~no action is taken~~ the director has not acted on the plan within ~~the six-month period~~ those six months, the plan shall be considered approved. However, the director, upon a request to renew or reissue a previously issued permit may require ~~updating of the plan at the time of renewal or reissuance of a previously issued permit~~ that the plan be updated.

2. A planning area that closes all of the municipal solid waste sanitary landfills located in the planning area and chooses instead to use a municipal solid waste sanitary landfill in another planning area ~~that~~ may choose to retain its autonomy as long as the sanitary landfill in the other planning area complies with all the requirements ~~under subtitle D of the federal Resource Conservation and Recovery Act, with~~ of this chapter, and all solid waste generated within the planning area ~~being~~ closing its landfills is consolidated at, and transported from, a permitted transfer station~~, may elect to retain autonomy as a planning area and~~. For purposes of this subsection, a planning area closing its own landfills that chooses to retain its autonomy shall not be required to join the planning area ~~where the~~ that contains the landfill ~~being used~~ it is using for final disposal of its solid waste ~~is located~~.

a. If a planning area ~~makes the election under~~ chooses to retain autonomy pursuant to this subsection, the planning area receiving ~~the~~ solid waste from the planning area ~~making the election~~ sending it shall not be required to include the ~~planning area making the election in a~~ sending planning area in its comprehensive plan provided that no services other than the acceptance of solid waste for disposal are shared between the two planning areas ~~other than the acceptance of solid waste for disposal at a sanitary landfill~~. ~~The~~ A planning area receiving ~~the~~ solid waste shall only be responsible for the permitting, planning, and waste reduction and diversion programs ~~in the planning area receiving the solid waste~~ within that planning area.

b. If the department determines that solid waste cannot reasonably be consolidated and transported from a particular transfer station, the department may establish permit conditions to address the transport and disposal of the solid waste. ~~An election may be made~~ A planning area sending solid waste for disposal in another planning area may retain autonomy under this

subsection only if ~~the two~~ both comprehensive planning areas enter into an agreement pursuant to chapter 28E that includes~~, at a minimum,~~ all of the following:

~~a.~~ (1) A detailed methodology of the manner in which solid waste will be tracked and reported between the two planning areas.

~~b.~~ (2) A detailed methodology of the manner in which the receiving sanitary landfill will collect, remit, and report tonnage fees, pursuant to section 455B.310, paid by the planning area that is transporting the solid waste. The methodology shall include both the remittances of tonnage fees to the state and the retained tonnage fees.

Sec. 6. Section 455B.306, subsection 7, paragraph b, Code Supplement 2007, is amended to read as follows:

b. A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of control and treatment in order to meet the requirements of section 455B.305, subsection ~~6~~ 3.

Sec. 7. Section 455B.306, subsections 9 and 12, Code Supplement 2007, are amended to read as follows:

9. In addition to the comprehensive plan filed pursuant to subsection 1, a person operating, or proposing to operate, a sanitary disposal project shall provide a financial assurance instrument to the department prior to the initial approval of a permit or prior to the renewal of a permit for an existing or expanding facility beginning July 1, 1988.

a. The financial assurance instrument shall meet all requirements adopted by rule by the commission, and shall not be canceled, revoked, disbursed, released, or allowed to terminate without the approval of the department. Following the cessation of operation or the closure of a sanitary disposal project, neither the guarantor nor the operator shall cancel, revoke, or disburse the financial assurance instrument or allow the instrument to terminate until the operator is released from closure, postclosure, and monitoring responsibilities.

b. The operator of a sanitary landfill shall maintain closure~~,~~ and postclosure accounts. The commission shall adopt by rule the amounts to be contributed to the accounts based upon the amount of solid waste received by the facility. The accounts established shall be specific to the facility.

(1) Money in the accounts shall not be assigned for the benefit of creditors with the exception of the state.

(2) Money in an account shall not be used to pay any final judgment against a licensee arising out of the ownership or operation of the site during its active life or after closure.

(3) Conditions under which the department may gain access to the accounts and circumstances under which the accounts may be released to the operator after closure and postclosure responsibilities have been met, shall be established by the commission.

c. The commission shall adopt by rule the minimum amounts of financial responsibility for sanitary disposal projects.

d. Financial assurance instruments may include ~~instruments such as cash or surety bond, a letter of credit, a secured trust fund, or a corporate guarantee~~ any of the instruments described in section 455B.301, subsection 9.

e. The annual financial statement submitted to the department pursuant to subsection 7, paragraph "c", shall include the current amounts established in each of the accounts and the projected amounts to be deposited in the accounts in the following year.

12. This section shall not apply to a sanitary landfill project owned by an electric generating facility and used exclusively for the disposal of coal combustion residue. ~~Notwithstanding section 455B.301, subsection 8, a utility under this subsection may demonstrate financial assurance through the use of a secured trust fund, a cash or surety bond, a corporate financial test as provided by the department, the obtaining of an irrevocable letter of credit, or an alternative method as provided by the department~~. A utility under this subsection may demonstrate financial assurance by any of the instruments described in section 455B.301, subsection 9, or by an

alternative method acceptable to the department. The financial assurance instrument submitted must ensure the facility's financial capability to provide reasonable and necessary response during the lifetime of the project and for a specified period of time following closure as required by rules adopted by the commission.

Approved April 25, 2008

CHAPTER 1119

TRUSTS, ESTATES, AND CONSERVATORSHIPS —
INTERESTS, RIGHTS, FIDUCIARIES, AND TAXATION

S.F. 2350

AN ACT relating to trusts and estates including the administration of small estates, and including retroactive and other applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12.71, subsection 8, Code 2007, is amended to read as follows:

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 2. Section 12.81, subsection 8, Code 2007, is amended to read as follows:

8. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 3. Section 12.91, subsection 9, Code Supplement 2007, is amended to read as follows:

9. Bonds issued under the provisions of this section are declared to be issued for a general public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 4. Section 16.177, subsection 8, Code 2007, is amended to read as follows:

8. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 5. Section 321.47, unnumbered paragraph 2, Code 2007, is amended to read as follows:

The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this

chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit and, upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. A requirement of chapter 450 ~~or 451~~ shall not be considered satisfied by the filing of the affidavit provided for in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in chapter 554, article 9, part 6.

Sec. 6. Section 421.60, subsection 2, paragraph c, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If the notice of assessment or denial of a claim for refund relates to a tax return filed pursuant to section 422.14 or chapter 450~~,~~ or 450A, ~~or 451,~~ by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to that return, or if a power of attorney has been filed with the department by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to any tax that is included in the notice of assessment or denial of a claim for refund, a copy of the notice together with any additional information required to be sent to the taxpayer shall be sent to the authorized representative as well.

Sec. 7. Section 450.7, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notice of the lien is not required to be recorded. The rights of the state under the lien have priority over all subsequent mortgages, purchases, or judgment creditors; and a conveyance after the decedent's death of the property subject to a lien does not discharge the property except as otherwise provided in this chapter. However, if additional tax is determined to be owing under this chapter ~~or chapter 451~~ after the lien has been released under paragraph "a" or "b", the lien does not have priority over subsequent mortgages, purchases, or judgment creditors unless notice of the lien is recorded in the office of the recorder of the county where the estate is probated, or where the property is located if the estate has not been administered. The department of revenue may release the lien by filing in the office of the clerk of the court in the county where the property is located, the decedent owner died, or the estate is pending or was administered, one of the following:

Sec. 8. Section 450.68, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Federal tax returns, copies of returns, return information as defined in section 6103(b) of the Internal Revenue Code, and state inheritance tax returns, which are required to be filed with the department for the enforcement of the inheritance ~~and estate~~ tax laws of this state, shall be deemed and held as confidential by the department. However, such returns or return information, may be disclosed by the director to officers or employees of other state agencies, subject to the same confidentiality restrictions imposed on the officers and employees of the department.

Sec. 9. Section 455G.6, subsection 14, Code 2007, is amended to read as follows:

14. Bonds issued under the provisions of this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this chapter shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance ~~and estate~~ tax.

Sec. 10. Section 463C.12, subsection 8, Code 2007, is amended to read as follows:

8. Tax-exempt bonds issued by the authority in connection with the program, which are exempt from taxation for federal tax purposes, are also exempt from taxation by the state of Iowa and the interest on these bonds is exempt from state income taxes and state inheritance ~~and estate~~ taxes.

Sec. 11. Section 524.1406, subsection 3, paragraph a, Code 2007, is amended to read as follows:

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 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 shareholders under section 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.

Sec. 12. Section 614.14, subsections 1 and 5, Code 2007, are amended to read as follows:

1. If an interest in real estate is held of record by a trustee, a bona fide purchaser acquires all rights in the real estate which the trustee and the beneficiary of the trust had and any rights of persons claiming by, through or under them, free of any adverse claim <u>including but not limited to claims arising under section 561.13 or claims relating to an interest in real estate arising under section 633.238</u>.

5. a. A person holding an adverse claim arising or existing prior to January 1, ~~1992~~ <u>2009</u>, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not file an action to enforce such claim after December 31, ~~1993~~ <u>2010</u>, at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate.

b. An action based upon an adverse claim arising on or after January 1, ~~1992~~ <u>2009</u>, by reason of a transfer of an interest in real estate by a trustee, or a purported trustee, shall not be maintained either at law or in equity, in any court to recover or establish any interest in or claim to such real estate, legal or equitable, against the holder of the record title to the real estate, legal or equitable, more than one year after the date of recording of the instrument from which such claim may arise.

Sec. 13. Section 614.14, Code 2007, is amended by adding the following new subsection:

<u>NEW SUBSECTION</u>. 7. An interest in real estate currently or previously held of record by a trust shall be deemed to be held of record by the trustee of such trust.

Sec. 14. Section 633.3, subsection 4, Code 2007, is amended to read as follows:

4. Charges — includes costs of administration, funeral expenses, cost of monument, and federal ~~and state~~ estate taxes.

Sec. 15. Section 633.175, Code 2007, is amended to read as follows:

633.175 WAIVER OF BOND BY COURT.

The court, for good cause shown, may exempt any fiduciary from giving bond, if the court finds that the interests of creditors and distributees will not thereby be prejudiced. However, the court, except as provided in section 633.172, subsection 2, shall not exempt a conservator from giving bond in a conservatorship with total assets of more than ~~ten~~ <u>twenty-five</u> thousand dollars, excluding real property, unless it is a voluntary conservatorship in which the petitioner is eighteen years of age or older and has waived bond in the petition.

Sec. 16. Section 633.241, Code 2007, is amended to read as follows:

633.241 TIME FOR ELECTION TO RECEIVE LIFE ESTATE IN HOMESTEAD.

If the surviving spouse does not make an election to receive the life estate in the homestead and file it with the clerk within four months from the date of ~~second publication of notice to creditors~~ service of notice under section 633.237, it shall be conclusively presumed that the surviving spouse waives the right to make the election. The court on application may, prior to the expiration of the period of four months, for cause shown, enter an order extending the time for making the election.

Sec. 17. Section 633.267, Code 2007, is amended to read as follows:

633.267 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF WILL.

~~When~~ If a testator fails to provide in the testator's will for any of the testator's children born to or adopted by the testator after the ~~making~~ execution of the testator's last will, such child, whether born before or after the testator's death, shall receive a share in the estate of the testator equal in value to that which the child would have received under section 633.211, 633.212, or 633.219, whichever section or sections are applicable, if the testator had died intestate, unless it appears from the will that such omission was intentional.

Sec. 18. Section 633.374, Code 2007, is amended to read as follows:

633.374 ALLOWANCE TO SURVIVING SPOUSE.

1. If the personal representative of the estate is not the decedent's spouse, the personal representative of the estate shall cause written notice concerning support to be mailed to the surviving spouse pursuant to section 633.40, subsection 5. The notice shall inform the surviving spouse of the surviving spouse's right to apply, within four months of service of the notice, for support for a period of twelve months following the death of the decedent, and for support of the decedent's dependents who reside with the spouse for the same period of time.

2. The court shall, upon application, set off and order paid to the surviving spouse, as part of the costs of administration, sufficient of the decedent's property as it deems reasonable for the proper support of the surviving spouse for the period of twelve months following the death of the decedent. ~~When said~~ If the application is not made by the personal representative, notice of hearing upon the application shall be given to the personal representative. The court shall take into consideration the station in life of the surviving spouse and the assets and condition of the estate. The allowance shall also include such additional amount as the court deems reasonable for the proper support, during such period, of dependents of the decedent who reside with the surviving spouse. Such allowance to the surviving spouse shall not abate upon the death or remarriage of such spouse. If an application for support has not been filed within four months following service of the notice by or on behalf of the surviving spouse and the dependents of the decedent who reside with the surviving spouse, the surviving spouse and the dependents of the decedent shall be deemed to have waived the right to apply for support during the administration of the estate.

Sec. 19. Section 633.436, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Except as provided in sections 633.211 and 633.212, shares of the distributees shall abate, for the payment of debts and charges, federal ~~and state~~ estate taxes, legacies, the shares of children born or adopted after the making of a will, or the share of the surviving spouse who elects to take against the will, without any preference or priority as between real and personal property, in the following order:

Sec. 20. Section 633.449, Code 2007, is amended to read as follows:

633.449 PAYMENT OF FEDERAL ESTATE TAXES.

All federal ~~and state~~ estate taxes ~~(as,~~ distinguished from state inheritance ~~taxes)~~ taxes, owing by the estate of a decedent shall be paid from the property of the estate, unless the will of the decedent, or other trust instrument, provides expressly to the contrary.

Sec. 21. Section 633A.2301, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

633A.2301 RIGHTS OF BENEFICIARY, CREDITOR, AND ASSIGNEE.

To the extent a beneficiary's interest is not subject to a spendthrift provision, and subject to sections 633A.2305 and 633.2306,[1] the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by levy, attachment, or execution of present or future distributions to or for the benefit of the beneficiary or other means.

Sec. 22. Section 633A.2302, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

633A.2302 SPENDTHRIFT PROTECTION RECOGNIZED.

Except as otherwise provided in section 633A.2303:

1. A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust", or words of similar import, is sufficient to restrain both voluntary and involuntary transfer, assignment, and encumbrance of the beneficiary's interest.

2. A beneficiary shall not transfer, assign, or encumber an interest in a trust in violation of a valid spendthrift provision, and a creditor or assignee of the beneficiary of a spendthrift trust shall not reach the interest of the beneficiary or a distribution by the trustee before its receipt by the beneficiary.

3. Notwithstanding subsections 1 and 2, the interest of a beneficiary of a valid spendthrift trust may be reached to satisfy an enforceable claim against the beneficiary or the beneficiary's estate for either of the following:

a. Services or supplies for necessaries provided to or for the beneficiary.

b. Tax claims by the United States to the extent authorized by federal law or an applicable provision of the Code.

Sec. 23. Section 633A.2303, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

633A.2303 SPENDTHRIFT TRUSTS FOR THE BENEFIT OF SETTLOR.

A term of a trust prohibiting an involuntary transfer of a beneficiary's interest shall be invalid as against claims by any creditors of the beneficiary if the beneficiary is the settlor.

Sec. 24. NEW SECTION. 633A.2304 AMOUNT REACHABLE BY CREDITORS OR TRANSFEREES OF SETTLOR.

1. If a settlor is a beneficiary of a trust created by the settlor, a transferee or creditor of the settlor may reach the maximum amount that the trustee could pay to or for the settlor's benefit.

2. In the case of a trust with multiple settlors, the amount the creditors or transferees of a particular settlor may reach shall not exceed the portion of the trust attributable to that settlor's contribution.

3. The assets of an irrevocable trust shall not become subject to the claims of creditors of the settlor of a trust solely due to a provision in the trust that allows a trustee of the trust to reimburse the settlor for income taxes payable on the income of the trust. This subsection shall not limit the rights of the creditor of the settlor to assert a claim against the assets of the trust due to the retention or grant of any rights to the settlor under the trust instrument or any other beneficial interest of the settlor other than as specifically set forth in this subsection.

Sec. 25. NEW SECTION. 633A.2305 DISCRETIONARY TRUSTS — EFFECT OF STANDARD.

1. Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary shall not compel a distribution that is subject to the trustee's discretion, even if any of the following occur:

a. The discretion is expressed in the form of a standard of distribution.

b. The trustee has abused its discretion.

2. This section shall not apply to a creditor of a beneficiary or to a creditor of a deceased

[1] See chapter 1191, §131 herein

beneficiary enforcing an interest in a trust, if any, given to a beneficiary by the trust instrument.

Sec. 26. NEW SECTION. 633A.2306 COURT ACTION — TRUSTEE'S DISCRETION.

1. If a trustee has discretion as to payments to a beneficiary, and refuses to make payments or exercise its discretion, the court shall neither order the trustee to exercise its discretion nor order payment from any such trust, if any such payment would inure, directly or indirectly, to the benefit of a creditor of the beneficiary.

2. Notwithstanding subsection 1, court[2] may order payment to a creditor of a beneficiary or to a creditor of a deceased beneficiary if the beneficiary has or had an interest in the trust.

Sec. 27. NEW SECTION. 633A.2307 OVERDUE DISTRIBUTION.

1. A creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

2. For the purposes of this section, "mandatory distribution" means a distribution required by the express terms of the trust of any of the following:

a. All of the income, net income, or principal of the trust.

b. A fraction or percentage of the income or principal of the trust.

c. A specific dollar amount from the trust.

3. A distribution that is subject to a condition shall not be considered a mandatory distribution.

4. If a creditor or assignee of a beneficiary is permitted to reach a mandatory distribution under this section, the sole remedy of the creditor or assignee shall be to apply to the court having jurisdiction of the trust after a reasonable period of time has expired, for a judgment ordering the trustee to pay to the creditor or the assignee a sum of money equal to the lesser of the amount of the debt or assignment, or the amount of the mandatory distribution described in subsection 2. Any other remedy, including but not limited to attachment or garnishment of any interest in the trust, recovery of court costs or attorney fees, or placing a lien of any type on any trust property or on the interest of any beneficiary in the trust, shall not be permitted or ordered by any court. Any writing signed by the beneficiary, allowing any remedy other than payment of the mandatory distribution not made to the beneficiary within a reasonable time after required distribution date, shall be void and shall not be enforced by any court.

Sec. 28. Section 633A.3106, Code 2007, is amended to read as follows:

633A.3106 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF A REVOCABLE TRUST.

When a settlor fails to provide in a revocable trust for any of the settlor's children born to or adopted by the settlor after the ~~making~~ execution of the trust or the last amendment to the trust, such child, whether born before or after the settlor's death, shall receive a share of the trust equal in value to that which the child would have received under section 633.211, 633.212, or 633.219, whichever is applicable, as if the settlor had died intestate, unless it appears from the terms of the trust or decedent's will that such omission was intentional.

Sec. 29. Section 633A.3108, subsection 2, Code 2007, is amended to read as follows:

2. Unless the trustee is a party to a pending proceeding contesting its validity, on or after the date six months following the death of the settlor, the trustee of a revocable trust may assume the trust's validity and proceed to distribute the trust property in accordance with the terms of the trust, without liability for so doing. Liability for an improper distribution in such a case is solely on the beneficiaries.

Sec. 30. Section 633A.3112, subsection 1, Code 2007, is amended to read as follows:

1. "Charges" includes costs of administration, funeral expenses, costs of monuments, and federal ~~and state~~ estate taxes.

[2] According to enrolled Act; the phrase "the court" probably intended

Sec. 31. Section 633A.4703, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Except as otherwise provided by the governing instrument, where necessary to abate shares of the beneficiaries of a trust for the payment of debts and charges, federal ~~and state~~ estate taxes, bequests, the share of the surviving spouse who takes an elective share, and the shares of children born or adopted after the execution of the trust, abatement shall occur in the following order:

Sec. 32. Section 633A.5104, Code 2007, is amended to read as follows:

633A.5104 INTERESTED PERSONS — PROCEEDINGS.

The settlor, or if the settlor is deceased or not competent, the settlor's designee named or designated pursuant to section 633A.5106, the trustee, the attorney general, and any charitable entity or other person with a special interest in the trust shall be interested persons in a proceeding involving a charitable trust.

Sec. 33. NEW SECTION. 633A.5106 SETTLOR — ENFORCEMENT OF CHARITABLE TRUST — DESIGNATION.

A settlor may maintain an action to enforce a charitable trust established by the settlor and may designate, either in the agreement establishing the trust or in a written statement signed by the settlor and delivered to the trustee, a person or persons, by name or by description, whether or not born at the time of such designation, to enforce the charitable trust if the settlor is deceased or not competent.

Sec. 34. Section 635.1, Code Supplement 2007, is amended to read as follows:

635.1 WHEN APPLICABLE.

When the gross value of the probate assets of a decedent subject to the jurisdiction of this state does not exceed one hundred thousand dollars, and upon a petition as provided in section 635.2 of an authorized petitioner in accordance with section 633.227, 633.228, or 633.290, the clerk shall issue letters of appointment for administration to the proposed personal representative named in the petition, if qualified to serve pursuant to section 633.63 or upon court order pursuant to section 633.64. Unless otherwise provided in this chapter, the provisions of chapter 633 apply to an estate probated pursuant to this chapter.

Sec. 35. Section 635.2, subsections 2 and 4, Code Supplement 2007, are amended to read as follows:

2. The name and address of the surviving spouse, ~~if any~~ and the name and relationship of each beneficiary in a testate estate or known heirs in an intestate estate.

4. A statement that the probate property of the decedent subject to the jurisdiction of this state does not have an aggregate gross value of more than the amount permitted under the provisions of section 635.1 and the approximate amount of personal property and income for the purposes of setting a bond.

Sec. 36. Section 635.8, subsections 2 and 4, Code Supplement 2007, are amended to read as follows:

2. If no actions or proceedings involving the estate are pending in the court thirty days after notice of the closing statement is filed, the estate shall close and the personal representative shall be discharged after distribution ~~and the personal representative shall be discharged.~~ upon the earlier of either of the following:

a. The filing of a statement of disbursement of assets with the clerk by the personal representative.

b. An additional thirty days have passed after notice of the closing statement is filed.

4. If a closing statement is not filed within twelve months of the date of issuance of a letter of appointment, an interlocutory report shall be filed within such time period. Such report shall be provided to all interested parties at least once every six months until the closing statement has been filed unless excused by the court for good cause shown. The provisions of sec-

tion 633.473 requiring final settlement within three years shall apply to an estate probated pursuant to this chapter. A closing statement filed under this section has the same effect as final settlement of the estate under chapter 633.

Sec. 37. Chapter 451, Code 2007, is repealed.

Sec. 38. Section 637.609, Code 2007, is repealed.

Sec. 39. APPLICABILITY.

1. The sections of this Act amending section 614.14 apply retroactively to all trusts in existence on or after July 1, 1998.

2. The section of this Act amending section 633.175 applies to conservatorships in existence on or after the effective date of this Act.

3. The sections of this Act amending sections 633.241, 633.267, and 633.374 apply to estates of decedents dying on or after July 1, 2008.

4. The section of this Act amending section 633A.3106 applies to trusts of settlors dying on or after July 1, 2008.

5. The section of this Act amending section 633A.3108 applies to trusts in existence on or after July 1, 2008.

6. The sections of this Act amending section 633A.5104 and enacting section 633A.5106 apply to charitable trusts in existence on or after July 1, 2008.

Approved April 25, 2008

CHAPTER 1120

HOME OWNERSHIP ASSISTANCE FOR MILITARY PERSONNEL

S.F. 2354

AN ACT concerning the home ownership assistance program for members of the military.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 16.54 HOME OWNERSHIP ASSISTANCE PROGRAM FOR MILITARY MEMBERS.

1. For the purposes of this section, "eligible member of the armed forces of the United States" means a person who is or was a member of the national guard, reserve, or regular component of the armed forces of the United States who has served at least ninety days of active duty service beginning on or after September 11, 2001. "Eligible member of the armed forces of the United States" also means a former member of the national guard, reserve, or regular component of the armed forces of the United States who was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001, that precluded completion of a minimum aggregate of ninety days of active federal service.

2. The home ownership assistance program is established to continue the program implemented pursuant to 2005 Iowa Acts, chapter 161, section 1, as amended by 2005 Iowa Acts, chapter 115, section 37, and continued in accordance with 2006 Iowa Acts, chapter 1167, sections 3 and 4, and other appropriations, to provide financial assistance to eligible members of the armed forces of the United States to be used for purchasing primary residences in the state of Iowa.

3. The program shall be administered by the authority and shall provide loans, grants, or

other assistance to persons who are or were eligible members of the armed forces of the United States. In the event an eligible member is deceased, the surviving spouse of the eligible member shall be eligible for assistance under the program, subject to the surviving spouse meeting the program's eligibility requirements other than the military service requirement. In addition, a person eligible for the program under this section may participate in other loan and grant programs of the authority, provided the person meets the requirements of those programs.

4. To qualify for a loan, grant, or other assistance under the home ownership assistance program, the following requirements, if applicable, shall be met:

a. The person eligible for the program shall, for financed home purchases that close on or after July 1, 2008, use a lender that participates in the authority's applicable programs for first-time homebuyers.

b. If the person eligible for the program is a first-time homebuyer, then, for financed home purchases that close on or after July 1, 2008, the eligible person shall participate, if eligible to participate, in one of the authority's applicable programs for first-time homebuyers.

c. A title guaranty certificate shall be issued for the property being purchased under the program.

5. The authority shall adopt rules for administering the program. The rules may provide for limiting the period of time for which an award of funds under the program shall be reserved for an eligible person pending the closing of a home purchase and compliance with all program requirements. Implementation of the program shall be limited to the extent of the amount appropriated or otherwise made available for purposes of the program.

6. The department of veterans affairs shall support the program by providing eligibility determinations and other program assistance requested by the authority.

Sec. 2. Section 35A.15, Code Supplement 2007, is repealed.

Approved April 25, 2008

CHAPTER 1121

SUBSTANCE ABUSE AND CHILD ABUSE — STUDY

H.F. 2310

AN ACT requiring the departments of public health and human services to collect data and develop a protocol to address the relationship between substance misuse, abuse, or dependency by a child's parent, guardian, custodian, or other person responsible for the child's care and child abuse.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. SUBSTANCE ABUSE AND CHILD ABUSE.

1. The departments of public health and human services shall conduct a study involving the collection of information regarding the relationship between substance misuse, abuse, or dependency by a child's parent, guardian, custodian, or other person responsible for the child's care and child abuse. The purpose of the study is to identify effective means of reducing the incidence and impact of child abuse, including denial of critical care and interventions with families by the child welfare system, that is wholly or partially caused by substance misuse, abuse, or dependency by the child's parent, guardian, custodian, or other person responsible for the child's care. The study shall also identify potential changes in Iowa law that could en-

courage a child's parent, guardian, custodian, or other person responsible for the child's care to secure voluntary treatment for substance misuse, abuse, or dependency.

2. The data, activity, and information addressed by the study shall include but is not limited to all of the following:

a. The departments shall develop data identifying the prevalence of the presence of children in the household among adults receiving substance use disorder evaluations. The initial data collected shall cover at least three months of the fiscal year beginning July 1, 2008.

b. The department of human services shall include in the written assessment made for a child abuse report a determination as to whether or not substance abuse by the child's parent, guardian, custodian, or other person responsible for the child's care was a factor in the report and finding of abuse. The department shall provide nonidentifying information concerning the prevalence of the determinations in child abuse assessments. The initial data collected shall cover at least three months of the fiscal year beginning July 1, 2008.

c. The departments shall develop and implement a protocol to jointly address those child abuse cases that are wholly or partially caused by substance misuse, abuse, or dependency by the child's parent, guardian, custodian, or other person responsible for the child's care. The protocol shall initially be implemented by the departments on or before July 1, 2009.

3. The departments shall make an initial report to the governor and the standing committees on human resources of the senate and house of representatives concerning the initial data collected, preliminary recommendations, and status of the protocol implementation pursuant to this section on or before December 15, 2009, and shall make a report covering the initial data for a twelve-month period on or before December 15, 2010.

Approved April 25, 2008

CHAPTER 1122

ECONOMIC DEVELOPMENT PROGRAMS —
MISCELLANEOUS CHANGES

H.F. 2450

AN ACT relating to certain department of economic development programs including vision Iowa board membership, renewable fuels marketing, film project tax credits, the promotion of Iowa tourism experiences, the consolidation of reporting requirements, the administration of targeted industries development, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
VISION IOWA BOARD MEMBERSHIP

Section 1. Section 15F.102, subsection 2, paragraph f, Code 2007, is amended to read as follows:

f. The director of the department of economic development or the director's designee.

DIVISION II
MARKETING OF RENEWABLE FUELS PROGRAMS

Sec. 2. Section 15G.205, subsection 3, Code 2007, is amended to read as follows:

3. Moneys in the renewable fuel infrastructure fund are appropriated to the department ex-

clusively to support and market the renewable fuel infrastructure programs as provided in sections 15G.203 and 15G.204, and as allocated in financial incentives by the renewable fuel infrastructure board ~~as~~ created in section 15G.202. Up to fifty thousand dollars shall be allocated each fiscal year to the department to support the administration of the programs. The department may use up to one and one-half percent of the program funds to market the program. Otherwise the moneys shall not be transferred, used, obligated, appropriated, or otherwise encumbered except to allocate as financial incentives under the programs.

DIVISION III
FILM PROJECT TAX CREDITS

Sec. 3. Section 15.393, subsection 2, paragraph b, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) For tax years beginning on or after January 1, 2007, an investment 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 533.329, for a portion of a taxpayer's investment in a project registered under the program. The tax credit shall equal twenty-five percent of the investment in the project, except that the tax credit shall not exceed twenty-five percent of the qualified expenditures on the project. 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. 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. A taxpayer shall not claim a tax credit under this paragraph "b" for qualified expenditures for which a tax credit is claimed under paragraph "a".

DIVISION IV
TOURISM PROGRAM PROMOTING IOWA EXPERIENCES

Sec. 4. Section 15.108, subsection 5, paragraph c, Code Supplement 2007, is amended to read as follows:

c. Coordinate and develop with the ~~state~~ department of transportation, the ~~state~~ department of natural resources, the ~~state~~ department of cultural affairs, ~~and other state agencies~~ the generation Iowa commission, the vision Iowa board, other state agencies, and local and regional entities public interpretation, marketing, and education programs ~~which~~ that encourage Iowans and out-of-state visitors to participate in the ~~recreation~~ recreational and leisure opportunities available in Iowa. The department shall establish and administer a program that helps connect both Iowa residents and residents of other states to new and existing Iowa experiences as a means to enhance the economic, social, and cultural well-being of the state. The program shall include a broad range of new opportunities, both rural and urban, including main street destinations, green space initiatives, and artistic and cultural attractions.

DIVISION V
CONSOLIDATION OF REPORTING REQUIREMENTS

Sec. 5. Section 15.104, subsection 1, Code Supplement 2007, is amended by striking the subsection.

Sec. 6. Section 15.104, subsection 9, Code Supplement 2007, is amended by striking the subsection and inserting in lieu thereof the following:

9. By January 31 of each year, submit a report to the general assembly and the governor that

covers its activities during the preceding fiscal year. The report shall include all of the following:

a. FINANCIAL ASSISTANCE PROGRAMS. Data on all assistance provided to business finance projects under the community economic betterment program established in section 15.317, eligible businesses under the high quality job creation program described in section 15.326,[1] the value-added agricultural products and processes financial assistance program established in section 15E.111.

b. PROJECTS FUNDED THROUGH THE GROW IOWA VALUES FUND. For each job creation or retention business finance project receiving moneys from the grow Iowa values fund created in section 15G.108, the following information:

(1) The net number of new jobs created as of June 30 of the prior year. For the purposes of this subparagraph, "net number of new jobs" is the number of new or retained jobs as identified in the contract.

(2) The number of jobs created, as of June 30 of the prior year, that are at or above the qualifying wage threshold for the project. For the purposes of this subparagraph, "qualifying wage threshold" means the wage that meets the required percentage of the average county or average regional wage for the programs or funding sources involved with the project.

(3) The number of retained jobs, as of June 30 of the prior year. For the purposes of this subparagraph, "retained jobs" means the number of retained jobs as identified in the contract.

(4) The total amount expended by a business, as of June 30 of the prior year, toward the total project cost as identified in the contract.

(5) The project's location.

(6) The amount, if any, of private and local matching funds, as of June 30 of the prior year.

(7) The amount spent on research and development activities, as of June 30 of the prior year.

c. INDUSTRIAL NEW JOBS TRAINING ACT. Data on all assistance or benefits provided under the Iowa industrial new jobs training Act established in chapter 260E.

d. WORKFORCE DEVELOPMENT FUND. The proposed allocation of moneys from the workforce development fund to be made for the next fiscal year for the programs and purposes contained in section 15.343, subsection 2.

(1) The director shall submit a copy of the proposed allocation to the chairpersons of the joint economic development appropriations subcommittee of the general assembly. Notwithstanding section 8.39, the proposed allocation may provide for increased or decreased funding levels if the demand for a program indicates that the need is greater or lesser than the allocation for that program.

(2) The director shall submit a report each quarter to the board. The report shall include the status of the funds and may include the director's proposed revisions. The proposed revisions may be approved by the board in January and April of each year.

(3) The director shall also provide quarterly reports to the legislative services agency on the status of the funds.

e. EMPLOYEE TRAINING AND RETRAINING GOALS AND OBJECTIVES. Pursuant to section 15.108, subsection 6, the upcoming year's goals and objectives, including both short-term and long-term methods of improving program performance, creating employment opportunities for residents, and enhancing the delivery of services.

f. ACCELERATED CAREER EDUCATION PROGRAMS. The data related to the accelerated career education programs established in chapter 260G and the activities of those programs during the previous fiscal year.

g. COORDINATION WITH COMMUNITY COLLEGES AND STATE BOARD OF REGENTS. Pursuant to section 15.108, subsection 3, paragraph "a", subparagraph (1), an assessment of the degree to which the department has coordinated with the community colleges and the state board of regents institutions in the avoidance of duplication of economic development efforts, including the degree to which there are future coordination needs. The state board of regents institutions and the community colleges shall be given an opportunity to review and comment on this portion of the department's annual report prior to its printing or release.

[1] See chapter 1191, §119 herein

h. ENDOW IOWA PROGRAM. In cooperation with the lead philanthropic entity, as defined in section 15E.303, a summary of the activities conducted under the endow Iowa grant program created in section 15E.304. This portion of the annual report shall include a summary of the endow Iowa tax credits approved by the department in the prior calendar year, including the number of credits approved, the amount approved, a summary of the benefiting donations by size, and the number of community foundations and affiliate organizations benefiting from the tax credit program.

i. GROW IOWA VALUES FUND EXPENDITURES. Detailed financial data that delineate expenditures made under each component of the grow Iowa values fund created in section 15G.108.

j. RENEWABLE FUEL PROGRAMS. A detailed accounting of expenditures in support of renewable fuel infrastructure programs, as provided in sections 15G.203 and 15G.204. The renewable fuel infrastructure board established in section 15G.202 shall approve that portion of the department's annual report regarding projects supported from the grow Iowa values fund created in section 15G.108. This paragraph is repealed on July 1, 2012.

k. PILOT PROJECT CITIES — WITHHOLDING AGREEMENT, TAX CREDITS. Data on the pilot project cities established pursuant to section 403.19A, including all of the following:

(1) The amount each project received from each state economic development and tax credit program.

(2) The number of new jobs created as a result of the pilot program.

(3) The average wage of the jobs created as a result of the pilot project.

(4) An evaluation of the investment made by the state of Iowa in the pilot project cities program, including but not limited to the items described in subparagraphs (1) through (3).

l. TARGETED INDUSTRIES DEVELOPMENT — FINANCIAL ASSISTANCE. A report of the expenditures of moneys appropriated and allocated to the department for certain programs authorized pursuant to section 15.411 relating to the development and commercialization of businesses in the targeted industry areas of advanced manufacturing, bioscience, and information technology.

m. TARGETED SMALL BUSINESS ACTIVITIES. A section that is a compilation of the following reports required pursuant to section 15.108, subsection 7, paragraph "c":

(1) A summary of the report filed by December 1 of each year by the department of administrative services with the department of economic development regarding targeted small business procurement activities conducted during the previous fiscal year.

(2) A summary of the report filed by December 1 of each year by the department of inspections and appeals with the department of economic development regarding certifications of targeted small businesses. At a minimum, the summary shall include the number of certified targeted small businesses for the previous year, the increase or decrease in that number during the previous fiscal year compared to the prior fiscal year, and the number of targeted small businesses that have been decertified in the previous fiscal year.

(3) A summary of the internal report compiled by December 1 of each year by the department of economic development regarding the targeted small business financial assistance program. At a minimum, the summary shall contain the number of loans, loan guarantees, and grants distributed during the previous fiscal year, the individual amounts provided to targeted small businesses during the previous fiscal year, and how many financial assistance awards to targeted small businesses were the subject of repayment or collection activity during the previous fiscal year.

(4) A list of the procurement goals established pursuant to section 73.16, subsection 2, and compiled by the department of economic development's targeted small business marketing and compliance manager and the performance of each agency in meeting the goals. The performance of each agency shall be based upon the reports required pursuant to section 73.16, subsection 2.

Sec. 7. Section 15.108, subsection 3, paragraph a, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) Provide the mechanisms to promote and facilitate the coordination of management and

technical assistance services to Iowa businesses and industries and to communities by the department, by the community colleges, and by the state board of regents institutions, including the small business development centers, the center for industrial research and service, and extension activities. In order to achieve this goal, the department may establish periodic meetings with representatives from the community colleges and the state board of regents institutions to develop this coordination. The community colleges and the state board of regents institutions shall cooperate with the department in seeking to avoid duplication of economic development services through greater coordinating efforts in the utilization of space, personnel, and materials and in the development of referral and outreach networks. ~~The department shall annually report on the degree to which economic development activities have been coordinated and the degree to which there are future coordination needs, and the community colleges and the state board of regents institutions shall be given an opportunity to review and comment on this report prior to its printing or release.~~ The department shall also establish a registry of applications for federal funds related to management and technical assistance programs.

Sec. 8. Section 15.108, subsection 4, paragraph a, Code Supplement 2007, is amended by striking the paragraph.

Sec. 9. Section 15.108, subsection 6, paragraph b, subparagraph (3), Code Supplement 2007, is amended by striking the subparagraph.

Sec. 10. Section 15.343, subsection 1, Code 2007, is amended to read as follows:

1. a. A workforce development fund is created as a revolving fund in the state treasury under the control of the department consisting of any moneys appropriated by the general assembly for that purpose 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 fund shall also include ~~all of the following:~~

~~a. Notwithstanding section 8.33, all unencumbered and unobligated funds from 1994 Iowa Acts, chapter 1201, section 1, subsection 6, except paragraph "d"; section 3, subsections 1 and 3; and section 10, remaining on July 1, 1995, and all unencumbered and unobligated funds in the Iowa conservation corps escrow account established in section 84A.7 and the job training fund established in section 260F.6.~~

~~b. Moneys~~ moneys appropriated to the fund from the workforce development fund account established in section 15.342A.

b. Notwithstanding section 8.33, moneys in the workforce development fund at the end of each fiscal year shall not revert to any other fund but shall remain in the workforce development fund for expenditure for subsequent fiscal years.

Sec. 11. Section 15.343, subsection 3, paragraph a, Code 2007, is amended by striking the paragraph.

Sec. 12. Section 15E.19, subsection 3, Code 2007, is amended by striking the subsection.

Sec. 13. Section 15E.111, subsection 8, Code 2007, is amended by striking the subsection.

Sec. 14. Section 260G.4C, Code 2007, is amended to read as follows:

260G.4C FACILITATOR.

The department of economic development shall administer the statewide allocations of program job credits to accelerated career education programs. The department shall ~~collect data related to the programs and prepare an annual report regarding the activities of the programs during the previous fiscal year. The report shall be submitted to the governor and the general assembly by December 31 of each year~~ provide information about the accelerated career education programs in accordance with its annual reporting requirements in section 15.104, subsection 9.

Sec. 15. Section 403.19A, subsection 3, paragraph l, Code Supplement 2007, is amended to read as follows:

l. The department of economic development in consultation with the department of revenue shall coordinate the pilot project program with the pilot project cities under this section. The department of economic development is authorized to adopt, amend, and repeal rules to implement the pilot project program under this section. ~~The department of economic development shall prepare an annual report for the governor, the general assembly, and the legislative services agency on the pilot project program. The pilot project program annual report shall include but not be limited to all of the following:~~

~~(1) The amount each project received from each state economic development and tax credit program.~~

~~(2) The number of new jobs resulting from the pilot program.~~

~~(3) The average wage resulting from the pilot project.~~

~~(4) An evaluation of the investment made by the state of Iowa, including but not limited to the terms in subparagraphs (1) through (3).~~

Sec. 16. Sections 15.113, 15E.306, 15G.206, Code 2007, are repealed.

DIVISION VI
ADMINISTRATION OF TARGETED INDUSTRIES DEVELOPMENT

Sec. 17. Section 15.411, subsection 2, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The department shall, upon board approval, contract with ~~a provider through a request for proposals process~~ service providers on a case-by-case basis for services related to statewide commercialization development in the targeted industries. Services provided shall include all of the following:

Sec. 18. Section 15.411, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 10. In each fiscal year, the department may expend additional moneys that become available to the department from sources such as loan repayments or recaptures of awards from federal economic stimulus funds provided the department spends those moneys for the implementation of the recommendations included in the separate consultant reports on bioscience, advanced manufacturing, information technology, and entrepreneurship submitted to the department in calendar years 2004, 2005, and 2006.

Sec. 19. EFFECTIVE DATE. The section of this Act amending section 15.411, subsection 2, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2008

CHAPTER 1123

INSURANCE AND OTHER MATTERS
REGULATED BY INSURANCE DIVISION

H.F. 2555

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including uniform securities; duties of the insurance division including a consumer advocate and rate reviews; confidential information; examinations; insurance trade practices; insurance fraud; the Iowa life and health insurance guaranty association; viatical settlement contracts; general agents and third-party administrators; life insurance companies; health maintenance organizations; utilization and cost control; the Iowa comprehensive health insurance association; workers' compensation liability insurance; consolidation, merger, and reinsurance; licensing of insurance producers; cemetery and funeral merchandise and funeral services; and cemeteries, making appropriations, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 502.201, subsection 9E, Code 2007, is amended to read as follows:

9E. VIATICAL SETTLEMENT INVESTMENT CONTRACTS. A viatical settlement investment contract, or fractional or pooled interest in such contract, provided any of the following conditions are satisfied:

a. The assignment, transfer, sale, devise, or bequest of a death benefit of a life insurance policy or contract is made by the viator to an insurance company as provided under Title XIII, subtitle 1.

b. The assignment, transfer, sale, devise, or bequest of a life insurance policy or contract, for any value less than the expected death benefit, is made by the viator to a family member or other person who enters into no more than one such agreement in a calendar year.

c. A life insurance policy or contract is assigned to a bank, savings bank, savings and loan association, credit union, or other licensed lending institution as collateral for a loan.

d. Accelerated benefits are exercised as provided in the life insurance policy or contract and consistent with applicable law.

e. The assignment, transfer, sale, devise, or bequest of the death benefit or ownership of a life insurance policy or contract made by the policyholder or contract owner to a viatical settlement provider, if the viatical settlement transaction complies with chapter 508E, including rules adopted pursuant to that chapter.

Sec. 2. Section 502.202, subsection 9, Code 2007, is amended to read as follows:

9. SPECIFIED EXCHANGE TRANSACTIONS. A transaction in a security, whether or not the security or transaction is otherwise exempt, in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, if the terms and conditions of the issuance and exchange or the delivery and exchange and the fairness of the terms and conditions have been approved ~~by the administrator~~ after a hearing by a court; by an official or agency of the United States; by a state securities, banking, or insurance agency; or by any other government authority expressly authorized by law to grant such approvals.

Sec. 3. Section 502.402, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. An individual who represents a broker-dealer in effecting transactions in this state limited to those described in section 15(h)(2) of the Securities Exchange Act of 1934, 15 U.S.C. § ~~78(o)(2)~~ 78(h)(2).

Sec. 4. Section 502.410, subsection 2, Code 2007, is amended to read as follows:

2. AGENTS. The fee for an individual is ~~thirty~~ forty dollars when filing an application for registration as an agent, a fee of ~~thirty~~ forty dollars when filing a renewal of registration as an agent, and a fee of ~~thirty~~ forty dollars when filing for a change of registration as an agent. Of each forty-dollar fee collected, ten dollars is appropriated to the securities investor education and financial literacy training fund established under section 502.601, subsection 5. If the filing results in a denial or withdrawal, the administrator shall retain the fee.

Sec. 5. Section 502.601, subsection 4, Code 2007, is amended to read as follows:

4. INVESTOR EDUCATION AND FINANCIAL LITERACY. The administrator may develop and implement investor education and financial literacy initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the administrator may collaborate with public and nonprofit organizations with an interest in investor education and financial literacy. The administrator may accept a grant or donation from a person ~~that~~ who is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education and financial literacy initiatives. This subsection does not authorize the administrator to require participation or monetary contributions of a registrant in an investor education or financial literacy program.

Sec. 6. Section 502.601, subsection 5, Code 2007, is amended to read as follows:

5. THE SECURITIES INVESTOR EDUCATION AND FINANCIAL LITERACY TRAINING FUND. A securities investor education and financial literacy training fund is created in the state treasury under the control of the administrator to provide moneys for the purposes specified in subsection 4. All moneys received by the state by reason of civil penalties pursuant to this chapter and the moneys appropriated to the fund pursuant to section 502.410, subsection 2, shall be deposited in the securities investor education and financial literacy training fund. Notwithstanding section 12C.7, interest or earnings on moneys deposited into the fund shall be credited to the fund. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining in the fund shall not revert but shall be available for expenditure for the following fiscal year. However, if, on June 30, unencumbered or unobligated moneys remaining in the fund exceed ~~two~~ five hundred thousand dollars, moneys in excess of that amount shall revert to the general fund of the state in the same manner as provided in section 8.33.

Sec. 7. Section 505.8, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. a. The commissioner shall establish a bureau, to be known as the "consumer advocate bureau", which shall be responsible for ensuring fair treatment of consumers by persons in the business of insurance and for preventing unfair or deceptive trade practices in the insurance marketplace.

b. The commissioner, with the advice of the governor, shall appoint a consumer advocate who shall be knowledgeable in the area of insurance and particularly in the area of consumer protection.

c. The consumer advocate bureau shall receive and may investigate consumer complaints and inquiries from the public, and shall conduct investigations to determine whether any person has violated any provision of the insurance code, including chapters 507B and 522B, and any provisions related to the establishment of insurance rates.

d. When necessary or appropriate to protect the public interest or consumers, the consumer advocate may request that the commissioner conduct administrative hearings as provided in section 505.29.

e. The consumer advocate bureau shall perform other functions as may be assigned to it by the commissioner related to consumer advocacy.

f. The consumer advocate bureau shall work in conjunction with other areas of the insur-

ance division on matters of mutual interest. The insurance division shall cooperate with the consumer advocate in fulfilling the duties of the consumer advocate bureau. The consumer advocate may also seek assistance from other federal or state agencies or private entities for the purpose of assisting consumers.

g. The commissioner, in cooperation with the consumer advocate, shall prepare and deliver a report to the general assembly by January 15 of each year that contains findings and recommendations regarding the activities of the consumer advocate bureau including but not limited to all of the following:

(1) An overview of the functions of the bureau.

(2) The structure of the bureau including the number and type of staff positions.

(3) Statistics showing the number of complaints handled by the bureau, the nature of the complaints including the line of business involved and their disposition, and the disposition of similar issues in other states.

(4) Actions commenced by the consumer advocate.

(5) Studies performed by the consumer advocate.

(6) Educational and outreach efforts of the consumer advocate bureau.

(7) Recommendations from the commissioner and the consumer advocate about additional consumer protection functions that would be appropriate and useful for the bureau or the insurance division to fulfill based on observations and analysis of trends in complaints and information derived from national or other sources.

(8) Recommendations from the commissioner and the consumer advocate about any needs for additional funding, staffing, legislation, or administrative rules.

Sec. 8. Section 505.8, subsection 6, Code Supplement 2007, is amended to read as follows:

6. a. Notwithstanding chapter 22, the commissioner shall keep confidential the information submitted to the insurance division or obtained by the insurance division in the course of an investigation or inquiry pursuant to subsection 5A, including all notes, work papers, or other documents related to the investigation. Information obtained by the commissioner in the course of investigating a complaint or inquiry may, in the discretion of the commissioner, be provided to the insurance company or insurance producer that is the subject of the complaint or inquiry, to the consumer who filed the complaint or inquiry, and to the individual insured who is the subject of the complaint or inquiry, without waiving the confidentiality afforded to the commissioner or to other persons by this subsection. The commissioner may disclose or release information that is otherwise confidential under this subsection, in the course of an administrative or judicial proceeding.

~~a.~~ b. Notwithstanding chapter 22, the commissioner shall keep confidential both information obtained ~~in the course of an investigation and information~~ by or submitted to the insurance division pursuant to chapters 514J and 515D.

~~b.~~ c. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

~~c.~~ d. ~~However, notwithstanding~~ Notwithstanding paragraphs "a", ~~and~~ "b", and "c", if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter. Such information may be redacted so that personally identifiable information is not made available.

~~d.~~ e. The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.

Sec. 9. Section 505.8, subsection 10, Code Supplement 2007, is amended to read as follows:

10. For the purpose of an investigation made under any chapter of this subtitle, the commissioner or the commissioner's designee may administer oaths and affirmations, subpoena witnesses, seek compulsory attendance, take evidence, require the filing of statements, and require the production of any records that the commissioner considers relevant or material to

the investigation, pursuant to rules adopted under chapter 17A. The confidentiality provisions of subsection 6, shall apply to information and material obtained pursuant to this subsection.

Sec. 10. Section 505.15, Code 2007, is amended to read as follows:

505.15 ACTUARIAL, PROFESSIONAL, AND SPECIALIST STAFF.

1. The commissioner may appoint a staff of actuaries as necessary to carry out the duties of the division. The actuarial staff shall do all of the following:

~~1.~~ a. Perform analyses of rate filings.

~~2.~~ b. Perform audits of submitted loss data.

~~3.~~ c. Conduct rate hearings and serve as expert witnesses.

~~4.~~ d. Prepare, review, and dispense data on the insurance business.

~~5.~~ e. Assist in public education concerning the insurance business.

~~6.~~ f. Identify any impending problem areas in the insurance business.

~~7.~~ g. Assist in examinations of insurance companies.

2. The commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals or specialists to assist the division in carrying out its duties in regard to rate filing reviews. The reasonable cost of retaining such professionals and specialists shall be borne by the insurer which is the subject of the rate filing review.

Sec. 11. Section 507.4, Code 2007, is amended to read as follows:

507.4 EXAMINERS — SALARIES.

1. The commissioner of insurance ~~is hereby authorized to~~ may appoint insurance examiners, at least one of whom shall be an experienced actuary, and at least one of whom shall be an experienced and competent fire insurance accountant, and who, while conducting examinations, shall possess all the powers conferred upon the commissioner of insurance for such purposes. The entire time of the examiners shall be under the control of the ~~said~~ commissioner, and shall be employed as the commissioner may direct.

2. The ~~said~~ commissioner may, when in the commissioner's judgment it is advisable, appoint assistants to aid in ~~making~~ conducting examinations. ~~Said examiners shall be compensated on the basis of the normal workweek of the insurance division at a salary to be fixed by the commissioner subject, however, to the provisions of section 505.14.~~ The commissioner shall employ rates of compensation consistent with current standards in the industry for certified public accountants, attorneys, and skilled insurance examiners. The commissioner may use compensation rates suggested by the national association of insurance commissioners. Insurance examiners employed under this section shall be exempt from the merit system provisions of chapter 8A, subchapter IV, under section 8A.412, subsection 17. ~~Said compensation~~ Compensation shall be paid from appropriations for such purposes upon certification of the commissioner, which shall be reimbursed as provided in sections 507.8 and 507.9.

Sec. 12. Section 507B.3, Code 2007, is amended to read as follows:

507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

~~1.~~ A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

~~2. The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this section. The commissioner shall keep confidential the information submitted to the insurance division, or obtained by the insurance division in the course of an investigation pursuant to section 505.8, subsection 6.~~

~~3. Information obtained by the commissioner in the course of investigating a consumer complaint may, in the discretion of the commissioner, be provided to the insurance company or insurance producer which is the subject of the complaint or to the consumer who filed the complaint or the individual insured who is the subject of the complaint without waiving the confidentiality afforded by this section to the commissioner or other persons.~~

Sec. 13. Section 507E.6, Code 2007, is amended to read as follows:

507E.6 DUTIES OF INSURER.

An insurer which believes that a claim or application for insurance coverage is being made which is a violation of section 507E.3 shall provide, within sixty days of the receipt of such claim or application, written notification to the bureau of the claim or application on a form prescribed by the bureau, including any additional information requested by the bureau related to the claim or application or the party making the claim or application. The fraud bureau shall review each notification and determine whether further investigation is warranted. If the bureau determines that further investigation is warranted, the bureau shall conduct an independent investigation of the facts surrounding the claim or application for insurance coverage to determine the extent, if any, to which fraud occurred in the submission of the claim or application. The bureau shall report any alleged violation of law disclosed by the investigation to the appropriate licensing agency or prosecuting authority having jurisdiction with respect to such violation.

Sec. 14. Section 508C.3, subsection 2, Code 2007, is amended to read as follows:

2. This chapter shall provide coverage to the persons specified in subsection 1 under direct life insurance policies, health insurance policies including long-term care insurance and disability insurance policies, annuity contracts, supplemental contracts, certificates under group policies or contracts, and unallocated annuity contracts issued by member insurers.

Sec. 15. Section 508C.6, subsection 1, paragraphs c and d, Code 2007, are amended to read as follows:

c. An annuity account. A plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code shall be covered by the annuity account.

d. An unallocated annuity contract account, excluding plans established under section 401, 403(b), or 457 of the United States Internal Revenue Code.

Sec. 16. Section 508C.8, subsection 8, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

8. a. The benefits that the association may become obligated to cover shall in no event exceed the lesser of either of the following:

(1) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer.

(2) Any of the following:

(a) With respect to one life, regardless of the number of policies or contracts:

(i) Three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values for life insurance, or three hundred fifty thousand dollars in the aggregate.

(ii) Three hundred thousand dollars for health insurance benefits including any net cash surrender and net cash withdrawal values.

(iii) Two hundred fifty thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values.

(b) (i) With respect to each individual benefit plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, or each unallocated annuity contract account, excluding a plan established under section 401, 403(b), or 457 of the United States Internal Revenue Code, not more than two hundred fifty thousand dollars in the aggregate, in present value annuity benefits, including net cash surrender and net cash withdrawal values for the beneficiaries of the deceased individual.

(ii) However, the association shall not in any event be obligated to cover more than an aggregate of three hundred fifty thousand dollars in benefits with respect to any one life under subparagraph subdivision (a) and this subparagraph subdivision (b), or more than five million dollars in benefits to one owner of multiple nongroup policies of life insurance regardless of whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, and regardless of the number of policies and contracts held by the owner.

(c) With respect to a plan sponsor whose plan owns, directly or in trust, one or more unallocated annuity contracts not included under subparagraph subdivision (b), not more than five million dollars in benefits, regardless of the number of contracts held by the plan sponsor. However, where one or more such unallocated annuity contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of two or more plan sponsors, the association shall provide coverage if the largest interest in the trust or entity owning the contract is held by a plan sponsor whose principal place of business is in the state but in no event shall the association be obligated to cover more than five million dollars in benefits in the aggregate with respect to all such unallocated contracts.

b. The limitations on the association's obligation to cover benefits that are set forth under this subsection do not take into account the association's subrogation and assignment rights or the extent to which such benefits could be provided out of the assets of the impaired or insolvent insurer that are attributable to covered policies. The association's obligations under this chapter may be met by the use of assets attributable to covered policies or reimbursed to the association pursuant to the association's subrogation and assignment rights.

Sec. 17. Section 508C.8, subsection 9, Code 2007, is amended to read as follows:

9. The association has no obligation ~~for either of the following:~~

~~a. To continue coverage, or to pay a claim for benefits to any person under an individual accident, health, or disability policy accruing more than three years following the date the member insurer is adjudicated to be insolvent.~~

~~b. To~~ to issue a group conversion policy of any nature to a person or to continue a group coverage in force for more than sixty days following the date the member insurer was adjudicated to be insolvent.

Sec. 18. NEW SECTION. 508E.5 PUBLIC RECORDS.

All information filed with the commissioner pursuant to the requirements of this chapter and its implementing rules shall constitute a public record that is open for public inspection.[1]

Sec. 19. Section 510.5, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. Separate records of business written by a managing general agent shall be maintained. An insurer shall have access and a right to copy all accounts and records related to the insurer's business in a form usable by the insurer and the commissioner shall have access to all books, bank accounts, and records of a managing general agent in a form usable by the commissioner. Such records shall be retained at least until after completion by the insurance division of the next ~~triennial~~ examination of the insurer.

Sec. 20. Section 511.8, subsection 6, paragraph a, subparagraph (2), unnumbered paragraph 1, Code 2007, is amended to read as follows:

The net earnings available for fixed charges and preferred dividends of the issuing corporation shall have been, for each of the five fiscal years immediately preceding the date of acquisition, not less than one and one-half times the sum of the annual fixed charges and contingent interest, if any, and the annual preferred dividend requirements as of the date of acquisition; or at the date of acquisition the preferred stock has investment qualities and characteristics wherein speculative elements are not predominant.

[1] See chapter 1191, §135 herein

Sec. 21. Section 511.8, subsection 9, paragraphs a, b, c, e, and g, Code 2007, are amended to read as follows:

a. (1) Bonds, notes, obligations, or other evidences of indebtedness secured by mortgages or deeds of trust which are a first or second lien upon otherwise unencumbered real property and appurtenances thereto within the United States of America, or any insular or territorial possession of the United States, or the Dominion of Canada, and upon leasehold estates in real property where fifty years or more of the term including renewals is unexpired, provided that at the date of acquisition the total indebtedness secured by the first or second lien shall not exceed ninety percent of the value of the property upon which it is a lien. However, a company or organization shall not acquire an indebtedness secured by a first or second lien upon a single parcel of real property, or upon a leasehold interest in a single parcel of real property, in excess of two percent of its legal reserve. These limitations do not apply to obligations described in paragraphs "b", "c", "d", "e", ~~and~~ "f", and "g" of this subsection.

(2) Improvements and appurtenances to real property shall not be considered in estimating the value of the property unless the owner contracts to keep the property adequately insured during the life of the loan in some reliable fire insurance companies, or associations, the insurance to be made payable in case of loss to the mortgagee, trustee, or assignee as its interest appears at the time of the loss.

(3) For the purpose of this subsection a mortgage or deed of trust is not other than a first or second lien upon property by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights of way, joint driveways, sewer rights, rights in walls or by reason of building restrictions or other like restrictive covenants, or when the real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner.

b. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed, or insured, in accordance with the terms and provisions of an Act of Congress of the United States of America approved June 27, 1934, entitled the "National Housing Act", 48 Stat. 1246, 12 U.S.C. § 1701, et seq., as ~~heretofore and hereafter~~ amended to and including January 1, 2008, or of an Act of Congress of the United States of America approved July 24, 1970, entitled the "Federal Home Loan Mortgage Corporation Act", 84 Stat. 451, 12 U.S.C. § 1451, et seq., as amended to and including January 1, 2008.

c. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with the terms and provisions of Title III of an Act of Congress of the United States of America approved June 22, 1944, known as Public Law 346, Pub. L. No. 78-268, cited as the "Servicemen's Readjustment Act of 1944", 58 Stat. 284, recodified at 72 Stat. 1105, 1273, 38 U.S.C. § 3701, et seq., as ~~heretofore and hereafter~~ amended to and including January 1, 2008.

e. Bonds, notes, or other evidences of indebtedness representing loans and advances of credit that have been issued or guaranteed, in whole or in part, in accordance with Title I of the Bankhead-Jones Farm Tenant Act, an Act of the Congress of the United States, cited as the "Farmers Home Administration Act of 1946", 60 Stat. 1062, as ~~heretofore or hereafter~~ amended to and including the effective date or dates of its repeal as set forth in 76 Stat. 318, or with Title III of an Act of Congress of the United States of America approved August 8, 1961, entitled the "Consolidated Farm and Rural Development Act", 75 Stat. 307, 7 U.S.C. § 1921, et seq., as amended to and including January 1, 2008.

g. Bonds, notes or other evidences of indebtedness representing loans and advances of credit that have been issued, guaranteed, or insured, in accordance with the terms and provisions of an Act of the federal Parliament of the Dominion of Canada ~~approved March 18, 1954~~, cited as the "National Housing ~~Act, 1954"~~ Act", R.S.C. 1985, c. N-11 as ~~heretofore and hereafter~~ amended to and including January 1, 2008.

Sec. 22. Section 511.8, subsection 22, paragraph a, Code 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) "United States government-sponsored enterprise" means the

federal national mortgage corporation under 12 U.S.C. § 1716-23i of the National Housing Act and the federal home loan marketing association under the Federal Home Loan Mortgage Act, 12 U.S.C. § 1451-59.

Sec. 23. Section 511.8, subsection 22, paragraphs c, d, and e, Code 2007, are amended to read as follows:

c. Investments in financial instruments used in hedging transactions are not eligible in excess of two percent of the legal reserve in the financial instruments of any one corporation, less any securities of that corporation owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash, ~~or~~ United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant, which are 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 that section are instituted.

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, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant, which are 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 that section are instituted.

e. (1) Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions shall be included in the limitation contained in subsection 19 that allows only twenty percent of the legal reserve of the company or association to be invested in such foreign investments, except insofar as the financial instruments are collateralized by cash, ~~or~~ United States government obligations as authorized by subsection 1, or obligations of or guaranteed by a United States government-sponsored enterprise which on the date they are pledged as collateral are adequately secured and have investment qualities and characteristics wherein the speculative elements are not predominant, which are 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 that section are instituted.

(2) This paragraph "e" does not authorize the inclusion of financial instruments used in hedging transactions in an insurer's legal reserve that are in excess of the eligibility limitation provided in paragraph "d" unless the financial instruments are collateralized as provided in this paragraph "e".

Sec. 24. NEW SECTION. 514B.17A RECISION.

1. A health maintenance organization may rescind an enrollee's membership in the health maintenance organization if the enrollee makes a material false statement or misrepresentation in the enrollee's application for membership. A written notice of recision shall be sent to the enrollee by certified mail addressed to the enrollee and sent to the enrollee's last address

known to the health maintenance organization and shall state the reason for the recision. The enrollee may appeal the recision to the commissioner as provided by the commissioner by rules adopted under chapter 17A.

2. An enrollee's membership in a health maintenance organization shall not be rescinded as provided in subsection 1 more than two years after the date of the enrollee's enrollment in the health maintenance organization.

Sec. 25. Section 514E.1, subsection 12, paragraph a, Code 2007, is amended to read as follows:

a. "Health insurance coverage" means health insurance coverage offered to individuals, including group conversion coverage.

Sec. 26. Section 514E.1, subsection 14, Code 2007, is amended to read as follows:

14. "Involuntary termination" includes~~,~~ but is not limited to~~,~~ termination of group conversion coverage ~~when a conversion policy is not available~~ or where benefits under a state or federal law providing for continuation of coverage upon termination of employment will cease or have ceased.

Sec. 27. Section 514E.7, subsection 4, paragraph c, subparagraph (2), Code 2007, is amended to read as follows:

(2) The applicant is not eligible for continuation ~~or conversion~~ rights that would provide coverage substantially similar to plan coverage.

Sec. 28. NEW SECTION. 514F.6 CREDENTIALING — RETROSPECTIVE PAYMENT.

The commissioner shall adopt rules to provide for the retrospective payment of clean claims for covered services provided by a physician during the credentialing period, once the physician is credentialed. For purposes of this section, "physician" means a licensed doctor of medicine and surgery or a licensed doctor of osteopathic medicine and surgery, and "credentialing period" means the time period between the health insurer's receipt of a physician's application for credentialing and approval of that application by the health insurer. "Credentialing" means a process through which a health insurer makes a determination based on criteria established by the health insurer concerning whether a physician is eligible to provide health care services to an insured and to receive reimbursement for the health care services provided under an agreement entered into between the physician and the health insurer. "Clean claim" means the same as defined in section 507B.4A, subsection 2, paragraph "b".

Sec. 29. Section 515A.2, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. "Schedule rating plan" means a rating plan by which an insurer increases or decreases workers' compensation rates to reflect the individual risk characteristics of the subject of the insurance.

Sec. 30. Section 515A.3, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. Due consideration shall be given to past and prospective loss experience within and outside this state, to ~~the conflagration and~~ catastrophe hazards, to a reasonable margin for underwriting profit and contingencies, to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state~~; and in the case of fire insurance rates consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available~~.

Sec. 31. Section 515A.4, Code 2007, is amended to read as follows:

515A.4 RATE FILINGS.

1. a. Every insurer shall file with the commissioner~~, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans,~~

every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

b. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of this chapter, the commissioner shall require such insurer to furnish the information upon which it supports such filing and in such event the waiting period shall commence as of the date such information is furnished. Until the required information is furnished, the filing shall not be deemed complete or available for use by the insurer.

c. The information furnished in support of a filing may include the experience or judgment of the insurer or rating organization making the filing, its interpretation of any statistical data it relies upon, the experience of other insurers or rating organizations, or any other relevant factors. ~~A~~ When a filing is deemed complete, the filing and any supporting information shall be open to public inspection ~~upon filing~~. ~~Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.~~

2. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf; provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

3. The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

4. ~~Subject to the exception specified in subsection 5 of this section, each~~ Each complete filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives written notice within the waiting period to the insurer or rating organization which made the filing that the commissioner needs additional time for the consideration of the filing. Upon written application by the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension of the period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner ~~within thirty days of receipt by the commissioner~~ before the expiration of the waiting period or an extension of the waiting period.

~~5. Specific inland marine rates on risks specially rated by a rating organization, or any specific filing with respect to a surety or guaranty bond required by law or by court or executive order, rule or regulation of a public body and not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this chapter until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.~~

~~6.~~ 5. Under such rules and regulations as the commissioner shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such order, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in paragraph "b" of subsection 1 of section 515A.3.

~~7.~~ 6. Upon the written application of the insured, stating the insured's reasons therefor, filed with and approved by the commissioner a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

~~8.~~ 7. No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for ~~said~~ the insurer as provided in this chapter or in accordance with ~~subsections 6~~ subsection 5 or ~~7 of this section~~ 6. ~~This subsection shall not apply to contracts or policies for inland marine risks as to which filings are not required.~~

~~9.~~ 8. If a hearing is requested pursuant to section 515A.6, subsection 7, a filing shall not take effect until thirty days after formal approval is given by the commissioner.

Sec. 32. Section 515A.5, Code 2007, is amended to read as follows:

515A.5 DISAPPROVAL OF FILINGS.

1. If within the waiting period or any extension thereof as provided in subsection 4 of section 515A.4, the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall send to the insurer or rating organization which made such filing, written notice in a printed or electronic format of disapproval of such filing specifying therein in what respects the commissioner finds such filing fails to meet the requirements of this chapter and stating that such filing shall not become effective.

~~2. If within thirty days after a specific inland marine rate on a risk especially rated by a rating organization subject to subsection 5 of section 515A.4 has become effective or, if within thirty days after a special surety or guaranty filing subject to subsection 5 of section 515A.4 has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, the commissioner shall send to the rating organization or insurer which made such filing written notice of disapproval of such filing specifying therein in what respects the commissioner finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.~~

~~3.~~ 2. ~~If at~~ At any time subsequent to the applicable review period provided for in subsection 1 ~~or 2 of this section~~, the commissioner ~~finds that a filing does not meet the requirements of this chapter, the~~ may hold a hearing to determine whether a filing meets the requirements of this chapter. The commissioner shall~~, after~~ provide notice of a hearing ~~held upon~~ not less than ten ~~days' written notice, specifying the matters to be considered at such hearing,~~ days prior to the hearing to every insurer and rating organization which made ~~such~~ the filing, specifying the matters to be considered at the hearing. If the commissioner finds that a filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the commissioner finds that ~~such~~ the filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, ~~such~~ the filing shall be deemed no longer effective. Copies of ~~said~~ the order shall be sent to every ~~such~~ insurer and rating organization which made the filing. ~~Said~~ The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in ~~said~~ the order.

~~4.~~ 3. a. Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, provided, however, that the insurer or rating organization that made or uses the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant and such application must show that the person or organization making such application has a specific economic interest affected by the filing. If the commissioner ~~shall find~~ finds that the application is made in good faith, that the applicant has a specific economic interest, that the applicant would be so aggrieved if the applicant's grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall within thirty days after receipt of such application hold a hearing, upon not less than ten days' written notice to the applicant and to every insurer and rating organization which made ~~such~~ the filing. No rating or advisory organization shall have any status under this chapter to make application for a hearing on any filing made by an insurer with the commissioner.

b. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this chapter, the commissioner shall issue an order specifying in what respects the commissioner finds that such filing fails to meet the requirements of this chapter, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of ~~said~~ the order shall be sent to the applicant and to every such insurer and rating organization. ~~Said~~ The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in ~~said~~ the order.

~~5.~~ 4. No filing shall be disapproved if the rates thereby produced meet the requirements of this chapter.

Sec. 33. Section 515A.6, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for ~~said~~ the license shall be ~~twenty-five~~ one hundred dollars.

Sec. 34. Section 515A.6, subsection 7, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The commissioner shall provide notice of the filing of the proposed rates at least thirty days before the effective date of the proposed rates by publishing a notice ~~in the Iowa administrative bulletin~~ on the internet web site of the insurance division of the department of commerce.

Sec. 35. Section 515A.6, subsection 7, Code Supplement 2007, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. Absent a request for a hearing as provided in paragraph "b", the commissioner shall issue an order approving or disapproving the proposed rates.

NEW PARAGRAPH. h. The waiting period for a workers' compensation insurance rate filing shall commence no earlier than the date that notice of the insurance rate filing is published.

Sec. 36. Section 515A.7, Code 2007, is amended to read as follows:

515A.7 UNIFORM RATING PLANS AND DEVIATIONS.

1. a. Every ~~member of or subscriber to a rating organization~~ insurer shall adhere to the filings made on its behalf by ~~such~~ a rating organization except that any such insurer may ~~make written application to the commissioner to~~ file a deviation from the class rates, schedules, rating plans, or rules ~~respecting any kind of insurance, or class of risk within a kind of insurance~~, or a combination thereof for approval by the commissioner. ~~Such application~~ The deviation filed shall specify the basis for the modification and a copy shall also be sent simultaneously to such rating organization. In considering the ~~application to file such~~ deviation filed, the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 515A.3. The commissioner shall ~~issue an order permitting~~ approve the deviation filed for such insurer ~~to be filed~~ if the commissioner finds it to be justified and it shall thereupon become effective. The commissioner shall ~~issue an order denying such application~~ disapprove the deviation filed if the commissioner finds that the deviation ~~applied for~~ does not meet the requirements of this chapter.

~~Each deviation permitted to be filed shall remain in effect for a period of not less than one year from the effective date unless sooner withdrawn by the insurer with the approval of the commissioner or until terminated in accordance with the provisions of section 515A.5.~~

b. A deviation may be filed for approval by the commissioner as follows:

(1) An insurer may file for approval by the commissioner of a uniform percentage rate deviation to be applied to the class rates of the rating organization's filing subject to limitations as set forth by the commissioner by rule. A rate deviation from the approved class rates of a rating organization shall not cause the rate charged a policyholder to exceed the approved assigned risk rates.

(2) A rating organization or insurer may offer retrospective plans in policies which generate at least one hundred thousand dollars in annual countrywide premiums on workers' compensation liability insurance.

(3) An insurer may offer large deductible programs on policies which generate at least one hundred thousand dollars in annual countrywide premiums on workers' compensation liability insurance. The minimum large deductible which may be offered is twenty-five thousand dollars, which may be applied to indemnity and medical losses.

(4) An insurer may offer small deductible programs with deductibles in a range of up to ten thousand dollars and which apply only to medical losses. Losses shall be reported on a net basis in accordance with the statistical plan filed by a rating organization.

(5) An insurer may adopt a scheduled or rating plan providing for credits or debits in an amount not exceeding the maximum modification allowed as set forth by the commissioner by rule. This amount shall be in addition to the permitted deviations set forth in subparagraphs (1) through (4).

(6) The commissioner may authorize other types of deviations by rule when there is no approved rate, schedule, rating plan, or rule applicable to the deviation filed, on file with the insurance division for a rating organization.

2. The commissioner may adopt rules pursuant to chapter 17A to limit deviations and maximum schedule or rating plan modifications.

3. All dividends shall be paid based upon loss sensitivity. Dividends are deemed a return of profit to insureds. Accordingly, dividends shall not be guaranteed by an insurer without regard to profits. Dividends may be offered in conjunction with deviated rates or with scheduled rates or in combination therewith. For the purposes of this subsection, "loss sensitivity" means the profitability of the policyholder individually or as a member of a homogenous group.

Sec. 37. Section 515A.8, Code 2007, is amended to read as follows:

515A.8 APPEAL BY ~~MINORITY~~ MEMBER OR SUBSCRIBER.

1. Any member or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten days' written notice to the appellant, and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, the commissioner may, in the event the commissioner finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with the findings, within a reasonable time after the issuance of such order.

2. If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber, which is based on a system of expense provisions which differs, in accordance with the right granted in paragraph "c" of subsection 1 of section 515A.3, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if the commissioner grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 515A.3.

Sec. 38. Section 515A.13, Code 2007, is amended to read as follows:

515A.13 RATE ADMINISTRATION.

1. ~~RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE.~~ The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with the commissioner, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid the commissioner in determining whether rating systems comply with the standards set forth in section 515A.3. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be re-

quired to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

2. ~~INTERCHANGE OF RATING PLAN DATA.~~ Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

3. ~~CONSULTATION WITH OTHER STATES.~~ In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

4. ~~RULES AND REGULATIONS.~~ The commissioner may make reasonable rules necessary to effect the purposes of this chapter.

5. ~~PROHIBITED RELEASE.~~ A person other than the commissioner or the commissioner's designee shall not release to another person, other than to the servicing insurer of the policy or to the commissioner or the commissioner's designee, experience, payroll, loss data, expiration date of a policy, or classification information without the prior written approval of the policyholder. A violation of this section shall be considered an unfair trade practice pursuant to chapter 507B.

Sec. 39. Section 515A.17, Code 2007, is amended to read as follows:

515A.17 PENALTIES.

1. The commissioner may, if the commissioner finds that any person or organization has violated any provision of this chapter, impose a penalty of not more than ~~fifty~~ one thousand dollars for each such violation, but if the commissioner finds such violation to be willful the commissioner may impose a penalty of not more than five ~~hundred~~ thousand dollars for each such violation. Such penalties may be in addition to any other penalty provided by law.

2. The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded, or reversed.

3. ~~No~~ A penalty shall not be imposed and ~~no~~ a license shall not be suspended or revoked except upon a written order of the commissioner, stating the commissioner's findings, made after a hearing held upon not less than ten days' written notice to such person or organization specifying the alleged violation.

Sec. 40. NEW SECTION. 515A.19A RULES.

The commissioner may adopt rules pursuant to chapter 17A as necessary and convenient to administer this chapter.

Sec. 41. Section 521.16, Code 2007, is amended to read as follows:

521.16 APPLICABILITY OF SECTION 521A.3.

~~The~~ For an insurer subject to chapter 521A, the provisions of section 521A.3 shall also be applicable to a merger or consolidation subject to this chapter. As used in this section, "insurer" means the same as defined in section 521A.1.

Sec. 42. Section 522B.11, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. r. Using an insurance producer's license for the principal purpose of

procuring, receiving, or forwarding applications for insurance of any kind, or placing, or effecting such insurance directly or indirectly upon or in connection with the property of the licensee or the property of a relative, employer, or employee of the licensee, or upon or in connection with property for which the licensee or a relative, employer, or employee of the licensee is an agent, custodian, vendor, bailee, trustee, or payee.

Sec. 43. Section 523A.206, subsection 5, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

a. The refusal of a seller, by its officers, directors, employees, or agents, to submit to an examination or to comply with a reasonable written request of an examiner shall constitute grounds for the suspension, revocation, or ~~nonrenewal of~~ denial of an application to renew any license held by the seller to engage in business subject to the commissioner's jurisdiction.

b. If a seller declines or refuses to submit to an examination as provided in this chapter, the commissioner shall immediately suspend, revoke, or ~~nonrenew~~ deny an application to renew any license held by the seller or business to engage in business subject to the commissioner's jurisdiction, and shall report the commissioner's action to the attorney general, who shall immediately apply to the district court for the appointment of a receiver to administer the final affairs of the seller.

Sec. 44. Section 523A.401, subsection 7, Code Supplement 2007, is amended to read as follows:

7. The seller of a purchase agreement subject to this chapter which is to be funded by insurance proceeds shall obtain all ~~permits~~ licenses required to be obtained and comply with all reporting requirements under this chapter. A parent company, provider, or seller shall not pledge, borrow from, or otherwise encumber an insurance policy funding a purchase agreement.

Sec. 45. Section 523A.402, subsection 7, Code Supplement 2007, is amended to read as follows:

7. The seller of a purchase agreement subject to this chapter which is to be funded by annuity proceeds shall obtain all ~~permits~~ licenses required to be obtained and comply with all reporting requirements under this chapter. A parent company, provider, or seller shall not pledge, borrow from, or otherwise encumber an annuity funding a purchase agreement.

Sec. 46. Section 523A.405, subsection 8, Code Supplement 2007, is amended to read as follows:

8. The amount of the surety bond shall equal eighty percent of the payments received pursuant to purchase agreements, or the applicable portion thereof, for cemetery merchandise, funeral merchandise, funeral services, or a combination thereof and the amount needed to adjust the amount of the surety bond for inflation as set by the commissioner based on the consumer price index. The seller shall review the amount of the surety bond no less than annually and shall increase the bond as necessary to reflect additional payments. The amount needed to adjust for inflation shall be added annually to the surety bond during the first quarter of the ~~establishment's~~ seller's fiscal year.

Sec. 47. Section 523A.501, subsection 3, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of ~~a commission order~~ an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller. The commissioner shall adopt rules pursuant to chapter 17A to implement this section.

The commissioner shall inform the applicant or licensee of the criminal history requirement and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees to provide a full set of fingerprints, in a form and manner prescribed by the ~~commission~~ commissioner. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

Sec. 48. Section 523A.501, subsection 4, Code Supplement 2007, is amended to read as follows:

4. The commissioner shall request and obtain a financial history for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of ~~a commission order~~ an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a preneed seller. "Financial history" means the record of a person's current loans, the date of a person's loans, the amount of the loans, the person's payment record on the loans, current liens against the person's property, and the person's most recent financial statement setting forth the assets, liabilities, and the net worth of the person.

Sec. 49. Section 523A.502, subsection 4, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

a. The commissioner shall request and obtain, notwithstanding section 692.2, subsection 5, criminal history data for any applicant for an initial license issued pursuant to this section, any applicant for reinstatement of a license issued pursuant to this section, or any licensee who is being monitored as a result of ~~a commission order~~ an order of the commissioner or agreement resolving an administrative disciplinary action, for the purpose of evaluating the applicant's or licensee's eligibility for licensure or suitability for continued practice as a sales agent. The commissioner shall adopt rules pursuant to chapter 17A to implement this section. The commissioner shall inform the applicant or licensee of the criminal history requirement and obtain a signed waiver from the applicant or licensee prior to submitting a criminal history data request.

b. A request for criminal history data shall be submitted to the department of public safety, division of criminal investigation, pursuant to section 692.2, subsection 1. The commissioner may also require such applicants or licensees, to provide a full set of fingerprints, in a form and manner prescribed by the ~~commission~~ commissioner. Such fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for a national criminal history check. The commissioner may authorize alternate methods or sources for obtaining criminal history record information. The commissioner may, in addition to any other fees, charge and collect such amounts as may be incurred by the commissioner, the department of public safety, or the federal bureau of investigation in obtaining criminal history information. Amounts collected shall be considered repayment receipts as defined in section 8.2.

Sec. 50. Section 523A.502, subsection 5, Code Supplement 2007, is amended to read as follows:

5. ~~The~~ A sales license shall be renewed every four years by filing the form prescribed by the commissioner under subsection 3, accompanied by a renewal fee in an amount set by the commissioner by rule.

Sec. 51. Section 523A.603, subsection 2, Code Supplement 2007, is amended to read as follows:

2. If a purchase agreement is funded by a surety bond, the purchaser shall receive a notice from the surety company that evidences coverage under the bond, the name of the purchaser or beneficiary, and the amount of coverage. If the purchase agreement is paid with a single payment, the purchaser shall receive notice of the surety bond within sixty days of making the payment. If the purchase agreement is being paid with multiple, periodic payments, the purchaser shall receive notice of the surety bond within sixty days of making the first payment and within sixty days of making the last payment. Compliance with this notice requirement does not require a seller to purchase individual surety bonds for each purchaser and beneficiary. A seller may file a single bond with the commissioner.

Sec. 52. Section 523A.807, subsection 3, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Payment of a civil penalty of not more than one thousand dollars for each violation, but not exceeding an aggregate of ten thousand dollars during any six-month period, except that if the commissioner finds that the person knew or reasonably should have known that the person was in violation of such provisions or rules adopted pursuant thereto, the penalty shall be not more than five thousand dollars for each violation, but not exceeding an aggregate of fifty thousand dollars during any six-month period. The commissioner shall assess the penalty on the employer of an individual and not on the individual, if the commissioner finds that the violations committed by the individual were directed, encouraged, condoned, ignored, or ratified by the individual's employer.

Sec. 53. Section 523A.901, subsection 9, paragraph a, subparagraph (2), subparagraph subdivision (d), Code Supplement 2007, is amended to read as follows:

(d) The creditor receiving the transfer was an officer, or an employee, attorney, or other person who was in fact in a position of comparable influence in the business of the seller to an officer whether or not the person held the position of an officer, owner, or other person, firm, corporation, association, or aggregation of persons with whom the seller did not deal at arm's length.

Sec. 54. Section 523I.102, subsection 8, Code Supplement 2007, is amended to read as follows:

8. "Commissioner" means the commissioner of insurance ~~or the commissioner's designee authorized in section 523A.801~~.

Sec. 55. Section 523I.201, subsection 1, Code Supplement 2007, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The commissioner ~~shall~~ may employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

Sec. 56. Section 508.30, Code 2007, is repealed.

Sec. 57. EFFECTIVE DATE. The section of this Act amending section 515A.7, Code 2007, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2008

CHAPTER 1124

TRANSPORTATION REGULATION, FIRE FIGHTER APPLICANTS, AND PETROLEUM UNDERGROUND STORAGE TANK FUND BONDS

H.F. 2651

AN ACT relating to policies for the administration of highways and the regulation of motor vehicles and to deposits made by a county to the secondary road fund, physical ability tests required for fire fighter applicants, and certain obligations guaranteed by highway funds including matters concerning utility facility relocation due to highway construction, the bid threshold for emergency highway repairs, providing for new collegiate motor vehicle registration plates and providing fees, the fee for replacement of special dealer registration plates, antique motor vehicle registration fees, used motor vehicle dealer education requirements, penalties for speeding violations committed in road work zones, access to persons with disabilities parking spaces for certain disabled veterans, and permits and fees for the movement of certain oversize or overweight vehicles, drinking driver courses offered at state correctional facilities, establishment of benefited secondary road services districts, and the defeasance of petroleum underground storage tank fund bonds, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 306.47 UTILITY FACILITIES RELOCATION POLICY.

It is the policy of the general assembly that a proactive, cooperative coordination between the department, local governments, private and public utility companies, and other affected parties is the most effective way to minimize costs, eliminate the need for utilities to relocate facilities, limit disruption of utility services related to federal, state, or local highway construction projects, and limit the potential need for relocation of utility facilities.

All potentially affected parties shall be invited to participate in development meetings at the design phase of a highway construction project to review plans, understand goals and objectives of the proposed project, and discuss options that would limit the impact of the construction on utility facilities and thereby minimize or even eliminate costs associated with utility facility relocation. All jurisdictions and other interested parties shall cooperate to discuss strategies and policies to utilize the Iowa one call system in the development of a highway construction project. Failure of the affected parties to respond or participate during the design phase shall not in any way affect the ability of the federal, state, or local agency to proceed with design and construction.

Sec. 2. Section 313.10, subsection 3, Code 2007, is amended to read as follows:

3. The necessary work can be done for less than ~~five hundred thousand~~ one million dollars.

Sec. 3. NEW SECTION. 314.29 DICK DRAKE WAY.

The highway currently known as the industrial connector in Muscatine shall be renamed "Dick Drake Way" in honor of Richard Drake, who served for thirty-six years as a member of the general assembly of the state of Iowa.

Sec. 4. Section 321.34, subsection 7, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Upon application and payment of the proper fees, the director may issue to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, motor truck, motor home, multipurpose vehicle, trailer over two thousand pounds, or travel trailer registered in this state, collegiate registration plates created pursuant to this subsection. Upon receipt of the collegiate registration plates, the applicant shall surrender the regular registration plates to the county treasurer.

Sec. 5. Section 321.34, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. COLLEGIATE PLATES — PRIVATE FOUR-YEAR COLLEGES AND UNIVERSITIES.

a. Upon application by a private four-year college or university located in this state and payment of the initial set-up costs for establishing the collegiate plate, the department, in consultation with the college or university, may design a special collegiate registration plate displaying the colors associated with the college or university.

b. Upon application and payment of the proper fees, the director may issue to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, motor truck, motor home, multipurpose vehicle, trailer over two thousand pounds, or travel trailer registered in this state, collegiate registration plates created pursuant to this subsection. The fee for the issuance of collegiate registration plates is twenty-five dollars, which fee is in addition to the regular annual registration fee for the vehicle. An applicant may obtain a personalized collegiate registration plate upon payment of the additional fee for a personalized plate as provided in subsection 5 in addition to the collegiate plate fee and the regular registration fee. The county treasurer shall validate collegiate registration plates issued under this subsection in the same manner as regular registration plates, upon payment of five dollars in addition to the regular annual registration fee. Upon receipt of the collegiate registration plates, the applicant shall surrender the regular registration plates to the county treasurer.

c. A personalized collegiate registration plate shall not be issued if its combination of alphanumeric characters are identical to those contained on a current personalized registration plate issued under subsection 5. However, the owner of a motor vehicle who has a personalized registration plate issued for the motor vehicle may, after proper application and payment of fees, be issued a collegiate registration plate containing the same alphanumeric characters as those on the personalized plate. Upon receipt of the collegiate registration plates, the owner shall surrender the personalized registration plates to the county treasurer.

Sec. 6. Section 321.42, subsection 1, Code 2007, is amended to read as follows:

1. If a registration card, plate, or pair of plates is lost or becomes illegible, the owner shall immediately apply for replacement. The fee for a replacement registration card ~~shall be~~ is three dollars. The fee for a replacement plate or pair of plates ~~shall be~~ other than a replacement of a special plate issued pursuant to section 321.60 is five dollars. The fee for replacement of a special plate issued pursuant to section 321.60 is forty dollars. When the owner has furnished information required by the department and paid the proper fee, a duplicate, substitute, or new registration card, plate, or pair of plates may be issued. The county treasurer or the department may waive the fee for a replacement plate if the plate is lost during a documented accident.

Sec. 7. Section 321.166, subsection 5, Code 2007,[1] is amended to read as follows:

5. There shall be a marked contrast between the color of the registration plates and the data which is required to be displayed on the registration plates. When a new series of registration plates is issued to replace a current series, the new registration plates shall be of a distinctively different color from the series which is replaced, except for collegiate registration plates issued under section 321.34, subsection 7 or 7A.

Sec. 8. Section 321.253, Code 2007, is amended to read as follows:

321.253 DEPARTMENT TO ERECT SIGNS.

1. The department shall place and maintain such traffic-control devices, conforming to its manual and specifications, upon all primary highways as it ~~shall deem~~ deems necessary to indicate and to carry out the provisions of this chapter or to regulate, warn, or guide traffic. Whenever practical, ~~said~~ the devices or signs shall be purchased from the director of the Iowa department of corrections.

2. The department shall post signs informing motorists of the penalties for speeding in a

[1] According to enrolled Act; the phrase "Code Supplement 2007" probably intended

road work zone and that the scheduled fine for committing ~~a~~ any other moving traffic violation in a road work zone is doubled.

Sec. 9. Section 321E.1, Code 2007, is amended to read as follows:

321E.1 PERMITS BY DEPARTMENT AND LOCAL AUTHORITIES.

1. The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 ~~to~~ through 321.466, but not to exceed the limitations imposed in this section and sections ~~321E.1 to~~ 321E.2 through 321E.15 except as provided in section 321E.29.

2. Vehicles permitted to transport indivisible loads may ~~exceed~~ do any of the following:

a. Exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load.

b. Move indivisible special mobile equipment which does not otherwise exceed the maximum dimensions and weights specified in sections 321.452 through 321.466 if the vehicle has an overall width not to exceed nine feet and all other conditions of the vehicle's permit are met.

3. Permits issued may be single-trip, multi-trip, or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority.

4. When in the judgment of the issuing authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits shall designate the days when and routes upon which loads and construction machinery may be moved within a county on other than primary roads.

5. Local authorities may allow persons requesting permits under this chapter to do so by means of a telephone or facsimile machine, authorizing payment for the permits to be made upon receipt of an invoice sent to the persons by the local authorities.

Sec. 10. Section 321E.7, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Notwithstanding subsections 1 and 2, a self-propelled implement of husbandry traveling under a permit issued pursuant to section 321E.8A may exceed the maximum axle loads prescribed under section 321.463 only when operated on a noninterstate highway in a county covered under the permit, provided the weight on any one axle does not exceed twenty-five thousand pounds, and provided the current and valid permit is carried in the vehicle. ~~For purposes of this subsection, "noninterstate highway" does not include a bridge.~~ However, a vehicle traveling under a permit issued pursuant to section 321E.8A is not exempt from posted weight limitations on bridges.

Sec. 11. Section 321E.8, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding any other provision of law to the contrary, cranes exceeding the maximum gross weight on any axle as prescribed in section 321.463 and used in the construction of alternative energy facilities may be moved with approval from the permit issuing authority.

Sec. 12. Section 321E.8A, subsection 1, Code Supplement 2007, is amended to read as follows:

1. A self-propelled implement of husbandry equipped with flotation tires that is designed to be loaded and operated in the field and used exclusively for the application of organic or inorganic plant food materials, agricultural limestone, or agricultural chemicals, and that, as

newly manufactured, exceeds the axle weight limits under section 321.463 when unloaded, may be operated on noninterstate highways~~, excluding bridges,~~ in a county pursuant to a permit issued by the department for travel within the county, provided the vehicle does not violate posted weight limitations on bridges. Prior to issuing a permit, the department shall collect a fee of six hundred dollars for each county in which the vehicle will be operated during the period of the permit beginning July 1 and ending June 30, provided that a permit shall not be issued for a vehicle for operation in more than ten counties and the total amount of fees collected for a vehicle for the period of the permit shall not exceed three thousand five hundred dollars. Moneys collected by the department on behalf of the counties in which the vehicle will be operated shall be allotted equally to those counties and deposited in the secondary road funds of those counties. A vehicle for which a permit is issued under this section shall be assigned a permit number that shall be displayed on the door of the vehicle in numbers that contrast sharply in color with the background on which the number is placed, be readily legible during daylight hours from a distance of fifty feet when the vehicle is stationary, and be maintained in a manner that retains the legibility. Only vehicles originally purchased or ordered prior to February 1, 2007, are eligible for a permit. New permits shall not be issued on or after July 1, 2007; however, a permit issued for a vehicle under this section prior to July 1, 2007, may be renewed for that vehicle annually upon payment of the appropriate county fees.

Sec. 13. Section 321E.9, subsection 3, Code 2007, is amended to read as follows:

3. Cranes~~,~~ exceeding the maximum gross weight on any axle as prescribed in section 321.463~~,~~ but not exceeding twenty-four thousand pounds~~,~~ may be moved in accordance with rules adopted pursuant to chapter 17A. Notwithstanding any other provision of law to the contrary, cranes exceeding the maximum gross weight on any axle as prescribed in section 321.463 and used in the construction of alternative energy facilities may be moved with approval from the permit issuing authority.

Sec. 14. NEW SECTION. 321E.9B SPECIAL ALTERNATIVE ENERGY MULTITRIP PERMIT.

Subject to the discretion and judgment provided for in section 321E.1, a multitrip permit shall be issued for operation of vehicles in accordance with the following provisions:

1. Vehicles with an indivisible load having an overall length not to exceed two hundred twenty-five feet, an overall width not to exceed sixteen feet, a height not to exceed sixteen feet, and a total gross weight not to exceed two hundred fifty-six thousand pounds may be moved on highways specified by the permitting authority to an alternative energy construction site or staging area for alternative energy transportation, provided the gross weight on any one axle shall not exceed twenty thousand pounds.

2. The special alternative energy multitrip permit shall not exceed twelve months in duration.

3. The permitting authority shall have discretion to include restrictions and require special considerations, such as responsibility for protection or repair of the roadway and bridges, prior to issuance of the permit.

Sec. 15. Section 321E.14, unnumbered paragraph 1, Code 2007, is amended to read as follows:

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, 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~~ multitrip permit issued under section 321E.9A, a fee of six hundred dollars for a special alternative energy multitrip permit issued under section 321E.9B, 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 3, 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.

Sec. 16. Section 321J.22, subsections 2, 4, and 5, Code 2007, are amended to read as follows:

2. a. The course provided according to this section shall be offered on a regular basis at each community college as defined in section 260C.2, or by substance abuse treatment programs licensed under chapter 125, or may be offered at a state correctional facility listed in section 904.102. However, a community college shall not be required to offer the course if a substance abuse treatment program licensed under chapter 125 offers the course within the merged area served by the community college.

b. Enrollment in the courses is not limited to persons ordered to enroll, attend, and successfully complete the course required under sections 321J.2 and 321J.17, subsection 2. However, any person under age eighteen who is required to attend the courses for violation of section 321J.2 or 321J.17 must attend a course offered by a substance abuse treatment program licensed under chapter 125.

c. The course required by this section shall be:

(1) Taught by a community college under the supervision of the department of education or by a substance abuse treatment program licensed under chapter 125, and may be offered at a state correctional facility.

(2) Approved by the department of education, in consultation with the community colleges, ~~and~~ substance abuse treatment programs licensed under chapter 125, the department of public health, and the department of corrections.

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, or for classes offered at a state correctional facility, and for administrative expenses incurred by the department of education in implementing subsection 5 on behalf of in-state and out-of-state offenders.

e. A person shall not be denied enrollment in a course by reason of the person's indigency.

4. The department of education, ~~and~~ substance abuse treatment programs licensed under chapter 125, and state correctional facilities shall prepare for their respective courses a list of the locations of the courses taught under this section, the dates and times taught, the procedure for enrollment, and the schedule of course fees. The list shall be kept current and a copy of the list shall be sent to each court having jurisdiction over offenses provided in this chapter.

5. The department of education, ~~and~~ substance abuse treatment programs licensed under chapter 125, and state correctional facilities shall maintain enrollment, attendance, successful and nonsuccessful completion data for their respective courses on the persons ordered to enroll, attend, and successfully complete a course for drinking drivers. This data shall be forwarded to the court by ~~both~~ the department of education, ~~and~~ substance abuse treatment programs licensed under chapter 125, and the department of corrections.

Sec. 17. Section 321L.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A seriously disabled veteran who has been provided with an auto-

mobile or other vehicle by the United States government under the provisions of 38 U.S.C. § 1901 et seq. (1970) is not required to apply for a disabilities parking permit[2] under this section unless the veteran has been issued special registration plates or personalized plates for the vehicle. The regular registration plates issued for the disabled veteran's vehicle without fee pursuant to section 321.105 entitle the disabled veteran to all of the rights and privileges associated with persons with disabilities parking permits under this chapter.

Sec. 18. Section 322.7A, subsection 2, Code Supplement 2007, is amended to read as follows:

2. A person seeking renewal of a used motor vehicle dealer license shall complete a minimum of five hours of continuing education program courses over a two-year period pursuant to this section prior to submitting an application for license renewal. However, an applicant for renewal of a used motor vehicle dealer license who has met the prelicensing education requirement under subsection 1 within the preceding ~~twelve~~ twenty-four months is exempt from the continuing education requirement for license renewal.

Sec. 19. Section 331.382, subsection 8, unnumbered paragraph 2, Code 2007, is amended to read as follows:

However, the board may assume and exercise the powers and duties of a governing body under chapter 357, 357A, 357B, 358 or chapter 468, subchapter III, if a governing body established under one of those chapters has insufficient membership to perform its powers and duties, and the board, upon petition of the number of property owners within a proposed district and filing of a bond as provided in section 357A.2, may establish a service district within the unincorporated area of the county and exercise within the district the powers and duties granted in chapter 357, 357A, 357B, 357C, 357I, 358, 359, 384, division IV, or chapter 468, subchapter III.

Sec. 20. Section 331.429, subsection 1, paragraphs a and b, Code 2007, are amended to read as follows:

a. Transfers from the general fund not to exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county multiplied by the ratio of current taxes actually collected and apportioned for the general basic levy to the total general basic levy for the current year, and an amount equivalent to the moneys derived by the general fund from military service tax credits under chapter 426A, manufactured or mobile home taxes under section 435.22, and delinquent taxes for prior years collected and apportioned to the general basic fund in the current year, multiplied by the ratio of sixteen and seven-eighths cents to three dollars and fifty cents. The limit on transfers in this paragraph applies only to property tax revenue and is not a limit on transfers of revenue generated from sources other than property taxes.

b. Transfers from the rural services fund not to exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county multiplied by the ratio of current taxes actually collected and apportioned for the rural services basic levy to the total rural services basic levy for the current year and an amount equivalent to the moneys derived by the rural services fund from military service tax credits under chapter 426A, manufactured or mobile home taxes under section 435.22, and delinquent taxes for prior years collected and apportioned to the rural services basic fund in the current year, multiplied by the ratio of three dollars and three-eighths cents to three dollars and ninety-five cents. The limit on transfers in this paragraph applies only to property tax revenue and is not a limit on transfers of revenue generated from sources other than property taxes.

Sec. 21. NEW SECTION. 357I.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of supervisors of a county.

[2] According to enrolled Act; the phrase "persons with disabilities parking permit" probably intended

2. "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.

3. "District" means a benefited secondary road services district.

4. "Trustee" means a trustee of a district.

Sec. 22. NEW SECTION. 357I.2 PETITION FOR PUBLIC HEARING.

1. The board shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall include a statement containing the following information:

a. The need for secondary road services.

b. The district to be served.

c. The approximate number of families in the district.

d. A general description of the secondary road services to be provided in the district by the county.

2. The board may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

3. If part or all of the proposed district lies within two miles of the boundaries of a city, the board shall send a copy of the petition to each such city before scheduling the public hearing on the petition. A city that receives a copy of the petition may require that any road or street improvements and associated drainage improvements constructed within the district after establishment of the district be constructed in compliance with requirements for such improvements then in effect within the city. The city shall notify the board of the city's response to the petition within thirty days of receiving the petition. If the city wants requirements for road or street improvements and associated drainage improvements then in effect within the city to apply within the district, the requirements shall be included in the resolution of the board establishing the district and shall be incorporated into the plans and specifications for the improvements prepared by the district engineer or county engineer. The plans and specifications shall be subject to approval by the board and by the city council of each affected city, which approval must occur before commencement of construction. If costs for construction of improvements according to a city's standards exceed the costs for such construction according to county standards, the petitioner shall pay the difference in the costs.

Sec. 23. NEW SECTION. 357I.3 LIMITATION ON AREA AND PROPERTY COMPRISING DISTRICT.

1. A district is limited to property within a residential subdivision that was in existence prior to January 1, 2007, and that has received county road services pursuant to an agreement between the county and residents of the subdivision prior to July 1, 2008.

2. Subject to the limitations in subsection 1, a district may include all or parts of the unincorporated areas of one township and any unincorporated areas of adjoining townships or parts of adjoining townships.

Sec. 24. NEW SECTION. 357I.4 TIME OF HEARING.

The public hearing required in section 357I.2 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any newspaper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 25. NEW SECTION. 357I.5 ACTION BY BOARD.

After, and within ten days of, the hearing, the board shall either establish the district by resolution or disallow the petition.

Sec. 26. NEW SECTION. 357I.6 ENGINEER.

1. When the board establishes a district, the board shall appoint a competent disinterested civil engineer, who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.

c. The assessed valuation of the lots and parcels.

2. The compensation of the engineer on the preliminary investigation shall be determined by the board. The engineer shall file a report with the county auditor within thirty days of appointment. The board may extend the time upon good cause shown.

Sec. 27. NEW SECTION. 357I.7 HEARING ON ENGINEER'S REPORT.

After the engineer's report is filed, the board shall give notice, as provided in section 357I.4, of a public hearing to be held concerning the engineer's preliminary plat.

Sec. 28. NEW SECTION. 357I.8 ELECTION ON PROPOSED LEVY AND CANDIDATES FOR TRUSTEES.

When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax not to exceed in any fiscal year one dollar per thousand dollars of assessed value on all the taxable property within the district and to choose candidates for the offices of trustees of the district. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357I.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon and any registered voter residing within the district at the time of the election may vote. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter. Judges shall be appointed to serve without pay by the board from among the registered voters of the district to be in charge of the election. The proposition is approved if sixty percent of those voting on the proposition vote in favor of it.

Sec. 29. NEW SECTION. 357I.9 TRUSTEES — TERM AND QUALIFICATION.

At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount required by the board, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The term of succeeding trustees shall be three years.

Sec. 30. NEW SECTION. 357I.10 TRUSTEES' POWERS.

The trustees may contract only with the county to provide road services including road paving, reconstruction, or maintenance, according to the county's standards for such services, on roads within the district and on any road outside the district that provides a direct route between the subdivision comprising the district and the nearest paved street or highway, other than roads identified under section 357I.2, subsection 3, and may certify for levy an annual tax as provided in section 357I.8. The trustees may purchase materials incidental to the administrative functions of the trustees and perform all other acts necessary to properly maintain and operate the district. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 31. NEW SECTION. 357I.10A REVENUES EXCLUDED FROM COUNTY GENERAL FUND TRANSFERS.

The amount of revenue collected from the tax levied pursuant to section 357I.8 shall not be included in the calculation of property tax revenues transferred to the secondary road fund annually under section 331.429.

Sec. 32. NEW SECTION. 357I.11 BONDS IN ANTICIPATION OF REVENUE.

A district may anticipate the collection of taxes by the levy authorized in this chapter, and

to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be held and notice given in the same manner as provided in section 357I.8, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

Sec. 33. NEW SECTION. 357I.12 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the board may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credit of property owners of the district. However, if the district is annexed, the board of supervisors may transfer the remaining property and balance to the city which annexed the territory. The board shall continue to levy a tax after dissolution of a district, of not to exceed twenty-seven cents per thousand dollars of assessed value on all the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 34. NEW SECTION. 357I.13 INCORPORATION OF DISTRICT LAND.

If part of a district is incorporated by a city and there are outstanding indebtedness obligations against the district, the city shall pay the outstanding obligations against the part of the district which is incorporated by the city.

Sec. 35. Section 321.115, subsection 1, as enacted in 2007 Iowa Acts, chapter 143, section 12, is amended to read as follows:

1. a. A motor vehicle twenty-five years old or older may be registered as an antique vehicle ~~upon payment of~~. The annual registration fee is the fee provided ~~for~~ in section 321.113, 321.122, or 321.124.

b. The owner of a motor truck, truck tractor, road tractor, or motor home that is twenty-five years old or older who desires to use the vehicle exclusively for exhibition or educational purposes at state or county fairs, or at other places where the vehicle may be exhibited for entertainment or educational purposes, may register the vehicle as a "limited use" vehicle in accordance with sections 321.58 through 321.62. The "limited use" registration under this paragraph permits driving of the vehicle upon the public roads to and from state and county fairs or other places of entertainment or education for exhibition or educational purposes and to and from service stations for the purpose of receiving necessary maintenance, or for the purposes of transporting, testing, demonstrating, or selling the vehicle.

c. The owner of a motor vehicle registered under this subsection may display authentic Iowa registration plates from the model year of the motor vehicle, furnished by the person and approved by the department, in lieu of the current and valid Iowa registration plates issued for the vehicle, provided that the current and valid Iowa registration plates and the registration card issued for the vehicle are simultaneously carried within the vehicle and are available for inspection to any peace officer upon the officer's request.

Sec. 36. Section 805.8A, subsection 14, paragraph i, Code 2007, is amended to read as follows:

i. ROAD WORK ZONE VIOLATIONS. The scheduled fine for any moving traffic violation under chapter 321, as provided in this section, shall be doubled if the violation occurs within any road work zone, as defined in section 321.1. However, notwithstanding subsection 5, the scheduled fine for violating the speed limit in a road work zone is as follows:

(1) One hundred fifty dollars for speed not more than ten miles per hour over the posted speed limit.

(2) Three hundred dollars for speed greater than ten but not more than twenty miles per hour over the posted speed limit.

(3) Five hundred dollars for speed greater than twenty but not more than twenty-five miles per hour over the posted speed limit.

(4) One thousand dollars for speed greater than twenty-five miles per hour over the posted speed limit.

Sec. 37. 2007 Iowa Acts, chapter 143, section 35, subsection 4, is amended to read as follows:

4. The sections of this Act amending sections 321.112 and 321.115 take effect ~~July 1, 2008~~ January 1, 2009.

Sec. 38. 2007 Iowa Acts, chapter 167, is repealed.

Sec. 39. COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND BONDS — DEFEASANCE. The Iowa comprehensive petroleum underground storage tank fund board shall authorize the Iowa finance authority to defease all bonds issued pursuant to chapter 455G prior to June 30, 2008. The authority shall defease the bonds by June 30, 2008, from funds available in the Iowa comprehensive petroleum underground storage tank fund.

Sec. 40. EFFECTIVE DATE. The sections of this Act amending sections 321E.8, 321E.9, 321E.14, and 322.7A, the section enacting section 321E.9B, and the section repealing 2007 Iowa Acts, chapter 167, being deemed of immediate importance, take effect upon enactment.[3]

Sec. 41. CONTINGENT EFFECTIVENESS. The section of this Act relating to the defeasance of petroleum underground storage tank fund bonds takes effect only upon enactment of legislation striking section 423.43, subsection 1, paragraph "a", Code Supplement 2007, by the Eighty-second General Assembly.[4]

Approved April 25, 2008

CHAPTER 1125

FORECLOSURE CONSULTANTS AND RECONVEYANCES

H.F. 2653

AN ACT relating to foreclosure consultants and foreclosure reconveyances, providing for criminal and civil penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 714E.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Business day" means any calendar day except Saturday, Sunday, or a public holiday including a holiday observed on a Monday.

2. "Contract" means an agreement, or a term in an agreement, between a foreclosure consultant and an owner for the rendition of a service.

3. a. "Foreclosure consultant" means a person who, directly or indirectly, makes a solicitation, representation, or offer to an owner to perform for compensation or who, for compensation, performs a service which the person in any manner represents will do any of the following:

(1) Stop or postpone a foreclosure, foreclosure sale, forfeiture, sheriff's sale, or tax sale.

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[3] See chapter 1191, §136 herein

[4] See chapter 1113, §45, 125; chapter 1134, §14 herein

(2) Obtain a forbearance, modification, or repayment plan from a beneficiary or mortgagee.

(3) Assist the owner to exercise the right of redemption, cure the mortgage default, cure the real estate contract default, or redeem the property from a tax sale.

(4) Obtain an extension of the period within which the owner may reinstate the owner's obligation.

(5) Obtain a waiver of an acceleration clause contained in a promissory note or contract secured by a mortgage on a residence in foreclosure or contained in the mortgage.

(6) Assist the owner in foreclosure, foreclosure sale, forfeiture, sheriff's sale, tax sale, or loan default to obtain a loan or advance of funds.

(7) Avoid or ameliorate the impairment of the owner's credit resulting from the recording of a notice of default or the conduct of a foreclosure sale or a forfeiture of a real estate contract.

(8) Save the owner's residence from foreclosure, foreclosure sale, forfeiture, sheriff's sale, or tax sale.

(9) Negotiate or obtain a mortgage loan or real estate contract modification, forbearance, repayment plan, or other loss mitigation for the consumer.

b. "Foreclosure consultant" does not include any of the following:

(1) A person licensed to practice law in this state when the person renders service in the course of the person's practice as an attorney at law.

(2) A person licensed to engage in the business of debt management under chapter 533A, when the person is engaged in the business of debt management.

(3) A person licensed as a real estate broker or salesperson under chapter 543B, when the person engages in acts whose performance requires licensure under that chapter unless the person is engaged in offering services designed to, or purportedly designed to, enable the owner to retain possession of the residence in foreclosure.

(4) A person licensed as an accountant under chapter 542 when the person is acting in any capacity for which the person is licensed under those provisions.

(5) A person or the person's authorized agent acting under the express authority or written approval of the United States department of housing and urban development or other department or agency of the United States or this state to provide services.

(6) A person who holds or is owed an obligation secured by a lien on a residence in foreclosure when the person performs services in connection with the obligation or lien if the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance.

(7) A person or entity doing business under any law of this state, or of the United States, relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee approved by the United States department of housing and urban development, and a subsidiary or affiliate of these persons or entities, and an agent or employee of these persons or entities while engaged in the business of such persons or entities.

(8) A person licensed as a mortgage broker or mortgage banker pursuant to chapter 535B, when acting under the authority of that license.

(9) A person registered as a mortgage broker or mortgage banker or originator pursuant to chapter 535B, when acting under the authority of that registration.

(10) A nonprofit agency or organization that offers counseling or advice to an owner of a residence in foreclosure or loan default if the nonprofit agency or organization does not contract for services with for-profit lenders or foreclosure purchasers.

(11) A judgment creditor of the owner, to the extent that the judgment creditor's claim accrued prior to the personal service of the foreclosure notice required by section 654.2D, but excluding a person who purchased the claim after such personal service.

(12) A foreclosure purchaser as defined in section 714F.1.

4. "Foreclosure reconveyance" means a transaction involving all of the following:

a. The transfer of title to real property by an owner during a foreclosure proceeding, forfeiture proceeding, or tax sale, either by transfer of interest from the owner or by creation of a mortgage or other lien or encumbrance during the foreclosure, forfeiture, or tax sale process

that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder.

b. The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the owner by the acquirer or a person acting in participation with the acquirer that allows the owner to possess either the residence in foreclosure or any other real property, which interest includes but is not limited to an interest in a contract for deed, purchase agreement, option to purchase, or lease.

5. "Owner" means the record owner or holder of an equitable interest through contract of the residence in foreclosure at the time the notice of pendency was recorded, or at the time the default notice was served.

6. "Person" means the same as defined in section 4.1.

7. "Residence in foreclosure" or "affected residence" means residential real property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residence, where a delinquency or default on any loan payment or debt is secured by or attached to the residential real property including but not limited to contract for deed payments, real estate contracts, or real estate taxes.

8. "Service" includes but is not limited to any of the following:

a. Debt, budget, or financial counseling of any type.

b. Receiving money for the purpose of distributing the money to creditors in payment or partial payment of an obligation secured by a lien on a residence in foreclosure.

c. Contacting creditors on behalf of an owner of a residence in foreclosure.

d. Arranging or attempting to arrange for an extension of the period within which the owner of a residence in foreclosure, forfeiture, or tax sale may cure the owner's default and reinstate the owner's obligation.

e. Arranging or attempting to arrange for a delay or postponement of the time of sale of the residence in foreclosure, forfeiture, or tax sale.

f. Advising the filing of a document or assisting in any manner in the preparation of a document for filing with a bankruptcy court.

g. Giving advice, explanation, or instruction to an owner of a residence in foreclosure, forfeiture, or tax sale which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a lien on the affected residence, the full satisfaction of that obligation, or the postponement or avoidance of a sale or loss of the affected residence, pursuant to a power of sale contained in a mortgage.

Sec. 2. NEW SECTION. 714E.2 FORECLOSURE CONSULTANT CONTRACT.

1. A foreclosure consultant contract must be in writing and must fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

2. The following notice, printed in at least fourteen point boldface type and completed with the name of the foreclosure consultant, must be printed immediately above the notice of cancellation statement required pursuant to section 714E.3:

NOTICE REQUIRED BY IOWA LAW

. . . . . (name) or anyone working for him or her CANNOT:

(1) Take any money from you or ask you for money until . . . . . (name) has completely finished doing everything he or she said he or she would do; and[1]

(2) Ask you to sign or have you sign any lien, mortgage, or real estate contract.

3. The contract must be written in the same language as principally used by the foreclosure consultant to describe the foreclosure consultant's services and to negotiate the contract with the consumer. The contract must be dated and signed by the owner, and must contain in immediate proximity to the space reserved in the contract for the owner's signature, a conspicuous statement in a size equal to at least ten point boldface type, as follows:

You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

[1] See chapter 1191, §133 herein

4. The foreclosure consultant shall provide the owner immediately upon execution of the contract with a copy of the contract along with the notice of cancellation required in section 714E.3.

5. The three business days during which the owner may cancel the contract shall not begin to run until the foreclosure consultant has complied with this section and with section 714E.3.

Sec. 3. NEW SECTION. 714E.3 CANCELLATION OF FORECLOSURE CONSULTANT CONTRACT.

1. In addition to any other right under law to rescind a contract, an owner has the right to cancel such a contract until midnight of the third business day after the day on which the owner signs a contract which complies with section 714E.2.

2. Cancellation occurs when the owner gives written notice of cancellation to the foreclosure consultant at the address specified in the contract.

3. Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

4. Notice of cancellation given by the owner need not take the particular form as provided in the contract and, however expressed, is effective if the notice of cancellation indicates the intention of the owner not to be bound by the contract.

5. The notice of cancellation must contain, and the contract must contain on the first page, in a type size no smaller than that generally used in the body of the document, all of the following:

a. The real name and physical address of the foreclosure consultant to which the notice of cancellation is to be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An electronic mail address may be included, in addition to the physical address.

b. The date the owner signed the contract.

c. Cancellation occurs when the owner delivers, by any means, written notice of cancellation to the address specified in the contract. If cancellation is mailed, delivery is effective upon mailing. If electronically mailed, cancellation is effective upon transmission. The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation", which must be attached to the contract, must be easily detachable, and must contain in at least ten point type the following statement written in the same language as used in the contract:

NOTICE OF CANCELLATION

. . . . . .

(enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice, or any other written notice of cancellation; or (2) e-mail a notice of cancellation to . . . . . at

(name of foreclosure consultant)

. . . . . .

(physical address of foreclosure consultant's place of business)

. . . . . .

(e-mail address of foreclosure consultant's place of business)

Not later than midnight of . . . . . (date).

I hereby cancel this transaction.

. . . . . .

(date)

. . . . . .

(owner's signature)

6. The three business days during which the owner may cancel the contract shall not begin

to run until the foreclosure consultant has complied with the requirements of this section and with section 714E.2.

Sec. 4. NEW SECTION. 714E.4 VIOLATIONS.

It is a violation for a foreclosure consultant to do any of the following:

1. Claim, demand, charge, collect, or receive compensation until after the foreclosure consultant has fully performed each and every service the foreclosure consultant contracted to perform or represented the foreclosure consultant would perform.

2. Claim, demand, charge, collect, or receive a fee, interest, or other compensation for any reason which exceeds eight percent per annum of the amount of any loan which the foreclosure consultant may make to the owner. Such a loan must not, as provided in subsection 3, be secured by the residence in foreclosure or any other real or personal property.

3. Take a wage assignment, a lien of any type on real or personal property, or other security to secure the payment of compensation. Any such security is void and unenforceable.

4. Receive consideration from any third party in connection with services rendered to an owner unless the consideration is first fully disclosed to the owner.

5. Acquire an interest, directly or indirectly, or by means of a subsidiary or affiliate in a residence in foreclosure from an owner with whom the foreclosure consultant has contracted.

6. Take a power of attorney from an owner for any purpose, except to inspect documents as provided by law.

7. Induce or attempt to induce an owner to enter into a contract which does not comply in all respects with the requirements of this chapter.

8. Claim, demand, charge, collect, or receive a fee, interest, or other compensation for promising to negotiate a mortgage loan or real estate contract modification, forbearance, repayment plan, or other loss mitigation for the consumer and failing to successfully negotiate such a modification, forbearance, repayment plan, or other loss mitigation.

9. Prohibit the borrower from contacting any lender, servicer, government entity, attorney, counselor, individual, or company that may seek to help the consumer. Any such provision is void and unenforceable.

Sec. 5. NEW SECTION. 714E.5 WAIVER NOT ALLOWED.

A waiver by an owner of the provisions of this chapter is void and unenforceable as contrary to public policy. An attempt by a foreclosure consultant to induce an owner to waive the owner's rights is a violation of this chapter.

Sec. 6. NEW SECTION. 714E.6 REMEDIES.

1. A violation of this chapter is an unlawful practice pursuant to section 714.16, and all remedies of section 714.16 are available for such an action. A private cause of action brought under this chapter by an owner is in the public interest. An owner may bring an action against a foreclosure consultant for a violation of this chapter. If the court finds that the foreclosure consultant violated this chapter, the court shall award the owner actual damages, appropriate equitable relief, and the costs of the action, and shall award reasonable fees to the owner's attorney.

2. The rights and remedies provided in subsection 1 are cumulative to, and not a limitation of, any other rights and remedies provided by law. Any action brought by a person other than the attorney general pursuant to this section must be commenced within four years from the date of the alleged violation.

3. The court may award exemplary damages up to one and one-half times the compensation, fees, and interest charged by the foreclosure consultant if the court finds that the foreclosure consultant violated the provisions of section 714E.4, subsection 1, 2, or 4, and the foreclosure consultant acted in bad faith.

4. Notwithstanding any other provision of this section, an action shall not be brought on the basis of a violation of this chapter, except by an owner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by either

the attorney general or the superintendent of the banking division of the department of commerce.

Sec. 7. NEW SECTION. 714E.7 CRIMINAL PENALTY.

A person who commits any violation described in section 714E.4 commits a serious misdemeanor. Prosecution or conviction for a violation described in section 714E.4 shall not bar prosecution or conviction for any other offenses. These penalties are cumulative to any other remedies or penalties provided.

Sec. 8. NEW SECTION. 714E.8 PROVISIONS SEVERABLE.

If any provision of sections 714E.2 through 714E.7 and 714E.9 or the application of any of these provisions to any person or circumstance is held to be unconstitutional and void, the remainder of sections 714E.2 through 714E.7 and 714E.9 remains valid.

Sec. 9. NEW SECTION. 714E.9 ARBITRATION PROHIBITED.

A provision in a contract which attempts or purports to require arbitration of a dispute arising under sections 714E.2 through 714E.5 is void at the option of the owner.

Sec. 10. NEW SECTION. 714F.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Business day" means any calendar day except Saturday, Sunday, or a public holiday including a holiday observed on a Monday.

2. "Foreclosed homeowner" means an owner of residential real property, including a condominium, that is the primary residence of the owner and whose mortgage on the real property is or was in foreclosure, forfeiture, or tax sale.

3. a. "Foreclosure purchaser" means a person that has acted as the acquirer in a foreclosure reconveyance. "Foreclosure purchaser" includes a person that has acted in joint venture or joint enterprise with one or more acquirers in a foreclosure reconveyance.

b. "Foreclosure purchaser" does not include any of the following:

(1) A natural person who shows that the natural person is not in the business of foreclosure purchasing and has a prior personal relationship with the foreclosed homeowner.

(2) A person or entity doing business under any law of this state, or of the United States, relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee or mortgage servicer approved by the United States department of housing and urban development or any other nationally recognized government-sponsored enterprise, and any subsidiary or affiliate of such persons or entities, and any agent or employee of such persons or entities while engaged in the business of such persons or entities.

4. "Foreclosure reconveyance" means a transaction involving both of the following:

a. The transfer of title to real property by a foreclosed homeowner during a foreclosure proceeding, forfeiture proceeding, or tax sale proceeding, either by transfer of interest from the foreclosed homeowner or by creation of a mortgage or other lien or encumbrance during the process that allows the acquirer to obtain title to the property by redeeming the property as a junior lienholder.

b. The subsequent conveyance, or promise of a subsequent conveyance, of an interest back to the affected homeowner by the acquirer or a person acting in participation with the acquirer that allows the foreclosed homeowner to possess either the affected residence or other real property, which interest includes but is not limited to an interest in a contract for deed, purchase agreement, option to purchase, or lease.

5. "Resale" means a bona fide market sale of the property subject to the foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

6. "Resale price" means the gross sale price of the property on resale.

7. "Residence in foreclosure" or "affected residence" means residential real property consisting of one to four family dwelling units, one of which the foreclosed homeowner occupies

as the foreclosed homeowner's principal place of residence, where a delinquency or default on any loan payment or debt is secured by or attached to the residential real property, including but not limited to contract for deed payments, real estate contracts, or real estate taxes.

Sec. 11. NEW SECTION. 714F.2 CONTRACT REQUIREMENT — FORM AND LANGUAGE.

A foreclosure purchaser shall enter into a foreclosure reconveyance in the form of a written contract. The contract must be written in letters of a size equal to at least twelve point boldface type, in the same language principally used by the foreclosure purchaser and foreclosed homeowner to negotiate the sale of the residence in foreclosure, and must be fully completed and signed and dated by the foreclosed homeowner and foreclosure purchaser before the execution of any instrument of conveyance of the residence in foreclosure.

Sec. 12. NEW SECTION. 714F.3 CONTRACT TERMS.

1. A contract required by section 714F.2 must contain the entire agreement of the parties and shall include all the following terms:

a. The real name, business address, and the telephone number of the foreclosure purchaser.

b. The address of the residence in foreclosure.

c. The total consideration to be given by the foreclosure purchaser in connection with or incident to the sale.

d. A complete description of the terms of payment or other consideration including but not limited to any services of any nature that the foreclosure purchaser represents the foreclosure purchaser will perform for the foreclosed homeowner before or after the sale.

e. The time at which possession is to be transferred to the foreclosure purchaser.

f. A complete description of the terms of any related agreement designed to allow the foreclosed homeowner to remain in the home including but not limited to a rental agreement, repurchase agreement, contract for deed, or lease with option to buy.

g. A notice of cancellation as provided in section 714F.5.

h. The following notice in at least fourteen point boldface type, if the contract is printed or in capital letters if the contract is typed, and completed with the name of the foreclosure purchaser, immediately above the statement required by section 714F.5:

NOTICE REQUIRED BY IOWA LAW

Until your right to cancel this contract has ended, ... (name) or anyone working for . . . . . (name) CANNOT ask you to sign or have you sign any deed or any other document.

2. The contract required by this section survives delivery of any instrument of conveyance of the residence in foreclosure, and has no effect on persons other than the parties to the contract.

Sec. 13. NEW SECTION. 714F.4 CONTRACT CANCELLATION.

1. In addition to any other right of recision, the foreclosed homeowner has the right to cancel any contract with a foreclosure purchaser until midnight of the third business day following the day on which the foreclosed homeowner signs a contract that complies with this chapter or until 8:00 a.m. on the last day of the period during which the foreclosed homeowner has a right of redemption, whichever occurs first.

2. Cancellation occurs when the foreclosed homeowner delivers, by any means, written notice of cancellation, provided that, at a minimum, the contract and the notice of cancellation contains a physical address to which notice of cancellation may be mailed or otherwise delivered. A post office box does not constitute a physical address. A post office box may be designated for delivery by mail only if it is accompanied by a physical address at which the notice could be delivered by a method other than mail. An electronically mailed address may be provided in addition to the physical address. If cancellation is mailed, delivery is effective upon mailing. If electronically mailed, cancellation is effective upon transmission.

3. A notice of cancellation given by the foreclosed homeowner need not take the particular form as provided with the contract.

4. Within ten days following receipt of a notice of cancellation given in accordance with this section, the foreclosure purchaser shall return without condition any original contract and any other documents signed by the foreclosed homeowner.

Sec. 14. NEW SECTION. 714F.5 NOTICE OF CANCELLATION.

1. The contract must contain in immediate proximity to the space reserved for the foreclosed homeowner's signature a conspicuous statement in a size equal to at least fourteen point boldface type, if the contract is printed, or in capital letters, if the contract is typed, as follows:

You may cancel this contract for the sale of your house without any penalty or obligation at any time before . . . . . (date and time of day)

See the attached notice of cancellation form for an explanation of this right.

The foreclosure purchaser shall accurately enter the date and time of day on which the cancellation right ends.

2. The contract must be accompanied by a completed form in duplicate, captioned "notice of cancellation" in a size equal to a twelve point boldface type if the contract is printed, or in capital letters, if the contract is typed, followed by a space in which the foreclosure purchaser shall enter the date on which the foreclosed homeowner executes the contract. This form must be attached to the contract, must be easily detachable, and must contain in type of at least ten points, if the contract is printed, or in capital letters, if the contract is typed, the following statement written in the same language as used in the contract:

NOTICE OF CANCELLATION

. . . . . .

(enter date contract signed)

You may cancel this contract for the sale of your house, without any penalty or obligation, at any time before . . . . . .

(enter date and time of day)

To cancel this transaction, you may use any of the following methods: (1) mail or otherwise deliver a signed and dated copy of this cancellation notice; or (2) e-mail a notice of cancellation to . . . . . at . . . . . .

(name of purchaser) (physical address of purchaser's place of business)

. . . . . .

(e-mail address of foreclosure consultant's place of business)

Not later than . . . . . (enter date and time of day)

I hereby cancel this transaction.

. . . . . .

(date)

. . . . . .

(seller's signature)

3. The foreclosure purchaser shall provide the foreclosed homeowner with a copy of the contract and the attached notice of cancellation at the time the contract is executed by all parties.

4. The three business days during which the foreclosed homeowner may cancel the contract shall not begin to run until all parties to the contract have executed the contract and the foreclosure purchaser has complied with this section.

Sec. 15. NEW SECTION. 714F.6 WAIVER.

A waiver of the provisions of this chapter is void and unenforceable as contrary to public policy except a consumer may waive the three-day right to cancel provided in section 714F.4 if the property is subject to a foreclosure sale, tax sale, or contract forfeiture within the three business days and the shortened cancellation period was not caused by the foreclosure purchaser or an agent of the foreclosure purchaser, and the foreclosed homeowner agrees to waive the foreclosed homeowner's right to cancel in a handwritten statement signed by all parties holding title to the foreclosed property.

Sec. 16. NEW SECTION. 714F.7 ARBITRATION PROHIBITED.

A provision in a contract which attempts or purports to require arbitration of any dispute arising under this chapter is void at the option of the foreclosed homeowner.

Sec. 17. NEW SECTION. 714F.8 PROHIBITED PRACTICES.

A foreclosure purchaser shall not do any of the following:

1. Enter into, or attempt to enter into, a foreclosure reconveyance with a foreclosed homeowner unless all of the following apply:

a. The foreclosure purchaser verifies and can demonstrate that the foreclosed homeowner has a reasonable ability to pay for the subsequent conveyance of an interest back to the foreclosed homeowner. In the case of a lease with an option to purchase, payment ability also includes the reasonable ability to make the lease payments and purchase the property within the term of the option to purchase. A rebuttable presumption arises that a foreclosed homeowner is reasonably able to pay for the subsequent conveyance if the foreclosed homeowner's payments for primary housing expenses and regular principal and interest payments on other personal debt, on a monthly basis, do not exceed sixty percent of the foreclosed homeowner's monthly gross income. For the purposes of this section, "primary housing expenses" means the sum of payments for regular principal, interest, rent, utilities, hazard insurance, real estate taxes, and association dues. A rebuttable presumption arises that the foreclosure purchaser has not verified reasonable payment ability if the foreclosure purchaser has not obtained documents other than a statement by the foreclosed homeowner of assets, liabilities, and income.

b. The foreclosure purchaser and the foreclosed homeowner complete a closing for any foreclosure reconveyance in which the foreclosure purchaser obtains a deed or mortgage from a foreclosed homeowner. For purposes of this section, "closing" means an in-person meeting to complete final documents incident to the sale of the real property or the creation of a mortgage on the real property conducted by a closing agent, who is not employed by or an affiliate of the foreclosure purchaser, or employed by such an affiliate, and who does not have a business or personal relationship with the foreclosure purchaser other than the provision of real estate settlement services.

c. The foreclosure purchaser obtains the written consent of the foreclosed homeowner to a grant by the foreclosure purchaser of any interest in the property during such times as the foreclosed homeowner maintains any interest in the property.

d. The foreclosure purchaser complies with the requirements for disclosure, loan terms, and conduct in the federal Home Ownership Equity Protection Act, 15 U.S.C. § 1639, for any foreclosure reconveyance in which the foreclosed homeowner obtains a vendee interest in a contract for deed, regardless of whether the terms of the contract for deed meet the annual percentage rate or points and fees requirements for a covered loan in 12 C.F.R. section 226.32 (a) and (b).

2. Enter into a foreclosure reconveyance unless the foreclosure purchaser notifies all existing mortgage lien holders of the foreclosure purchaser's intent to accept conveyance of any interest in the property from the foreclosed homeowner, and fully complies with all terms and conditions contained in the mortgage lien documents including but not limited to due-on-sale provisions or meeting all qualification requirements for assuming the repayment of the mortgage.

3. Fail to do any of the following:

a. Ensure that title to the subject dwelling has been reconveyed to the foreclosed homeowner.

b. (1) Make a payment to the foreclosed homeowner such that the foreclosed homeowner has received consideration in an amount of at least eighty-two percent of the fair market value of the property, as the property was when the foreclosed homeowner vacated the property, within ninety days of either the eviction or voluntary relinquishment of possession of the property by the foreclosed homeowner. The foreclosure purchaser shall make a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make a payment, including providing written documentation of expenses, within this ninety-

day period. The accounting shall be on a form prescribed by the attorney general, in consultation with the superintendent of the banking division of the department of commerce without being subject to the rulemaking procedures of chapter 17A.

(2) For purposes of this paragraph "b", all of the following shall apply:

(a) A rebuttable presumption arises that an appraisal by a person licensed or certified by an agency of the federal government or this state to appraise real estate constitutes the fair market value of the property.

(b) The time for determining the fair market value amount shall be determined in the foreclosure reconveyance contract as either at the time of the execution of the foreclosure reconveyance contract or at resale. If the contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within sixty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner. If the contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within sixty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner, the fair market value shall be determined by an appraisal conducted within one hundred eighty days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner and payment, if required, shall be made to the foreclosed homeowner, but the fair market value shall be recalculated as the resale price on resale and an additional payment amount, if appropriate, based on the resale price, shall be made to the foreclosed homeowner within fifteen days of resale, and a detailed accounting of the basis for the payment amount, or a detailed accounting of the reasons for failure to make additional payment, shall be made within fifteen days of resale, including providing written documentation of expenses. The accounting shall be on a form prescribed by the attorney general, in consultation with the superintendent of the banking division of the department of commerce, without being subject to the rulemaking procedures of chapter 17A.

(c) "Consideration" means any payment or thing of value provided to the foreclosed homeowner, including unpaid rent or contract for deed payments owed by the foreclosed homeowner prior to the date of eviction or voluntary relinquishment of the property, reasonable costs paid to third parties necessary to complete the foreclosure reconveyance transaction, payment of money to satisfy a debt or legal obligation of the foreclosed homeowner that creates a lien against the affected residence, or the reasonable cost of repairs for damage to the dwelling caused by the foreclosed homeowner; or a penalty imposed by a court for the filing of a frivolous claim under section 714F.9, subsection 6, but "consideration" shall not include amounts imputed as a down payment or fee to the foreclosure purchaser, or a person acting in participation with the foreclosure purchaser, incident to a contract for deed, lease, or option to purchase entered into as part of the foreclosure reconveyance, except for reasonable costs paid to third parties necessary to complete the foreclosure reconveyance.

3.[2] Enter into repurchase or lease terms as part of the subsequent conveyance that are unfair or commercially unreasonable, or engage in any other unfair conduct.

4.[3] Represent, directly or indirectly, any of the following:

a. The foreclosure purchaser is acting as an advisor or a consultant, or in any other manner represents that the foreclosure purchaser is acting on behalf of the foreclosed homeowner.

b. The foreclosure purchaser has a qualification, certification, or licensure that the foreclosure purchaser does not have, or that the foreclosure purchaser is not a member of a licensed profession if that is untrue.

c. The foreclosure purchaser is assisting the foreclosed homeowner to "save the house" or a substantially similar phrase.

d. The foreclosure purchaser is assisting the foreclosed homeowner in preventing a completed foreclosure, forfeiture, or tax sale if the result of the transaction is that the foreclosed homeowner will not complete a redemption of the property.

5.[4] Make any other statements, directly or by implication, or engage in any other conduct that is false, deceptive, or misleading, or that has the likelihood to cause confusion or misunderstanding, including but not limited to statements regarding the value of the residence in

[2] According to enrolled Act; subsection "4" probably intended

[3] According to enrolled Act; subsection "5" probably intended

[4] According to enrolled Act; subsection "6" probably intended

foreclosure, the amount of proceeds the foreclosed homeowner will receive after a foreclosure sale, any contract term, or the foreclosed homeowner's rights or obligations incident to or arising out of the foreclosure reconveyance.

6.[5] Do any of the following until the time during which the foreclosed homeowner may cancel the transaction has fully elapsed:

a. Accept from a foreclosed homeowner an execution of, or induce a foreclosed homeowner to execute, an instrument of conveyance of any interest in the residence in foreclosure.

b. Record with the county recorder or file with the registrar of titles any document including but not limited to an instrument of conveyance, signed by the foreclosed homeowner.

c. Transfer or encumber or purport to transfer or encumber any interest in the residence in foreclosure to any third party.

Sec. 18. NEW SECTION. 714F.9 ENFORCEMENT.

1. REMEDIES. A violation of this chapter is an unlawful practice pursuant to section 714.16, and all the remedies of section 714.16 are available for such an action. A private cause of action brought under this chapter by a foreclosed homeowner is in the public interest. A foreclosed homeowner may bring an action for a violation of this chapter. If the court finds a violation of this chapter, the court shall award to the foreclosed homeowner actual damages, appropriate equitable relief, and the costs of the action, and shall award reasonable fees to the foreclosed homeowner's attorney. Notwithstanding any other provision of this section, an action shall not be brought on the basis of a violation of this chapter except by a foreclosed homeowner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by the superintendent of the banking division of the department of commerce.

2. EXEMPLARY DAMAGES. In a private right of action for a violation of this chapter, the court may award exemplary damages of any amount. If the court determines that an award of exemplary damages is appropriate, the amount of exemplary damages awarded shall not be less than one and one-half times the foreclosed homeowner's actual damages. Any claim for exemplary damages brought pursuant to this section must be commenced within four years after the date of the alleged violation.

3. REMEDIES CUMULATIVE. The remedies provided in this section are cumulative and do not restrict any remedy that is otherwise available. The provisions of this chapter are not exclusive and are in addition to any other requirements, rights, remedies, and penalties provided by law. No action under this section shall affect the rights in the foreclosed property held by a good faith purchaser for value.

4. CRIMINAL PENALTY. A foreclosure purchaser who engages in a practice which would operate as a fraud or deceit upon a foreclosed homeowner is guilty of a serious misdemeanor. Prosecution or conviction for any one of the violations does not bar prosecution or conviction for any other offenses.

5. FAILURE OF TRANSACTION. Failure of the parties to complete the reconveyance transaction, in the absence of additional misconduct, shall not subject a foreclosure purchaser to the criminal penalties under this chapter.

6. STAY OF EVICTION ACTION.

a. A court hearing an eviction action against a foreclosed homeowner must issue an automatic stay, without imposition of a bond, if the foreclosed homeowner makes a prima facie showing that all of the following apply:

(1) The foreclosed homeowner has done any of the following:

(a) Commenced an action concerning a foreclosure reconveyance.

(b) Asserts a defense that the property that is the subject of the eviction action is also the subject of a foreclosure reconveyance in violation of this chapter.

(c) Asserts a claim or affirmative defense of fraud, false pretense, false promise, misrepresentation, misleading statement, or deceptive practice, in connection with a foreclosure reconveyance.

[5] According to enrolled Act; subsection "7" probably intended

(2) The foreclosed homeowner owned the residence in foreclosure.

(3) The foreclosed homeowner conveyed title to the residence in foreclosure to a third party upon a promise that the foreclosed homeowner would be allowed to occupy the residence in foreclosure or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest and that the residence in foreclosure or other real property would be the subject of a foreclosure reconveyance.

(4) Since the conveyance, the foreclosed homeowner has continuously occupied the residence in foreclosure or other real property in which the foreclosure purchaser or a person acting in participation with the foreclosure purchaser has an interest.

b. For purposes of this subsection, notarized affidavits are acceptable means of proof to meet the foreclosed homeowner's burden. Upon good cause shown, a foreclosed homeowner may request and the court may grant up to an additional two weeks to produce evidence required to make the prima facie showing.

c. A court may award to a plaintiff a penalty of up to five hundred dollars upon a showing that the foreclosed homeowner filed a frivolous claim or asserted a frivolous defense.

d. The automatic stay expires upon the later of any of the following:

(1) The failure of the foreclosed homeowner to commence an action in a court of competent jurisdiction in connection with a foreclosed reconveyance transaction within ninety days after the issuance of the stay.

(2) The issuance of an order lifting the stay by a court hearing claims related to the foreclosure reconveyance.

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 2008

CHAPTER 1126

ENERGY AND WATER RESOURCE MANAGEMENT
AND CONSERVATION — BUILDINGS AND VEHICLES

S.F. 517

AN ACT relating to the development, management, and efficient use of energy resources, making energy-related modifications to the state building code, setting fees, making appropriations, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8.60, subsection 15, Code 2007, is amended by striking the subsection.

Sec. 2. Section 12.28, subsection 6, Code 2007, is amended to read as follows:

6. The maximum principal amount of financing agreements which the treasurer of state can enter into shall be one million dollars per state agency in a fiscal year, subject to the requirements of section 8.46. For the fiscal year, the treasurer of state shall not enter into more than one million dollars of financing agreements per state agency, not considering interest expense. However, the treasurer of state may enter into financing agreements in excess of the one million dollar per agency per fiscal year limit if a constitutional majority of each house of the general assembly, or the legislative council if the general assembly is not in session, and the governor, authorize the treasurer of state to enter into additional financing agreements

above the one million dollar authorization contained in this section. The treasurer of state shall not enter into a financing agreement for real or personal property which is to be constructed for use as a prison or prison-related facility without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor of the use, location, and maximum cost, not including interest expense, of the real or personal property to be financed. However, financing agreements for an energy conservation measure, as defined in section 7D.34, for an energy management improvement, as defined in section 473.19, or for costs associated with projects under section 473.13A, are exempt from the provisions of this subsection, but are subject to the requirements of section 7D.34 ~~or 473.20A~~. In addition, financing agreements funded through the materials and equipment revolving fund established in section 307.47 are exempt from the provisions of this subsection.

Sec. 3. Section 103A.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 23. "Sustainable design" means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including but not limited to measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments.

Sec. 4. Section 103A.7, subsection 6, Code 2007, is amended to read as follows:

6. The conservation of energy through thermal ~~and lighting~~ efficiency standards for buildings intended for human occupancy ~~or use~~ and which are heated or cooled and lighting efficiency standards for buildings intended for human occupancy which are lighted.

Sec. 5. Section 103A.7, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Standards for sustainable design, also known and referred to as green building standards.

Sec. 6. Section 103A.8, subsections 7 and 8, Code 2007, are amended to read as follows:

7. Limit the application of thermal efficiency standards for energy conservation to ~~new~~ construction of buildings which ~~will incorporate a heating or cooling system~~ are heated or cooled. Air exchange fans designed to provide ventilation shall not be considered a cooling system. The commissioner shall exempt any ~~new~~ construction from any thermal efficiency ~~standards~~ standard for energy conservation if the commissioner determines that the ~~standards are~~ standard is unreasonable as ~~they apply~~ it would apply to a particular building or class of buildings ~~including farm buildings for livestock use~~. No standard adopted by the commissioner for energy conservation in construction shall be interpreted to require the replacement or modification of any existing equipment or feature solely to ensure compliance with requirements for energy conservation in construction. Lighting efficiency standards shall recognize variations in lighting intensities required for the various tasks performed within the building. The commissioner shall consult with 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.

8. Facilitate the development and use of ~~solar~~ renewable energy.

Sec. 7. Section 103A.8A, Code 2007, is amended to read as follows:

103A.8A ENERGY CONSERVATION REQUIREMENTS.

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 comply with energy conservation requirements. The requirements adopted by the commissioner shall be based upon a nationally recognized standard or code for energy conservation. The requirements shall only apply to single-family or two-family residential construction commenced after the adoption of the requirements. ~~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 energy codes and standards developed by a~~

~~nationally recognized organization in effect on or after July 1, 2002. A governmental subdivision that adopts or enacts a minimum energy standard which is substantially in accordance and consistent with energy codes and standards developed by a nationally recognized organization shall adopt or enact any update or revision to the energy codes and standards.~~ Notwithstanding any other provision of this chapter to the contrary, the energy conservation requirements adopted by the commissioner and approved by the council shall apply to new single-family or two-family residential construction commenced on or after July 1, 2008, and shall supersede and replace any minimum requirements for energy conservation adopted or enacted by the governmental subdivision prior to that date applicable to such construction. The state building code commissioner may provide training to builders, contractors, and other interested persons on the adopted energy conservation requirements.

Sec. 8. NEW SECTION. 103A.8B SUSTAINABLE DESIGN OR GREEN BUILDING STANDARDS.

The commissioner, after consulting with and receiving recommendations from the department of natural resources and the office of energy independence, shall adopt rules pursuant to chapter 17A specifying standards and requirements for sustainable design and construction based upon or incorporating nationally recognized ratings, certifications, or classification systems, and procedures relating to documentation of compliance. The standards and requirements shall be incorporated into the state building code established in section 103A.7, but in lieu of general applicability shall apply to construction projects only if such applicability is expressly authorized by statute, or as established by another state agency by rule.

Sec. 9. Section 103A.10, subsection 4, paragraphs a and b, Code Supplement 2007, are amended to read as follows:

a. Provisions of the state building code establishing thermal efficiency energy conservation standards shall be applicable to all ~~new~~ construction ~~owned by the state, an agency of the state or a political subdivision of the state, to all new construction located in a governmental subdivision which has adopted either the state building code or a local building code or compilation of requirements for building construction and to all other new construction~~ in the state which will contain ~~more than one hundred thousand cubic feet of~~ enclosed space that is heated or cooled. The commissioner shall provide appropriate exceptions for construction where the application of an energy conservation requirement adopted pursuant to this chapter would be impractical.

b. Provisions of the state building code establishing lighting efficiency standards shall be applicable to all ~~new~~ construction ~~owned by the state, an agency of the state or a political subdivision of the state and to all new construction,~~ in the state~~, of buildings which are open to the general public during normal business hours~~ and to new and replacement lighting in existing buildings.

Sec. 10. Section 103A.10, subsection 5, Code Supplement 2007, is amended by striking the subsection and inserting in lieu thereof the following:

5. Notwithstanding any other provision of this chapter to the contrary, the energy conservation requirements adopted by the commissioner and approved by the council shall apply to all new construction commenced on or after July 1, 2008, and shall supersede and replace any minimum requirements for energy conservation adopted or enacted by the governmental subdivision prior to that date and applicable to such construction.

Sec. 11. Section 103A.10A, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. ~~Beginning on January 1, 2007, all~~ All newly constructed buildings or structures subject to the state building code, ~~excluding~~ including any addition, but excluding any renovation~~,~~ or repair of a building or structure~~, whether existing prior to January 1, 2007, or thereafter, that are~~ owned by the state or an agency of the state, except as provided in subsection 2, shall be

subject to a plan review and inspection by the commissioner or an independent building inspector appointed by the commissioner. A fee shall be assessed for the cost of plan review and the cost of inspection. The commissioner may inspect an existing building that is undergoing renovation or remodeling to enforce the energy conservation requirements established under this chapter.

2. ~~Beginning on July 1, 2007, all~~ All newly constructed buildings, ~~excluding~~ including any addition, but excluding any renovation~~,~~ or repair of a building~~, whether existing prior to July 1, 2007, or thereafter, that are~~ owned by the state board of regents shall be subject to a plan review and inspection by the commissioner or the commissioner's staff or assistant. ~~The commissioner and the state board of regents shall develop a plan to implement the requirements of this subsection, including funding recommendations related to plan review and inspection, by March 1, 2007.~~ The commissioner may inspect an existing building that is undergoing renovation or remodeling to enforce the energy conservation requirements established under this chapter. The commissioner and the state board of regents shall develop a plan to implement this provision.

Sec. 12. Section 103A.19, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings or structures, and the administration and enforcement of building regulations shall be the responsibility of the governmental subdivisions of the state and shall be administered and enforced in the manner prescribed by local law or ordinance. All provisions of law relating to the administration and enforcement of local building regulations in any governmental subdivision shall be applicable to the administration and enforcement of the state building code in the governmental subdivision. An application made to a local building department or to a state agency for permission to construct a building or structure pursuant to the provisions of the state building code shall, in addition to any other requirement, be signed by the owner or the owner's authorized agent, and shall contain the address of the owner, and a statement that the application is made for permission to construct in accordance with the provisions of the code. The application shall also specifically include a statement that the construction will be in accordance with all applicable energy conservation requirements.

Sec. 13. Section 103A.22, subsection 1, Code 2007, is amended to read as follows:

1. Nothing in this chapter shall be construed as prohibiting any governmental subdivision from adopting or enacting any building regulations relating to any building or structure within its limits, but a governmental subdivision in which the state building code has been accepted and is applicable shall not have the power to supersede, void, or repeal or make more restrictive any of the provisions of this chapter or of the rules adopted by the commissioner. This subsection shall not apply to energy conservation requirements adopted by the commissioner and approved by the council pursuant to section 103A.8A or 103A.10.

Sec. 14. Section 216A.102, subsection 2, paragraph b, Code 2007, is amended by striking the paragraph.

Sec. 15. Section 266.39C, subsection 3,[1] Code 2007, 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~~

[1] According to enrolled Act; the phrase "subsection 3, unnumbered paragraph 1" probably intended

~~and scientific employees at Iowa state university of science and technology. The remainder of the funds appropriated from state funds~~ Funds appropriated to the center 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, and for the salaries and benefits of the employees of the center. The center may also solicit additional grants and funding from public and private nonprofit agencies and foundations.

Sec. 16. Section 388.9, subsection 2, Code 2007, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, "proprietary information" includes customer records that if disclosed would harm the competitive position of a customer; or information required by a noncustomer contracting party to be kept confidential pursuant to a nondisclosure agreement which relates to electric transmission planning and construction, critical energy infrastructure, an ownership interest or acquisition of an ownership interest in an electric generating facility, or other information made confidential by law or rule.

Sec. 17. Section 455E.11, subsection 2, paragraph e, Code 2007, is amended by striking the paragraph.

Sec. 18. Section 473.1, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Alternative and renewable energy" means the same as in section 469.31.

NEW SUBSECTION. 4A. "Renewable fuel" means the same as in section 469.31.

Sec. 19. Section 473.1, subsection 5, Code 2007, is amended to read as follows:

5. "Supplier" means any person engaged in the business of selling, importing, storing, or generating energy sources, alternative and renewable energy, or renewable fuel in Iowa.

Sec. 20. Section 473.2, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. Physical, human, natural, and financial resources are allocated efficiently.

Sec. 21. Section 473.3, Code 2007, is amended to read as follows:

473.3 ENERGY ~~EFFICIENCY~~ RESOURCE MANAGEMENT GOAL.

1. The goal of this state is to ~~more~~ efficiently utilize energy resources~~, especially those that are nonrenewable or that have negative environmental impacts, in order~~ to enhance the economy of the state ~~and to decrease~~ by decreasing the state's dependence on nonrenewable energy resources from outside the state and by reducing the amount of energy used. This goal is to be implemented through the development of policies and programs that promote energy efficiency, ~~and~~ energy conservation, and alternative and renewable energy use by all Iowans, through the development and enhancement of an energy efficiency and alternative and renewable energy industry, through the ~~development of indigenous~~ commercialization of energy resources and technologies that are economically and environmentally viable, and through the development and implementation of effective public information and education programs.

2. State government shall be a model and testing ground for the use of energy efficiency, energy conservation, and alternative and renewable energy systems.

Sec. 22. Section 473.7, subsections 2 and 3, Code Supplement 2007, are amended by striking the subsections.

Sec. 23. Section 473.7, subsections 4, 5, 11, 12, and 14, Code Supplement 2007, are amended to read as follows:

4. a. ~~Establish a central depository within the state for energy data. The central depository~~

~~shall be located at or accessible through a library which is a member of an interlibrary loan program to facilitate access to the data and information contained in the central depository.~~ The department shall collect and analyze data ~~necessary to forecast~~ to use in forecasting future energy ~~demands in~~ demand and supply for the state. ~~The department may require a~~ A supplier is required to provide information pertaining to the supply, storage, distribution, and sale of energy sources in this state when requested by the department. The information ~~shall be furnished on a periodic basis,~~ shall be of a nature which directly relates to the supply, storage, distribution, and sale of energy sources, and shall not include any records, documents, books, or other data which relate to the financial position of the supplier. ~~Provided the~~ The department, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if ~~the same~~ such information is available from any other governmental source. If it finds such information is available, the department shall not require submission of the ~~same~~ information from a supplier. Notwithstanding the provisions of chapter 22, information and reports obtained under this section shall be confidential except when used for statistical purposes without identifying a specific supplier and when release of the information will not give an advantage to competitors and serves a public purpose. The department shall use this data to conduct energy forecasts ~~which shall be included in the biennial update required by this section~~.

b. The department may subpoena witnesses, administer oaths, and require the production of records, books, and documents for examination in order to obtain information required to be submitted under this section. In case of failure or refusal on the part of any person to comply with a subpoena issued by the department, or in case of the refusal of any witness to testify as to any matter regarding which the witness may be interrogated under this chapter, the district court, upon the application of the department, may order the person to show cause why the person should not be held in contempt for failure to testify or comply with a subpoena, and may order the person to produce the records, books, and documents for examination, and to give testimony. The courts may punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify.

5. Develop, recommend, and implement with appropriate agencies public and professional education and communication programs in energy efficiency, energy conservation, and conversion to ~~alternative sources of energy~~ alternative and renewable energy.

11. Develop, in coordination with the office of energy independence, a program to annually give public recognition to innovative methods of energy conservation, energy management, and alternative and renewable energy production.

12. Administer and coordinate, in coordination with the office of energy independence, federal funds for energy conservation, energy management, and alternative and renewable energy programs ~~including, but not limited to, the institutional conservation program, state energy conservation program, and energy extension service program, and related programs which provide energy management and conservation assistance to schools, hospitals, health care facilities, communities, and the general public~~.

14. ~~Perform~~ Provide information from monthly fuel surveys which establish[2] a statistical average of motor fuel prices for various motor fuels provided throughout the state. Additionally, the department shall ~~perform~~ provide statewide monthly fuel ~~surveys in cities with populations of over fifty thousand~~ survey information which establish a statistical average of motor fuel prices for various motor fuels provided in ~~those individual cities~~ both metropolitan and rural areas of the state. The survey results shall be publicized in a monthly press release issued by the department.

Sec. 24. Section 473.15, Code 2007, is amended to read as follows:

473.15 ANNUAL REPORT.

The department shall ~~include in the~~ complete an annual report ~~required under section 455A.4 an assessment of~~ to assess the progress ~~achieved by public agencies~~ of state agencies in implementing energy management improvements, alternative and renewable energy systems, and life cycle cost analyses under chapter 470, and on the use of renewable fuels. The

[2] According to enrolled Act; the word "establishes" probably intended

department shall work with state agencies and with any entity, agency, or organization with which they are associated or involved in such implementation, to use available information to minimize the cost of preparing the report. The department shall also provide an assessment of the economic and environmental impact of the progress made by state agencies related to energy management and alternative and renewable energy, along with recommendations on technological opportunities and policies necessary for continued improvement in these areas.

Sec. 25. Section 473.19, Code 2007, is amended to read as follows:

473.19 ENERGY BANK PROGRAM.

1. The energy bank program is established by the department. The energy bank program consists of the following forms of assistance for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations:

~~1.~~ a. Promoting program availability.

b. Developing or identifying guidelines and model energy techniques for the completion of energy analyses for state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.

c. Providing ~~moneys from the petroleum overcharge fund~~ technical assistance for conducting or evaluating energy ~~audits~~ analyses for ~~school districts under section 279.44, for conducting comprehensive engineering analyses for school districts and for conducting energy audits and comprehensive engineering analyses for state agencies, and political subdivisions of the~~ state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations.

~~2.~~ d. Providing or facilitating loans, leases, and other methods of alternative financing ~~from~~ under the energy loan ~~fund established in section 473.20 and section 473.20A~~ program for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to implement energy ~~conservation measures~~ management improvements or energy analyses.

~~3. Serving as a source of technical support for energy conservation management.~~

~~4.~~ e. Providing assistance for obtaining insurance on the energy savings expected to be realized from the implementation of energy ~~conservation measures~~ management improvements.

~~5.~~ f. ~~Providing~~ Facilitating self-liquidating financing for the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations pursuant to section 473.20A.

g. Assisting the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies to finance energy management improvements pursuant to section 12.28.

2. For the purpose of this section, section 473.20, and section 473.20A, "energy ~~conservation measure"~~ management improvement" means construction, rehabilitation, acquisition, or modification of an installation in a facility or vehicle which is intended to reduce energy consumption, or energy costs, or both, or allow the use of ~~an alternative energy source, which may contain integral~~ alternative and renewable energy. "Energy management improvement" may include control and measurement devices. "Nonprofit organization" means an organization exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code.

3. The department shall submit a report by January 1 annually to the governor and the general assembly detailing services provided and assistance rendered pursuant to the energy bank program and pursuant to sections 473.20 and 473.20A, and receipts and disbursements in relation to the energy bank fund created in section 473.19A.

4. Moneys awarded or allocated to the state, its citizens, or its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations attributable to or contained within the Stripper Well fund shall be allocated to and remain under the control of the department for utilization for energy program-related staff support purposes.

Sec. 26. NEW SECTION. 473.19A ENERGY BANK FUND.

1. The energy bank fund is created within the state treasury under the control of the department, in collaboration with the office of energy independence established in section 469.2. The fund shall be used for the operational expenses and administrative costs incurred by the department in facilitating and administering the energy bank program established in section 473.19.

2. The energy bank fund shall consist of amounts deposited into the fund or allocated from the following sources:

a. Any moneys awarded or allocated to the state, its citizens, or its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations attributable to or contained within the Exxon fund. Amounts remaining in the oil overcharge account established in section 455E.11, subsection 2, paragraph "e", and the energy conservation trust established in section 473.11,[3] as of June 30, 2008, shall be deposited into the energy bank fund pursuant to this paragraph, notwithstanding section 8.60, subsection 15.[4]

b. (1) Moneys received in the form of fees imposed upon the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for services performed or assistance rendered pursuant to the energy bank program. Fees imposed pursuant to this paragraph shall be established by the department in an amount corresponding to the operational expenses or administrative costs incurred by the department in performing services or providing assistance authorized pursuant to the energy bank program, as follows:

(a) For a building of up to twenty-five thousand square feet, two thousand five hundred dollars.

(b) For a building in excess of twenty-five thousand square feet, an additional eight cents per square foot.

(c) A building that houses more energy intensive functions may be subject to a higher fee than the fees specified in subparagraphs (a) and (b) as determined by the department.

(2) Any fees imposed shall be retained by the department and are appropriated to the department for purposes of providing the services or assistance under the program.

c. Moneys appropriated by the general assembly and any other moneys, including grants and gifts from government and nonprofit organizations, available to and obtained or accepted by the department for placement in the fund.

d. Moneys contained in the intermodal revolving loan fund administered by the department of transportation for the fiscal year beginning July 1, 2019, and succeeding fiscal years.

e. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, interest or earnings on moneys in the fund shall be credited to the fund.

3. The energy bank fund shall be limited to a maximum of one million dollars. Amounts in excess of this maximum limitation shall be transferred to and deposited in the rebuild Iowa infrastructure fund created in section 8.57, subsection 6.

Sec. 27. Section 473.20, unnumbered paragraph 1, Code 2007, is amended to read as follows:

An energy loan ~~fund~~ program is established ~~in the office of the treasurer of state to~~ and shall be administered by the department.

Sec. 28. Section 473.20, subsections 1, 5, and 6, Code 2007, are amended to read as follows:

1. The department may ~~make loans to the state, state agencies,~~ facilitate the loan process for political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations for implementation of energy ~~conservation measures~~ management improvements identified in ~~a comprehensive engineering~~ an energy analysis. Loans shall be ~~made~~ facilitated for all cost-effective energy management improvements. For ~~the state, state agencies,~~ political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations to receive ~~a~~ loan ~~from the fund~~ assis-

[3] According to enrolled Act; the phrase "section 473.11, Code 2007," probably intended

[4] According to enrolled Act; the phrase "section 8.60, subsection 15, Code 2007" probably intended

tance under the program, the department shall require completion of an energy management plan including an energy ~~audit and a comprehensive engineering~~ analysis. The department shall approve loans ~~made~~ facilitated under this section.

5. ~~The state, state agencies, political~~ Political subdivisions of the state, school districts, area education agencies, and community colleges shall design and construct the most energy cost-effective facilities feasible and ~~shall use the financing made available~~ may use financing facilitated by the department to cover the incremental costs above minimum building code energy efficiency standards of purchasing energy efficient devices and materials unless other lower cost financing is available. As used in this section, "facility" means a structure that is heated or cooled by a mechanical or electrical system, or any system of physical operation that consumes energy to carry out a process.

6. The department shall not require the state, state agencies, political subdivisions of the state, school districts, area education agencies, and community colleges to implement a specific energy ~~conservation measure~~ management improvement identified in ~~a comprehensive engineering~~ an energy analysis if the entity which prepared the analysis demonstrates to the department that the facility which is the subject of the energy ~~conservation measure~~ management improvement is unlikely to be used or operated for the full period of the expected savings payback of all costs associated with implementing the energy ~~conservation measure~~ management improvement, including without limitation, any fees or charges of the department, engineering firms, financial advisors, attorneys, and other third parties, and all financing costs including interest, if financed.

Sec. 29. Section 473.20, subsection 3, Code 2007, is amended by striking the subsection.

Sec. 30. Section 473.20A, Code 2007, is amended to read as follows:

473.20A SELF-LIQUIDATING FINANCING.

1. The department of natural resources may ~~enter into~~ facilitate financing agreements that may be entered into with ~~the state, state agencies,~~ political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations ~~in order to provide the financing~~ to ~~pay~~ finance the costs of ~~furnishing~~ energy ~~conservation measures~~ management improvements on a self-liquidating basis. The provisions of section 473.20 defining eligible energy ~~conservation measures and the method of repayment of the loans~~ management improvements apply to financings under this section.

The financing agreement may contain provisions, including interest, term, and obligations to make payments on the financing agreement beyond the current budget year, as may be ~~agreed upon between the department of natural resources and the state, state agencies,~~ acceptable to political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations.

~~2. For the purpose of funding its obligation to furnish moneys under the financing agreements, or to fund the energy loan fund created in section 473.20, the treasurer of state, with the assistance of the department of natural resources, or the treasurer of state's duly authorized agents or representatives, may incur indebtedness or enter into master lease agreements or other financing arrangements to borrow to accomplish energy conservation measures, or the department of natural resources may enter into master lease agreements or other financing arrangements to permit the state, state agencies, political subdivisions of the state, school districts, area education agencies, community colleges, or nonprofit organizations to borrow sufficient funds to accomplish the energy conservation measure. The obligations may be in such form, for such term, bearing such interest and containing such provisions as the department of natural resources, with the assistance of the treasurer of state, deems necessary or appropriate. Funds remaining after the payment of all obligations have been redeemed shall be paid into the energy loan fund.~~ The department shall assist the treasurer of state with financing agreements entered into by the treasurer of state on behalf of state agencies pursuant to section 12.28 to finance energy management improvements being implemented by state agencies.

~~3.~~ 2. ~~The state, state agencies, political~~ Political subdivisions of the state, school districts, area education agencies, community colleges, and nonprofit organizations may enter into financing agreements and issue obligations necessary to carry out the provisions of the chapter. Chapter 75 shall not be applicable.

Sec. 31. Section 476.46, subsection 2, paragraph d, subparagraph (2), Code 2007, is amended to read as follows:

(2) A facility shall be eligible for no more than ~~two hundred fifty thousand~~ one million dollars in loans outstanding at any time under this program.

Sec. 32. Sections 473.11, 473.13, 473.16, 473.17, 473.42, and 473.44, Code 2007, are repealed.

Sec. 33. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 29, 2008

CHAPTER 1127

EDUCATIONAL STANDARDS —
CORE CURRICULUM CONTENT AND CAREER INFORMATION

S.F. 2216

AN ACT concerning state and local measures for preparing a student for a career or for postsecondary education, including a statewide core curriculum for school districts and accredited nonpublic schools and a state-designated career information and decision-making system.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 256.7, subsections 26 and 28, Code Supplement 2007, are amended to read as follows:

26. a. Adopt rules that establish a ~~voluntary model~~ core curriculum and requiring, beginning with the students in the 2010-2011 school year graduating class, high school graduation requirements for all students in school districts and accredited nonpublic schools that include at a minimum satisfactory completion of four years of English and language arts, three years of mathematics, three years of science, and three years of social studies. The ~~voluntary model~~ core curriculum adopted shall address the core content standards in subsection 28 and the skills and knowledge students need to be successful in the twenty-first century. The ~~voluntary model~~ core curriculum shall include social studies and twenty-first century learning skills which include but are not limited to civic literacy, health literacy, technology literacy, financial literacy, and employability skills; and shall address the curricular needs of students in kindergarten through grade twelve in those areas. For purposes of this subsection, "financial literacy" shall include but not be limited to financial responsibility and planning skills; money management skills, including setting financial goals, creating spending plans, and using financial instruments; applying decision-making skills to analyze debt incurrence and debt management; understanding risk management, including the features and functions of insurance; and understanding saving and investing as applied to long-term financial security and asset building.

b. ~~The state board shall continue~~ Continue the inclusive process begun during the initial development of a ~~voluntary model~~ core curriculum for grades nine through twelve including stakeholder involvement, including but not limited to representatives from the private sector and the business community, and alignment of the ~~voluntary model~~ core curriculum to other recognized sets of national and international standards. The state board shall also recommend quality assessments to school districts and accredited nonpublic schools to measure the ~~voluntary model~~ core curriculum.

The state board shall not require school districts or accredited nonpublic schools to adopt a specific textbook or textbook series to meet the core curriculum requirements of this subsection or the core content standards adopted pursuant to subsection 28.[1]

28. Adopt a set of core content standards applicable to all students in kindergarten through grade twelve in every school district and accredited nonpublic school. For purposes of this subsection, "core content standards" includes reading, mathematics, and science. The core content standards shall be identical to the core content standards included in Iowa's approved 2006 standards and assessment system under Title I of the federal Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended by the federal No Child Left Behind Act of 2001, Pub. L. No. 107-110. School districts and accredited nonpublic schools shall include, at a minimum, the core content standards adopted pursuant to this subsection in any set of locally developed content standards. School districts and accredited nonpublic schools are strongly encouraged to ~~include the voluntary model core curriculum or~~ set higher expectations in local standards. As changes in federal law or regulation occur, the state board is authorized to amend the core content standards as appropriate.

Sec. 2. Section 256.9, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 57. Develop and distribute, in collaboration with the area education agencies, core curriculum technical assistance and implementation strategies that school districts and accredited nonpublic schools may utilize, including but not limited to the development and delivery of formative and end-of-course assessments classroom teachers can use to measure student progress on the core curriculum adopted pursuant to section 256.7, subsection 26. The department shall continue to collaborate with Iowa testing programs on the development of end-of-course and additional assessments to align with the expectations included in the Iowa core curriculum.[2]

Sec. 3. Section 256.9, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 58. Submit an annual report to the general assembly by January 1 regarding activities, findings, and student progress under the core curriculum established pursuant to section 256.7, subsection 26. The annual report shall include the state board's findings and recommendations.

Sec. 4. Section 279.61, Code Supplement 2007, is amended to read as follows:

279.61 STUDENT PLAN FOR PROGRESS TOWARD UNIVERSITY ADMISSIONS — REPORT.

1. For the school year beginning July 1, ~~2007~~ 2008, and each succeeding school year, the board of directors of each school district shall cooperate with each student enrolled in grade eight to develop for the student a core curriculum plan to guide the student toward the goal of successfully completing, at a minimum, the ~~voluntary model~~ core curriculum developed by the state board of education pursuant to section 256.7, subsection 26, by the time the student graduates from high school. The plan shall include career options and shall identify the coursework needed in grades nine through twelve to support the student's postsecondary education and career options. Additionally, the plan shall include a timeline for each student to successfully complete, prior to graduation, all components of the state-designated career information and decision-making system administered by the department in accordance with

[1] See chapter 1191, §155 herein

[2] See chapter 1191, §156 herein

section 118 of the federal Carl D. Perkins Career and Technical Education Improvement Act of 2006, Pub. L. No. 109-270. The student's parent or guardian shall sign the core curriculum plan developed with the student and the signed plan shall be included in the student's cumulative records.

2. For the school year beginning July 1, ~~2007~~ 2008, and each succeeding school year, the board of directors of each school district shall report annually to each student enrolled in grades nine through twelve in the school district, and, if the student is under the age of eighteen, to each student's parent or guardian, the student's progress toward meeting the goal of successfully completing the core curriculum and high school graduation requirements adopted by the state board of education pursuant to section 256.7, subsection 26.

Sec. 5. Section 280.3, Code 2007, is amended to read as follows:

280.3 ~~DUTIES OF BOARD~~ EDUCATIONAL PROGRAM — ATTENDANCE CENTER REQUIREMENTS.

1. The board of directors of each public school district and the authorities in charge of each nonpublic school shall prescribe the minimum educational program and an attendance policy which shall require each child to attend school for at least one hundred forty-eight days, to be met by attendance for at least thirty-seven days each school quarter, for the schools under their jurisdictions.

2. The minimum educational program shall be the curriculum set forth in subsection 3 of this section and section 256.11, except as otherwise provided by law. The board of directors of a public school district shall not allow discrimination in any educational program on the basis of race, color, creed, sex, marital status or place of national origin.

3. The board of directors of each public school district and the authorities in charge of each nonpublic school shall do all of the following:

a. Adopt an implementation plan by July 1, 2010, which provides for the adoption of at least one core curriculum subject area each year as established by the state board of education for grades nine through twelve pursuant to section 256.7, subsection 26. The core curriculum established for grades nine through twelve by the state board of education pursuant to section 256.7, subsection 26, shall be fully implemented by each school district and school by July 1, 2012.

b. Adopt an implementation plan, by July 1, 2012, which provides for the full implementation of the core curriculum established for kindergarten through grade eight by the state board of education pursuant to section 256.7, subsection 26, by the 2014-2015 school year.

4. A nonpublic school which is unable to meet the minimum educational program may request an exemption from the state board of education. The authorities in charge of the nonpublic school shall file with the director of the department of education the names and locations of all schools desiring to be exempted and the names, ages, and post office addresses of all pupils of compulsory school age who are enrolled. The director, subject to the approval of the state board, may exempt the nonpublic school from compliance with the minimum educational program for two school years. When the exemption has once been granted, renewal of the exemption for each succeeding school year may be conditioned by the director, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, of the pupils of compulsory school age exempted in the preceding year. Proof of achievement shall be determined on the basis of tests or other means of evaluation prescribed by the director of the department of education with the approval of the state board of education. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the director by April 15 of the school year preceding the school year for which the applicants desire exemption. This section shall not apply to schools eligible for exemption under section 299.24.

5. The board of directors of each public school district and the authorities in charge of each nonpublic school shall establish and maintain attendance centers based upon the needs of the

school age pupils enrolled in the school district or nonpublic school. Public school kindergarten programs shall and public and nonpublic school prekindergarten programs may be provided. In addition, the board of directors or governing authority may include in the educational program of any school such additional courses, subjects, or activities which it deems fit the needs of the pupils.

Sec. 6. DEPARTMENT OF EDUCATION — CORE CURRICULUM STUDY. The department of education shall conduct a study of the measures necessary for the successful adoption by the state's school districts and accredited nonpublic schools of core curriculums and core content standards established by rule pursuant to section 256.7, subsections 26 and 28. The[3] department shall submit its findings and recommendations, including recommendations for statutory and administrative rule changes necessary, to the general assembly by November 14, 2008.

Sec. 7. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be paid by a school district from state school foundation aid received by the school district under section 257.16. This specification of the payment of the state cost shall be deemed to meet all of the state funding-related requirements of section 25B.2, subsection 3, and no additional state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected school districts.

Approved May 1, 2008

CHAPTER 1128

RENEWABLE ENERGY PRODUCTION —
FINANCING AND INCENTIVES

S.F. 2405

AN ACT relating to renewable energy, providing for state bank acquisition of equity interests in wind energy production facilities, providing for qualification for specified tax credits and refunds by state banks and by owners or manufacturing facilities generating wind energy for on-site consumption rather than sale, providing for the establishment or participation in a program to track, record, or verify the trading of credits for electricity generated from specified sources, and providing effective and retroactive applicability dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
BANK WIND ENERGY INVESTMENT

Section 1. Section 524.802, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. Provide customer financing for wind energy production facilities eligible for production tax credits pursuant to chapter 476B in a manner that maximizes the availability of production tax credits to the state bank, including structuring such financing as a membership investment whereby the state bank as equity investor may take a majority financial position, but not a management position, in each such facility, subject to the following:

[3] See chapter 1191, §159 herein

a. Prior to providing financing, a creditworthiness review shall be conducted pursuant to the state bank's standard loan underwriting criteria.

b. The state bank shall not participate in the operation of the facility, the production of wind energy, or the sale of wind energy if such sale is contemplated by the customer.

c. If the facility does not perform as projected in the equity investment agreement, the state bank may either sell its interest in the facility or pursue liquidation.

d. The state bank shall not share in any appreciation in value of its interest in the facility or in any of the customer's real or personal assets.

e. At the end of any applicable holding period, the state bank shall sell at book value its ownership interest in the facility.

DIVISION II
WIND ENERGY PRODUCTION TAX CREDITS AND REFUNDS

Sec. 2. Section 423.4, subsection 4, Code Supplement 2007, is amended to read as follows:

4. A person in possession of a wind energy production tax credit certificate pursuant to chapter 476B or a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for refund of the amount of sales or use tax imposed and paid upon purchases made by the applicant.

a. The refunds may be obtained only in the following manner and under the following conditions:

(1) On forms furnished by the department and filed by January 31 after the end of the calendar year in which the tax credit certificate is to be applied, the applicant shall report to the department the total amount of sales and use tax paid during the reporting period on purchases made by the applicant.

(2) The applicant shall separately list the amounts of sales and use tax paid during the reporting period.

(3) If required by the department, the applicant shall prove that the person making the sales has included the amount thereof in the computation of the sales price of such person and that such person has paid the tax levied by this subchapter or subchapter III, based upon such computation of the sales price.

(4) The applicant shall provide the tax credit certificates issued pursuant to chapter 476B or 476C to the department with the forms required by this paragraph "a".

b. If satisfied that the foregoing conditions and requirements have been complied with, the director shall refund the amount claimed by the applicant for an amount not greater than the amount of tax credits issued in tax credit certificates pursuant to chapter 476B or 476C.

Sec. 3. Section 437A.17B, Code 2007, is amended to read as follows:

437A.17B REIMBURSEMENT FOR RENEWABLE ENERGY.

A person in possession of a wind energy tax credit certificate issued pursuant to chapter 476B or a renewable energy tax credit certificate issued pursuant to chapter 476C may apply to the director for a reimbursement of the amount of taxes imposed and paid by the person pursuant to this chapter in an amount not more than the person received in wind energy tax credit certificates pursuant to chapter 476B or renewable energy tax credit certificates pursuant to chapter 476C. To obtain the reimbursement, the person shall attach to the return required under section 437A.8 the wind energy tax credit certificates issued to the person pursuant to chapter 476B, or the renewable energy tax credit certificates issued to the person pursuant to chapter 476C, and provide any other information the director may require. The director shall direct a warrant to be issued to the person for an amount equal to the tax imposed and paid by the person pursuant to this chapter but for not more than the amount of the wind energy tax credit certificates or renewable energy tax credit certificates attached to the return.

Sec. 4. Section 476B.1, subsection 4, paragraph c, Code 2007, is amended to read as follows:

c. Was originally placed in service on or after July 1, 2005, but before July 1, ~~2009~~ 2012.

Sec. 5. Section 476B.1, subsection 4, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For applications filed on or after March 1, 2008, consists of one or more wind turbines connected to a common gathering line which have a combined nameplate capacity of no less than two megawatts.

Sec. 6. Section 476B.2, Code 2007, is amended to read as follows:

476B.2 GENERAL RULE.

The owner of a qualified facility shall, for each kilowatt-hour of qualified electricity that the owner sells or uses for on-site consumption during the ten-year period beginning on the date the qualified facility was originally placed in service, be allowed a wind energy production tax credit to the extent provided in this chapter against the tax imposed in chapter 422, divisions II, III, and V, and chapter 432, and may claim a refund of tax imposed by chapter 423 or 437A for any tax year within the time period set forth in section 423.47 or 437A.14.

Sec. 7. Section 476B.3, Code 2007, is amended to read as follows:

476B.3 CREDIT AMOUNT.

The wind energy production tax credit allowed under this chapter equals the product of one cent multiplied by the number of kilowatt-hours of qualified electricity sold or used for on-site consumption by the owner during the taxable year.

Sec. 8. Section 476B.5, subsection 1, paragraph e, Code 2007, is amended to read as follows:

e. ~~A~~ Except when electricity is used for on-site consumption, a copy of an executed power purchase agreement or other agreement to purchase electricity upon completion of the project. An executed interconnection agreement or transmission service agreement shall be accepted by the board under this paragraph if the owner of the facility has agreed to sell electricity from the facility directly or indirectly to a wholesale power pool market.

Sec. 9. Section 476B.6, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For a facility in which electricity is used for on-site consumption, the requirements of paragraphs "c" and "d" shall not be applicable. For such facilities, the owner must submit a certification under penalty of perjury that the claimed amount of electricity was generated by the qualified facility and consumed by the owner.

Sec. 10. Section 476B.6, subsection 3, Code 2007, is amended to read as follows:

3. The board shall notify the department of the amount of kilowatt-hours generated and purchased from a qualified facility or generated and used on-site by a qualified facility. The department shall calculate the amount of the tax credit for which the applicant is eligible and shall issue the tax credit certificate for that amount or notify the applicant in writing of its refusal to do so. An applicant whose application is denied may file an appeal with the department within sixty days from the date of the denial pursuant to the provisions of chapter 17A.

Sec. 11. Section 476B.6, subsection 5, paragraph d, Code 2007, is amended to read as follows:

d. If the tax credit application is filed by a partnership, limited liability company, S corporation, estate, trust, or other reporting entity, all of whose income is taxed directly to its equity holders or beneficiaries for the taxes imposed under chapter 422, division V, or under chapter 423, 432, or 437A, the tax credit certificate shall be issued directly to the partnership, limited liability company, S corporation, estate, trust, or other reporting entity.

Sec. 12. Section 476B.7, Code 2007, is amended to read as follows:

476B.7 TRANSFER OF TAX CREDIT CERTIFICATES.

Wind energy production tax credit certificates issued under this chapter may be transferred to any person or entity. Within thirty days of transfer, the transferee must submit the trans-

ferred tax credit certificate to the department along with a statement containing the transferee's name, tax identification number, and address, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department shall issue one or more replacement tax credit certificates to the transferee. Each replacement certificate must contain the information required under section 476B.6 and must have the same effective taxable year and the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the board shall not be transferable. A tax credit shall not be claimed by a transferee under this chapter until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. A replacement tax credit certificate may reflect a different type of tax than the type of tax noted on the original tax credit certificate.

The tax credit shall ~~only be transferred once~~ be freely transferable. The transferee may use the amount of the tax credit transferred against the taxes imposed under chapter 422, divisions II, III, and V, and chapter 432 for any tax year the original transferor could have claimed the tax credit. The transferee may claim a refund under chapter 423 or 437A for any tax year within the time period set forth in section 423.47 or 437A.14 for which the original transferor could have claimed a refund. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V.

Sec. 13. Section 476B.8, Code 2007, is amended to read as follows:

476B.8 USE OF TAX CREDIT CERTIFICATES.

To claim a wind energy production tax credit under this chapter, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return, or if used against taxes imposed under chapter 423, the taxpayer shall comply with section 423.4, subsection 4, or if used against taxes imposed under chapter 437A, the taxpayer shall comply with section 437A.17B. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2006. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return. Any tax credit in excess of the taxpayer's tax liability for the taxable year may be credited to the taxpayer's tax liability for the following seven taxable years or until depleted, whichever is the earlier. If the tax credit is applied against the taxes imposed under chapter 423 or 437A, any credit in excess of the taxpayer's tax liability is carried over and can be filed with the refund claim for the following seven tax years or until depleted, whichever is earlier. However, the certificate shall not be used to reduce tax liability for a tax period ending after the expiration date of the certificate.

DIVISION III
MISCELLANEOUS

Sec. 14. NEW SECTION. 476.44A TRADING OF CREDITS.

The board may establish or participate in a program to track, record, and verify the trading of credits or attributes relating to electricity generated from alternate energy production facilities or renewable energy sources among electric generators, utilities, and other interested entities, within this state and with similar entities in other states.

Sec. 15. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to taxable years beginning on or after January 1, 2008, for tax credits issued pursuant to this Act.

Approved May 1, 2008

CHAPTER 1129

VETERANS TRUST FUND EXPENDITURES
AND INCOME TAX CHECKOFFS

S.F. 2124

AN ACT relating to income tax checkoffs and authorized expenditures from the veterans trust fund and providing for emergency rulemaking authority and including a retroactive applicability date provision and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
VETERANS TRUST FUND EXPENDITURES

Section 1. Section 35A.13, subsection 7, paragraphs a, d, and e, Code Supplement 2007, are amended to read as follows:

a. Travel expenses for wounded veterans, and their spouses, directly related to follow-up medical care.

d. Expenses related to ~~nursing facility or at-home care~~ the purchase of durable medical equipment or services to allow veterans to remain in their homes.

e. ~~Benefits provided to children of disabled or deceased veterans~~ Expenses related to hearing care, dental care, vision care, or prescription drugs.

Sec. 2. Section 35A.13, subsection 7, Code Supplement 2007, is amended by adding the following new paragraphs:

NEW PARAGRAPH. i. Expenses related to ambulance and emergency room services for veterans who are trauma patients.

NEW PARAGRAPH. j. Emergency expenses related to vehicle repair, housing repair, or temporary housing assistance.

NEW PARAGRAPH. k. Expenses related to establishing whether a minor child is a dependent of a deceased veteran.

NEW PARAGRAPH. l. Matching funds to veterans organizations to provide for accredited veteran service officers. However, moneys expended for this purpose in a fiscal year shall not exceed the lesser of one hundred fifty thousand dollars or twenty percent of the moneys appropriated to the commission from interest and earnings on the fund in that fiscal year.

Sec. 3. Section 35A.13, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The department may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this subsection shall also be published as a notice of intended action as provided in section 17A.4.

DIVISION II
INCOME TAX CHECKOFFS

Sec. 4. NEW SECTION. 235A.2 CHILD ABUSE PREVENTION PROGRAM FUND.

1. A child abuse prevention program fund is created in the state treasury under the control of the department of human services. The fund is composed of moneys appropriated or available to and obtained or accepted by the treasurer of state for deposit in the fund. The fund shall include moneys transferred to the fund as provided in section 422.12K. All interest earned on

moneys in the fund shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

2. Moneys in the fund that are authorized by the department for expenditure are appropriated, and shall be used, for the purposes described in section 235A.1 of preventing child abuse and neglect.

Sec. 5. NEW SECTION. 422.12K INCOME TAX CHECKOFF FOR CHILD ABUSE PREVENTION PROGRAM FUND.

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be paid to the child abuse prevention program fund created in section 235A.2. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer to the child abuse prevention program fund, the amount designated shall be reduced to the remaining amount remitted with the return. The designation of a contribution to the child abuse prevention program fund under this section is irrevocable.

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the child abuse prevention program fund on the tax return. The department of revenue, on or before January 31, shall transfer the total amount designated on the tax return forms due in the preceding calendar year to the child abuse prevention program fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and accounts identified as owing under section 421.17 and the political contribution allowed under section 68A.601 shall be satisfied.

3. The department of human services may authorize payment of moneys from the child abuse prevention program fund, in accordance with section 235A.2.

4. The department of revenue shall adopt rules to administer this section.

5. This section is subject to repeal under section 422.12E.

Sec. 6. NEW SECTION. 422.12L JOINT INCOME TAX REFUND CHECKOFF FOR VETERANS TRUST FUND AND VOLUNTEER FIRE FIGHTER PREPAREDNESS FUND.

1. A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate one dollar or more to be paid jointly to the veterans trust fund created in section 35A.13 and to the volunteer fire fighter preparedness fund created in section 100B.13. If the refund due on the return or the payment remitted with the return is insufficient to pay the additional amount designated by the taxpayer, the amount designated shall be reduced to the remaining amount of refund or the remaining amount remitted with the return. The designation of a contribution under this section is irrevocable.

2. The director of revenue shall draft the income tax form to allow the designation of contributions to the veterans trust fund and to the volunteer fire fighter preparedness fund as one checkoff on the tax return. The department of revenue, on or before January 31, shall transfer one-half of the total amount designated on the tax return forms due in the preceding calendar year to the veterans trust fund and the remaining one-half to the volunteer fire fighter preparedness fund. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of administrative services and accounts identified as owing under section 8A.504 and the political contribution allowed under section 68A.601 shall be satisfied.

3. The department of revenue shall adopt rules to administer this section.

4. This section is subject to repeal under section 422.12E.

Sec. 7. IMPLEMENTATION. The checkoffs created in this division of this Act are eligible for placement on the individual income tax return form commencing with the tax year beginning January 1, 2008, provided the conditions for placement on the return form set out in section 422.12E are met.

Sec. 8. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to

the tax year commencing January 1, 2008, and applies to tax years beginning on or after that date.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 5, 2008

CHAPTER 1130

VETERANS — COUNTY COMMISSIONS, TRAINING, AND MOTOR VEHICLE REGISTRATION PLATES

S.F. 2134

AN ACT relating to veterans affairs by modifying training requirements, requiring executive directors and administrators to provide minimum hours of service in each county, specifying executive director, administrator, and employee duties, creating a county commission of veteran affairs training program, creating a county commissions of veteran affairs fund, providing an appropriation, concerning eligibility criteria for special gold star motor vehicle registration plates and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 35A.5, subsection 9, Code Supplement 2007, is amended to read as follows:

9. After consultation with the commission, provide certification training to executive directors and administrators of county commissions of veteran affairs pursuant to section 35B.6. Training provided under this subsection shall include accreditation by the national association of county veteran service officers. Training provided by the department shall be certified by the national association of county veteran service officers and, in addition, shall ensure that each executive director and administrator is proficient in the use of electronic mail, general computer use, and use of the internet to access information regarding facilities, benefits, and services available to veterans and their families. The department may adopt rules in accordance with chapter 17A to provide for training of county veteran affairs executive directors and administrators.

Sec. 2. NEW SECTION. 35A.16 COUNTY COMMISSIONS OF VETERAN AFFAIRS FUND — APPROPRIATION.

1. a. A county commissions of veteran affairs fund is created within the state treasury under the control of the department. The fund shall consist of appropriations made to the fund and any other moneys available to and obtained or accepted by the department from the federal government or private sources for deposit in the fund.

b. There is appropriated from the general fund of the state to the department, for the fiscal year beginning July 1, 2009, and for each subsequent fiscal year, the sum of one million dollars to be credited to the county commissions of veteran affairs fund.

2. Notwithstanding section 12C.7, interest or earnings on moneys in the county commissions of veteran affairs fund shall be credited to the county commissions of veteran affairs fund. Notwithstanding section 8.33, moneys remaining in the county commissions of veteran affairs fund at the end of a fiscal year shall not revert to the general fund of the state.

3. If sufficient moneys are available, the department shall annually allocate ten thousand dollars to each county commission of veteran affairs, or to each county sharing the services of an executive director or administrator pursuant to chapter 28E, to be used for the employment of an executive director or administrator pursuant to section 35B.6.

4. A county commission of veteran affairs training program account shall be established within the county commissions of veteran affairs fund. Any moneys remaining in the fund after the allocations under subsection 3 shall be credited to the account and used by the department to fund the county commission of veteran affairs training program under section 35A.17.

Sec. 3. NEW SECTION. 35A.17 COUNTY COMMISSION OF VETERAN AFFAIRS TRAINING PROGRAM.

1. A county commission of veteran affairs training program is created under the control of the department for the purpose of providing training, certification, and accreditation opportunities for county commissions of veteran affairs executive directors, administrators, and employees.

2. The department may receive and accept donations, grants, gifts, and contributions from any public or private source for the purpose of providing training opportunities under this section. All funds received by the department shall be deposited in the county commission of veteran affairs training program account established in section 35A.16, subsection 4.

3. a. The department shall use funds deposited in the county commission of veteran affairs training program account to organize statewide or regional training conferences and provide training, certification, and accreditation opportunities for county commissions of veteran affairs executive directors, administrators, and employees, consistent with the requirements of section 35A.5, subsection 9.

b. During the fiscal year beginning July 1, 2009, the department shall use account funds to arrange for an accreditation course by the national association of county veteran service officers to take place within the state.

c. The department may use account funds to hire an agency, organization, or other entity to provide training or educational programming, reimburse county executive directors, administrators, and employees for transportation costs related to a conference or program, or both.

4. The department shall adopt rules, pursuant to chapter 17A, deemed necessary for the administration of the county commission of veteran affairs training program.

Sec. 4. Section 35B.6, subsection 1, Code 2007, is amended to read as follows:

1. a. The members of the commission shall qualify by taking the usual oath of office, and give bond in the sum of five hundred dollars each, conditioned for the faithful discharge of their duties with sureties to be approved by the county auditor. The commission shall organize by the selection of one of their members as chairperson, and one as secretary. The commission, subject to the approval of the board of supervisors, shall ~~have power to~~ employ an executive director or administrator and shall have the power to employ other necessary employees when needed, including administrative or clerical assistants ~~when needed, the~~. The compensation of such employees ~~to~~ shall be fixed by the board of supervisors, but no member of the commission shall be so employed. The executive director must possess the same qualifications as provided in section 35B.3 for commission members. However, this qualification requirement shall not apply to a person employed as an executive director prior to July 1, 1989.

b. The commission may employ an administrator in lieu of an executive director. Administrators shall not be required to meet all the qualifications provided in section 35B.3 for commissioners. An administrator may hold another position within the county or other government entity while serving as an administrator only if such position does not adversely affect the administrator's duties under this chapter.

~~b.~~ c. Upon the employment of an executive director or administrator, the executive director or administrator shall complete a course of ~~initial~~ certification training provided by the department of veterans affairs pursuant to section 35A.5. If an executive director or administrator

fails to obtain certification within one year of being employed, the executive director or administrator shall be removed from office. ~~If an executive director is not appointed, a~~ A commissioner or ~~a clerical assistant shall~~ other commission employee may also complete the course of certification training. The department shall issue the executive director, administrator, commissioner, or ~~clerical assistant~~ employee a certificate of training after completion of the ~~initial~~ certification training course. To maintain ~~annual~~ certification, the executive director, administrator, commissioner, or ~~clerical assistant~~ employee shall ~~attend one department training course each year~~ satisfy the continuing education requirements established by the national association of county veteran service officers. Failure of an executive director or administrator to maintain certification ~~may~~ shall be cause for removal from office. The expenses of training the executive director or administrator shall be paid from the appropriation authorized in section 35B.14.

d. The duties of the executive director, administrator, and employees shall include all of the following:

(1) Inform members of the armed forces, veterans, and their dependents of all federal, state, and local laws enacted for their benefit.

(2) Assist all residents of the state who served in the armed forces of the United States and their relatives, beneficiaries, and dependents in receiving from the United States and this state any and all compensation, pensions, hospitalization, insurance, education, employment pay and gratuities, loan guarantees, or any other aid or benefit to which they may be entitled under any law.

e. The department of veterans affairs or county veteran affairs offices shall not charge for any service provided to any individual.

Sec. 5. Section 35B.6, subsection 2, Code 2007, is amended to read as follows:

2. Two or more boards of supervisors may agree, pursuant to chapter 28E, to share the services of an executive director or administrator. The agreement shall provide for the establishment of a commission of veteran affairs office in each of the counties participating in the agreement.

Sec. 6. Section 35B.6, subsection 4, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. Each county commission of veteran affairs shall maintain an office in a building owned, operated, or leased by the county.

b. An executive director or administrator employed pursuant to subsection 1 shall provide veterans services for the following minimum number of hours each week:

(1) For a county with a population of thirty thousand or less, no fewer than twenty hours per week.

(2) For a county with a population of more than thirty thousand and less than sixty thousand, no fewer than thirty hours per week.

(3) For a county with a population of sixty thousand or more, no fewer than forty hours per week.

c. Counties sharing the services of an executive director or administrator shall consider the aggregate population of such counties when determining the number of hours of service required under paragraph "b". The number of hours shall be allocated between the counties in the proportion that the population of each county bears to the aggregate population.

d. The hours that the office established under paragraph "a", is open shall be posted in a prominent position outside the office.

Sec. 7. Section 35B.14, Code 2007, is amended to read as follows:

35B.14 COUNTY APPROPRIATION.

1. The board of supervisors of each county may appropriate moneys for training an executive director or administrator as provided for in section 35B.6, the food, clothing, shelter, utilities, medical benefits, and funeral expenses of indigent veterans, as defined in section 35.1,

and their indigent spouses, surviving spouses, and minor children not over eighteen years of age, having a legal residence in the county.

2. The appropriation shall be expended by the joint action and control of the board of supervisors and the county commission of veteran affairs.

Sec. 8. Section 321.34, subsection 24, Code Supplement 2007, is amended to read as follows:

24. GOLD STAR PLATES. An owner referred to in subsection 12 who is the surviving spouse, parent, child, or sibling of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict or who died as a result of such service may order special registration plates bearing a gold star emblem upon written application to the department accompanied by satisfactory supporting documentation as determined by the department. The gold star emblem shall be designed by the department in cooperation with the commission of veterans affairs. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized gold star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection 1, paragraph "b", the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for gold star plates.

Sec. 9. STATE MANDATE FUNDING SPECIFIED. In accordance with section 25B.2, subsection 3, the state cost of requiring compliance with any state mandate included in this Act shall be moneys appropriated in this Act and shall be deemed to meet all the state funding-related requirements of section 25B.2, subsection 3, and no specific state funding shall be necessary for the full implementation of this Act by and enforcement of this Act against all affected political subdivisions.

Sec. 10. EFFECTIVE DATE. This Act takes effect on July 1, 2009, except for section 8 of this Act, amending section 321.34, which shall take effect on July 1, 2008.

Approved May 5, 2008

CHAPTER 1131

VIETNAM CONFLICT VETERANS BONUS

H.F. 2283

AN ACT concerning eligibility for receiving a Vietnam Conflict veterans bonus for a certain period of active duty military service, providing a penalty, and including an effective date and retroactive applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 35A.8A VIETNAM CONFLICT VETERANS BONUS — LIMITED RESIDENCY REQUIREMENT — APPROPRIATION.

1. a. A person who served on active duty for not less than one hundred twenty days in the armed forces of the United States at any time between July 1, 1958, and May 31, 1975, both dates inclusive, and who was inducted into active duty service from the state of Iowa and was honorably discharged or separated from active duty service, or is still in active service in an

honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive status is entitled to receive from moneys appropriated for that purpose the sum of seventeen dollars and fifty cents for each month that the person was on active duty service in the Vietnam service area, within the dates specified in this paragraph, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal-Vietnam or can otherwise establish service in the Vietnam service area during that period. Compensation under this paragraph shall not exceed a total sum of five hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.

b. A person otherwise qualified under paragraph "a" except that the person did not earn either a Vietnam service medal or an armed forces expeditionary medal-Vietnam and did not serve in the Vietnam service area during the period between July 1, 1958, and May 31, 1975, both dates inclusive, is entitled to receive from moneys appropriated for that purpose the sum of twelve dollars and fifty cents for each month that the person was on active duty service, within the dates specified in paragraph "a". Compensation under this paragraph shall not exceed a total sum of three hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.

2. A person otherwise eligible to receive compensation pursuant to subsection 1 shall be entitled to compensation pursuant to this section if all of the following requirements are met:

a. The person has not received a bonus or compensation similar to that provided in this section from this state or another state.

b. The person was on active duty service after July 1, 1958, and the person did not refuse on conscientious, political, religious, or other grounds, to be subject to military discipline.

c. The person made application for a bonus or compensation similar to that provided in this section from this state and was denied compensation because the person did not meet applicable residency requirements.

d. The person files an application for compensation under this section in a manner determined by the department of veterans affairs by July 1, 2010.

3. The surviving unremarried widow or widower, child or children, mother, father, or person standing in loco parentis, in the order named and none other, of any deceased person shall be paid the compensation that the deceased person would be entitled to pursuant to this section, if living. However, if any person has died or shall die, or is disabled, from service-connected causes incurred during the period and in the area from which the person is entitled to receive compensation pursuant to this section, the person or the first survivor as designated by this subsection, and in the order named, shall be paid five hundred dollars or three hundred dollars, whichever maximum amount would have applied pursuant to subsection 1, paragraph "a" or "b", regardless of the length of service.

4. A person who knowingly makes a false statement relating to a material fact in supporting an application under this section is guilty of a serious misdemeanor. A person convicted pursuant to this section shall forfeit all benefits to which the person may have been entitled under this section.

5. All payments and allowances made under this section shall be exempt from taxation, levy, and sale on execution.

6. The bonus compensation authorized under this section shall be paid from moneys appropriated for Vietnam Conflict veterans' bonuses.

7. The executive director of the department of veterans affairs shall provide for the administration of the bonus authorized in this section. The department shall adopt rules, pursuant to chapter 17A, as necessary to administer this section including but not limited to application procedures, investigation, approval or disapproval, and payment of claims. The department may expend up to one percent of the moneys appropriated for the bonus compensation authorized under this section for administrative costs associated with the requirements of this section.

8. This section is repealed June 30, 2011.

Sec. 2. Section 422.7, subsection 51, Code Supplement 2007, is amended to read as follows:

51. Subtract, to the extent included, the amount of any Vietnam Conflict veterans bonus provided pursuant to section 35A.8, subsection 5, and section 35A.8A.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 4. RETROACTIVE APPLICABILITY. The section of this Act amending section 422.7, is retroactively applicable to January 1, 2008, and is applicable for tax years beginning on and after that date.

Approved May 5, 2008

CHAPTER 1132

STUDENT LOANS, LENDERS, AND FUNDING

H.F. 2690

AN ACT relating to student loans, including the protection of students and parents from certain lenders and institutions of higher education with conflicts of interest, establishing a student lending education fund, establishing penalties, and providing for properly related matters, and including an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 7C.12, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Shall report quarterly any reallocation of the amount of the state ceiling by the governor's designee in accordance with this chapter to the legislative government oversight committee and the auditor of state. The report shall contain, at a minimum, the amount of each reallocation, the date of each reallocation, the name of the political subdivision and a description of all bonds issued pursuant to a reallocation, a brief explanation of the reason for the reallocation, and such other information as may be required by the committee.

Sec. 2. NEW SECTION. 7C.13 QUALIFIED STUDENT LOAN BOND ISSUER — OPEN RECORDS AND MEETINGS — OVERSIGHT.

1. CONDITION OF ALLOCATION. As a condition of receiving the allocation of the state ceiling as provided in section 7C.4A, subsection 3, the qualified student loan bond issuer shall comply with the provisions of this section.

2. ANNUAL REPORT AND AUDIT. The qualified student loan bond issuer shall submit an annual report to the governor, general assembly, and the auditor of state by January 15 setting forth its operations and activities conducted and newly implemented in the previous fiscal year related to use of the allocation of the state ceiling in accordance with this chapter and the outlook for the future. The report shall describe how the operations and activities serve students and parents. The annual audit of the qualified student loan bond issuer shall be filed with the office of auditor.

3. OPEN MEETINGS FOR CONSIDERATION OF TAX-EXEMPT ISSUANCE. The deliberations or meetings of the board of directors of the qualified student loan bond issuer that relate to the issuance of bonds in accordance with this chapter shall be conducted in accordance with chapter 21.

4. PUBLIC HEARING PRIOR TO ISSUANCE OF TAX-EXEMPT BONDS. Prior to the issuance of tax-exempt bonds in accordance with this chapter, the board of directors of the qualified student loan bond issuer shall hold a public meeting after reasonable notice. The board shall give notice of the time, date, and place of the meeting, and its tentative agenda, in a manner reasonably calculated to apprise the public of that information and provide interested parties with an opportunity to submit or present data, views, or arguments related to the issuance of the bonds.

5. OPEN RECORDS FOR CONSIDERATION OF TAX-EXEMPT BONDS. All of the following shall be subject to chapter 22:

a. Minutes of the meetings conducted in accordance with subsection 3.

b. The data and written views or arguments submitted in accordance with subsection 4.

c. Letters seeking approval from the governor for issuance of tax-exempt bonds in accordance with this chapter.

d. The published official statement of each tax-exempt bond issue authorized in accordance with this chapter.

6. STATE SUPERINTENDENT OF BANKING — REVIEW.

a. The state superintendent of banking shall not serve on the board of directors of the qualified student loan bond issuer.

b. The superintendent of banking shall annually review the qualified student loan bond issuer's total assets, loan volume, and reserves. Additionally, the superintendent shall review the qualified student loan bond issuer's procedures to inform students, prior to the submission of an application to the qualified student loan bond issuer for a loan made by the qualified student loan bond issuer, about the advantages of loans available under Title IV of the federal Higher Education Act of 1965, as amended, for which the students may be eligible. The review shall verify that the qualified student loan bond issuer issued bonds in accordance with this chapter in conformance to the letter requesting approval of the governor as set forth in subsection 5. The superintendent shall submit the review to the general assembly by January 15.

7. NO STATE OBLIGATION FOR BONDS. The obligations of the qualified student loan bond issuer are not the obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the qualified student loan bond issuer payable solely and only from the qualified student loan bond issuer's funds. The qualified student loan bond issuer 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 qualified student loan bond issuer.

Sec. 3. NEW SECTION. 261E.1 DEFINITIONS.

As used in this chapter, unless otherwise specified:

1. "Borrower" means a student attending a covered institution in this state, or a parent or person in parental relation to such student, who obtains an educational loan from a lending institution to pay for or finance a student's higher education expenses.

2. "Covered institution" means any educational institution that offers a postsecondary educational degree, certificate, or program of study and receives any Title IV funds under the federal Higher Education Act of 1965, as amended, or state funding or assistance. "Covered institution" includes an authorized agent of the educational institution, including an alumni association, booster club, or other organization directly or indirectly associated with or authorized by the institution or an employee of the institution.

3. "Covered institution employee" means any employee, agent, contract employee, director, officer, or trustee of a covered institution.

4. "Educational loan" means any loan that is made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, directly to a borrower solely for educational purposes, or any private educational loan.

5. "Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having a monetary value of more than a de minimus amount. "Gift" includes a gift of services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment

in advance, or reimbursement after the expense has been incurred. "Gift" does not include any of the following:

a. Standard material, activities, or programs on issues related to a loan, default aversion, default prevention, or financial literacy.

b. Food or refreshments furnished to an officer, employee, or agent of an institution as an integral part of a training session or conference that is designed to contribute to the professional development of the officer, employee, or agent of the institution.

c. Favorable terms, conditions, and borrower benefits on an educational loan provided to a borrower employed by the covered institution if such terms, conditions, or benefits are comparable to those provided to all students of the institution.

d. Philanthropic contributions to a covered institution from a lender, guarantor, or servicer of educational loans that are unrelated to educational loans provided, as applicable, that the contributions are disclosed pursuant to section 261E.4, subsection 6.

e. State education grants, scholarships, or financial aid funds administered under chapter 261.

f. Toll-free telephone numbers for use by covered institutions or other toll-free telephone numbers open to the public to obtain information about loans available under Title IV of the federal Higher Education Act of 1965, as amended, or private educational loans, or free data transmission service for use by a covered institution to electronically submit applicant loan processing information or student status confirmation data for loans available under Title IV of the federal Higher Education Act of 1965.

g. A reduced origination fee.

h. A reduced interest rate.

i. Payment of federal default fees.

j. Purchase of a loan made by another lender at a premium.

k. Other benefits to a borrower under a repayment incentive program that requires, at a minimum, one or more scheduled payments to receive or retain the benefit or under a loan forgiveness program for public service or other targeted purposes approved by the attorney general, provided these benefits are not marketed to secure loan applications or loan guarantees.

l. Items of nominal value to a covered institution, covered institution employee, covered institution-affiliated organization, or borrower that are offered as a form of generalized marketing or advertising, or to create goodwill.

m. Items of value which are offered to a borrower or to a covered institution employee that are also offered to the general public.

n. Other services as identified and approved by the attorney general through a public announcement, such as a notice on the attorney general's web site.

6. "Lender" or "lending institution" means a creditor as defined in section 103 of the federal Truth in Lending Act, 15 U.S.C. § 1602.

7. "Postsecondary educational expenses" means any of the expenses that are included as part of a student's cost of attendance as defined in Title IV, part F, of the federal Higher Education Act of 1965, as amended.

8. "Preferred lender arrangement" means an arrangement or agreement between a lender and a covered institution under which the lender provides or otherwise issues educational loans to borrowers and which relates to the covered institution recommending, promoting, or endorsing the educational loan product of the lender. "Preferred lender arrangement" does not include arrangements or agreements with respect to loans under part D or E of Title IV of the federal Higher Education Act of 1965, as amended.

9. "Preferred lender list" means a list of at least three recommended or suggested, unaffiliated lending institutions that a covered institution makes available for use, in print or any other medium or form, by borrowers, prospective borrowers, or others.

10. "Private educational loan" means a private loan provided by a lender that is not made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, and is issued by a lender solely for postsecondary educational expenses to a borrower, regard-

less of whether the loan involves enrollment certification by the educational institution that the student for which the loan is made attends. "Private educational loan" does not include a private educational loan secured by a dwelling or under an open-end credit plan. For purposes of this subsection, "dwelling" and "open-end credit plan" have the meanings given such terms in section 103 of the federal Truth in Lending Act, 15 U.S.C. § 1602.

11. "Revenue sharing arrangement" means an arrangement between a covered institution and a lender in which the lender provides or issues educational loans to persons attending the institution or on behalf of persons attending the institution and the covered institution recommends the lender or the educational loan products of the lender, in exchange for which the lender pays a fee or provides other material benefits, including revenue or profit sharing, to the institution or officers, employees, or agents of the institution. "Revenue sharing arrangement" does not include arrangements related solely to products which are not educational loans.

Sec. 4. NEW SECTION. 261E.2 CODE OF CONDUCT.

1. A covered institution shall do the following:

a. Develop, in consultation with the college student aid commission, a code of conduct governing educational loan activities with which the covered institution's officers, employees, and agents shall comply.

b. Publish the code of conduct developed in accordance with paragraph "a" prominently on its internet site.

c. Administer and enforce the code of conduct developed in accordance with paragraph "a".

2. The college student aid commission shall provide to covered institutions assistance and guidance relating to the development, administration, and monitoring of a code of conduct governing educational loan activities.

3. Except as provided in this section, the college student aid commission is not subject to the duties, restrictions, prohibitions, and penalties of this chapter.

Sec. 5. NEW SECTION. 261E.3 PROHIBITIONS — REPORT.

1. GIFT BAN. No officer, employee, or agent of a covered institution who is employed in the financial aid office of the institution, or who otherwise has direct responsibilities with respect to educational loans, shall solicit or accept any gift from a lender, guarantor, or servicer of educational loans. The attorney general shall investigate any reported violation of this subsection and shall annually submit a report to the general assembly by January 15 identifying all substantiated violations of this subsection, including the lenders and covered institutions involved in each such violation, for the preceding year.

2. GIFTS TO FAMILY MEMBERS OR OTHERS. For purposes of this section, a gift to a family member of an officer, employee, or agent of a covered institution, or a gift to any other individual based on that individual's relationship with the officer, employee, or agent, shall be considered a gift to the officer, employee, or agent if either of the following applies:

a. The gift is given with the knowledge and acquiescence of the officer, employee, or agent.

b. The officer, employee, or agent has reason to believe the gift was given because of the official position of the officer, employee, or agent.

3. CONTRACTING ARRANGEMENTS. An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not accept from any lender or affiliate of any lender any fee, payment, or other financial benefit including but not limited to the opportunity to purchase stock on other than free market terms, as compensation for any type of consulting arrangement or other contract to provide services to a lender or on behalf of a lender.

4. REVENUE SHARING ARRANGEMENTS. A covered institution shall not enter into any revenue sharing arrangement with any lender.

5. PROHIBITION ON OFFERS OF FUNDS FOR PRIVATE LOANS. A covered institution shall not request or accept from any lender any offer of funds, including any opportunity pool, to be used for private educational loans to borrowers in exchange for the covered institution

providing concessions or promises to the lender with respect to such institution providing the lender with a specified number of loans, a specified loan volume, or a preferred lender arrangement for any loan made, insured, or guaranteed under Title IV of the federal Higher Education Act of 1965, as amended, and a lender shall not make any such offer. For purposes of this subsection, "opportunity pool" means an educational loan made by a private lender to a borrower that is in any manner guaranteed by a covered institution, or that involves a payment, directly or indirectly, by such an institution of points, premiums, payments, additional interest, or other financial support to the lender for the purpose of that lender extending credit to the borrower.

6. PARTICIPATION ON ADVISORY COUNCILS. An officer, employee, or agent who is employed in the financial aid office of a covered institution, or who otherwise has direct responsibilities with respect to educational loans, shall not serve on or otherwise participate with advisory councils of lenders or affiliates of lenders. Nothing in this subsection shall prohibit lenders from seeking advice from covered institutions or groups of covered institutions, including through telephonic or electronic means, or a meeting, in order to improve products and services for borrowers, provided there are no gifts or compensation including but not limited to transportation, lodging, or related expenses, provided by lenders in connection with seeking such advice from the institutions. Nothing in this subsection shall prohibit an officer, employee, or agent of a covered institution from serving on the board of directors of a lender if required by law.

7. EXCEPTIONS.

a. Nothing in this section shall be construed as prohibiting any of the following:

(1) An officer, employee, or agent of a covered institution who is not employed in the institution's financial aid office, or who does not otherwise have direct responsibilities with respect to educational loans, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans.

(2) An officer, employee, or agent of a covered institution who is not employed in the financial aid office but who has direct responsibility with respect to educational loans as a result of a position held at the covered institution, from paid or unpaid service on a board of directors of a lender, guarantor, or servicer of educational loans, provided that the covered institution has a written conflict of interest policy that clearly sets forth that such an officer, employee, or agent must be recused from participating in any decision of the board with respect to any transaction regarding educational loans.

(3) An officer, employee, or agent of a lender, guarantor, or servicer of educational loans from serving on a board of directors or serving as a trustee of a covered institution, provided that the covered institution has a written conflict of interest policy that clearly sets forth the procedures to be followed in instances where such a board member's or trustee's personal or business interests with respect to educational loans may be advanced by an action of the board of directors or trustees, including a provision that such a board member or trustee may not participate in any decision to approve any transaction where such conflicting interests may be advanced.

b. Nothing in this chapter shall be construed to prohibit a covered institution from lowering educational loan costs for borrowers, including payments made by the covered institution to lending institutions on behalf of borrowers.

Sec. 6. NEW SECTION. 261E.4 MISLEADING IDENTIFICATION — COVERED INSTITUTION — LENDING INSTITUTIONS' EMPLOYEES.

1. A lending institution shall prohibit an employee or agent of the lending institution from being identified to borrowers or prospective borrowers of a covered institution as an employee, representative, or agent of the covered institution.

2. A covered institution shall prohibit an employee or agent of a lending institution from being identified as an employee, representative, or agent of the covered institution.

3. An employee, representative, or agent of a lending institution included on a covered institution's preferred lending list shall not staff a covered institution's financial aid offices or call

center and shall not prepare any of the covered institution's materials related to educational loans.

4. A covered institution that has entered into a preferred lender arrangement with a lender regarding private educational loans shall not agree to the lender's use of the name, emblem, mascot, or logo of the institution, or other words, pictures, or symbols readily identified with the institution, in the marketing of private educational loans to the students attending the institution in any way that implies that the institution endorses the private educational loans offered by the lender. However, the covered institution may allow the use of its name if it is part of the lending institution's legal name.

5. Nothing in this section shall prohibit a covered institution from requesting or accepting the following assistance from a lender related to any of the following:

a. Providing educational counseling materials, financial literacy materials, or debt management materials to borrowers, provided that such materials disclose to borrowers the identification of any lender that assisted in preparing or providing such materials.

b. Staffing services on a short-term, nonrecurring basis to assist the institution with financial aid-related functions during emergencies, including state-declared or federally declared natural disasters, federally declared national disasters, and other localized disasters and emergencies identified by the attorney general.

6. The attorney general shall adopt rules providing for the disclosure, for lenders with a preferred lender arrangement, of philanthropic contributions made as specified in section 261E.1, subsection 5, paragraph "d".

Sec. 7. NEW SECTION. 261E.5 LOAN DISCLOSURE — LOAN BUNDLING — PROHIBITIONS.

1. A covered institution that has entered into a preferred lender arrangement with a lender regarding private educational loans shall inform the borrower or prospective borrower of all available state education financing options, and financing options under Title IV of the federal Higher Education Act of 1965, as amended, including information on any terms and conditions of available loans under such title that are more favorable to the borrower.

2. A covered institution shall prohibit the bundling of private educational loans in financial aid packages, unless the borrower is ineligible for financing, is not eligible for any additional funding, or has exhausted the limits of loan eligibility, under Title IV of the federal Higher Education Act of 1965, as amended, or has not filled out a free application for federal student aid, and the bundling of the private educational loans is clearly and conspicuously disclosed to the borrower prior to acceptance of the package by the borrower. The provisions of this subsection shall not apply if the borrower does not desire or refuses to apply for a loan under Title IV of the federal Higher Education Act of 1965.

3. A lending institution included on a covered institution's preferred lender list shall disclose, clearly and conspicuously, in any application for a private educational loan, all of the following:

a. The rate of interest or the potential range of rates of interest applicable to the loan and whether such rates are fixed or variable.

b. Limitations, if any, on interest rate adjustments, both in terms of frequency and amount, or lack thereof.

c. Coborrower requirements, including changes in interest rates.

d. Any fees associated with the loan.

e. The repayment terms available on the loan.

f. The opportunity for deferment or forbearance in repayment of the loan, including whether the loan payments can be deferred if the borrower is in school.

g. Any additional terms and conditions applied to the loan, including any benefits that are contingent on the repayment behavior of the borrower.

h. Information comparing federal and private educational loans.

i. An example of the total cost of the educational loan over the life of the loan which shall be calculated using the following:

(1) A principal amount and the maximum rate of interest actually offered by the lender, or, if there is no maximum rate provided under the terms of the loan agreement or applicable state or federal law, a statement to that effect.

(2) Both with and without capitalization of interest, if that is an option for postponing interest payments.

j. The consequences for the borrower of defaulting on a loan, including any limitations on the discharge of an educational loan in bankruptcy.

k. Contact information for the lender.

4. Not later than January 31, 2009, the attorney general shall develop and make available to lenders a model disclosure form that is based on the requirements of subsection 3. Use of the model disclosure form by a lending institution in a manner consistent with this chapter shall constitute compliance with subsection 3.

Sec. 8. NEW SECTION. 261E.6 STANDARDS FOR PREFERRED LENDER LISTS.

1. A covered institution may make available a list of preferred lenders, in print or any other medium or form, for use by the covered institution's students or their parents, provided the list meets the following conditions:

a. The list is not used to deny or otherwise impede a borrower's choice of lender.

b. The list contains at least three lenders that are not affiliated and will make loans to borrowers or students attending the school. For the purposes of this paragraph, a lender is affiliated with another lender if any of the following applies:

(1) The lenders are under the ownership or control of the same entity or individuals.

(2) The lenders are wholly or partly owned subsidiaries of the same parent company.

(3) The directors, trustees, or general partners, or individuals exercising similar functions, of one of the lenders constitute a majority of the persons holding similar positions with the other lender.

c. The list does not include lenders that have offered, or have offered in response to a solicitation by the covered institution, financial or other benefits to the covered institution in exchange for inclusion on the list or any promise that a certain number of loan applications will be sent to the lender by the covered institution or its students.

2. A covered institution that provides or makes available a preferred lender list shall do the following:

a. Disclose to prospective borrowers, as part of the list, the method and criteria used by the covered institution in selecting any lender that it recommends or suggests.

b. Provide comparative information to prospective borrowers about interest rates and other benefits offered by the lenders.

c. Include a prominent statement in any information related to its preferred lender list advising prospective borrowers that the borrowers are not required to use one of the covered institution's recommended or suggested lenders.

d. For first-time borrowers, refrain from assigning, through award packaging or other methods, a borrower's loan to a particular lender.

e. Not cause unnecessary certification delays for borrowers who use a lender that is not included on the covered institution's preferred lender list.

f. Update the preferred lender list and any information accompanying the list at least annually.

3. If the servicer of a private educational loan is changed by a lending institution, the lending institution shall disclose the change to the affected borrower.

4. A lending institution shall not be placed on a covered institution's preferred lender list or in favored placement on a covered institution's preferred lender list for a particular type of loan, in exchange for benefits provided to the covered institution or to the covered institution's students in connection with a different type of loan.

Sec. 9. NEW SECTION. 261E.7 DISCLOSURE REQUIREMENTS.

Except for educational loans made, insured, or guaranteed by the federal government, a

lending institution included on a covered institution's preferred lender list shall, upon receiving a request from a borrower, covered institution, or government entity, disclose to the requester in reasonable detail and form, the terms of private educational loans made to borrowers by that lending institution and the rates of interest charged to borrowers for private educational loans in the year preceding the disclosures.

Sec. 10. NEW SECTION. 261E.8 PENALTIES.

1. If after providing notice and an opportunity for a hearing the attorney general determines that a covered institution or lending institution has violated a provision of this chapter, the covered institution or lending institution may be liable for a civil penalty of up to five thousand dollars per violation. In taking action against a covered institution or lending institution, consideration shall be given to the nature and severity of a violation of this chapter.

2. If after providing notice and an opportunity for a hearing the attorney general determines that a covered institution employee has violated a provision of this chapter, the covered institution employee may be liable for a civil penalty of up to two thousand five hundred dollars per violation. In taking action against a covered institution employee, consideration shall be given to the nature and severity of a violation of this chapter.

3. If after providing notice and an opportunity for a hearing the attorney general determines that a lending institution has violated a provision of this chapter, such lending institution shall not be placed or remain on any covered institution's preferred lender list unless notice of such violation is provided to all potential borrowers of the covered institution. However, consideration shall be given to the nature and severity of a violation of this chapter in determining whether and for how long to ban a lender from a preferred lender list.

4. Nothing in this section shall prohibit the attorney general from reaching a settlement agreement with a covered institution, covered institution employee, or lending institution in order to effectuate the purposes of this section. Provided, however, if such settlement agreement is reached with a covered institution or lending institution, the attorney general shall provide notice of such action to the borrowers in a form and manner prescribed by the attorney general.

5. The attorney general shall deposit the funds generated pursuant to this section into the student lending education fund, created in section 261E.10.

6. Each individual incident of a violation of this chapter shall be considered a separate violation for the purpose of imposing civil penalties.

Sec. 11. NEW SECTION. 261E.9 RULES — INVESTIGATION AUTHORITY — ENFORCEMENT.

1. The attorney general shall administer this chapter and promulgate rules, pursuant to chapter 17A, necessary for the implementation of this chapter. Unless otherwise provided, all actions by the attorney general pursuant to this chapter shall be subject to the provisions of chapter 17A.

2. The attorney general is authorized to conduct an investigation to determine whether to initiate proceedings pursuant to this chapter to the same extent as the investigation authority granted the attorney general under section 714.16.

Sec. 12. NEW SECTION. 261E.10 STUDENT LENDING EDUCATION FUND.

1. There is established in the state treasury a student lending education fund.

2. The fund shall consist of all revenues generated pursuant to section 261E.8 and all other moneys credited or transferred to the fund from any other fund or source pursuant to law.

3. Moneys in the fund shall be made available to the attorney general for the purpose of enforcing this chapter.

Sec. 13. NEW SECTION. 261E.11 EFFECT ON OTHER LAWS OR REGULATIONS.

This chapter shall not be interpreted to affect the liability of any person, covered institution, or lending institution under any other state statute or rule.

Sec. 14. STUDENT LOAN SECONDARY MARKET INVESTIGATION REPORT.

1. The attorney general shall submit the findings and recommendations resulting from the investigation of the student loan secondary market and the Iowa student loan liquidity corporation to the general assembly by January 15, 2009.

2. The attorney general shall present the findings and recommendations resulting from the investigation of the student loan secondary market and the Iowa student loan liquidity corporation to the legislative government oversight committee at the committee's October 2008 meeting.

Sec. 15. EFFECTIVE DATE. The sections of this Act enacting sections 261E.3, 261E.5, 261E.6, and 261E.7, take effect January 31, 2009.

Approved May 5, 2008

CHAPTER 1133

ENERGY EFFICIENCY STANDARDS,
PRACTICES, AND REPORTING

S.F. 2386

AN ACT relating to energy efficiency by establishing a commission on energy efficiency standards and practices, providing for the reporting of energy efficiency results and savings by gas and electric public utilities, specifying procedures for assessing potential energy and capacity savings and developing energy efficiency goals by gas and electric utilities not subject to rate regulation, providing for the establishment or participation in a program to track, record, or verify the trading of credits for electricity generated from specified sources, and providing for the establishment of an interim study committee to conduct an examination of energy efficiency plans and programs with an emphasis on the demand or customer perspective, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 103A.27 COMMISSION ON ENERGY EFFICIENCY STANDARDS AND PRACTICES.

1. A commission on energy efficiency standards and practices is established within the department of public safety. The commission shall be composed of the following members:

a. The state building code commissioner, or the commissioner's designee.

b. The director of the office of energy independence, or the director's designee.

c. A professional engineer licensed pursuant to chapter 542B.

d. An architect registered pursuant to chapter 544A.

e. Two individuals recognized in the construction industry as possessing expertise and experience in the construction or renovation of energy-efficient residential and commercial buildings.

f. A member of a local planning and zoning commission or county board of supervisors.

g. Three individuals representing gas and electric public utilities within this state, comprised of one individual representing rural electric cooperatives, one individual representing municipal utilities, and one individual representing investor-owned utilities.

h. A local building official whose duties include enforcement of requirements for energy conservation in construction.

i. Two consumers, one of whom owns and occupies a residential building in this state and one of whom owns and occupies a building used in commercial business or manufacturing.

2. The commissioner shall appoint all members to the commission other than those members designated in subsection 1, paragraphs "a" and "b". Appointment of members are[1] subject to the requirements of sections 69.16 and 69.16A. A vacancy on the commission shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made. Members appointed by the commissioner 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. A majority of the members shall constitute a quorum.

3. Duties of the commission shall include but are not limited to the following:

a. Evaluate energy efficiency standards applicable to existing or newly constructed residential, commercial, and industrial buildings and vertical infrastructure at the state and local level and make suggestions for their improvement and enforcement. The evaluation of energy efficiency standards shall include but not be limited to a review of the following:

(1) The reduction in energy usage likely to result from the adoption and enforcement of the standards.

(2) The effect of compliance with the standards on indoor air quality.

(3) The relationship of the standards to weatherization programs for existing housing stock and to the availability of affordable housing, including rental units.

b. Develop recommendations for new energy efficiency standards, specifications, or guidelines applicable to newly constructed residential, commercial, and industrial buildings and vertical infrastructure.

c. Develop recommendations for the establishment of incentives for energy efficiency construction projects which exceed currently applicable state and local building codes.

d. Develop recommendations for adoption of a statewide energy efficiency building labeling or rating system for residential, commercial, and industrial buildings and complexes.

e. Obtain input from individuals, groups, associations, and agencies in carrying out the duties specified in paragraphs "a" through "d", including but not limited to the Iowa league of cities regarding local building code adoption and enforcement in both large and small communities, the Iowa landlord association, the department of transportation, the department of public health, the division of community action agencies of the department of human rights regarding low-income residential customers, and obtain additional input from any other source that the commission determines appropriate.

4. The commission shall be formed for the two-year period beginning July 1, 2008, and ending June 30, 2010, and shall submit a report to the governor and the general assembly by January 1, 2011, regarding its activities and recommendations. Administrative support shall be furnished by the department of public safety, with the assistance of the office of energy independence and the department of natural resources.

Sec. 2. Section 476.1A, subsection 7, Code 2007, is amended to read as follows:

7. Filing energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. The board may permit these utilities to file joint plans. <u>The board shall periodically report the energy efficiency results including energy savings of each of these utilities to the general assembly.</u>

Sec. 3. Section 476.1B, subsection 1, paragraph 1, Code 2007, is amended to read as follows:

l. Filing energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. The board may permit these utilities to file joint plans. <u>The board shall periodically report the energy efficiency results including energy savings of each of these utilities to the general assembly.</u>

[1] According to enrolled Act; the word "is" probably intended

Sec. 4. Section 476.6, subsection 16, paragraph b, Code Supplement 2007, 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 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. The board shall periodically report the energy efficiency results including energy savings of each utility to the general assembly.

Sec. 5. Section 476.6, subsection 16, Code Supplement 2007, is amended by adding the following new paragraphs:

NEW PARAGRAPH. bb. (1) Gas and electric utilities that are not required to be rate-regulated under this chapter shall assess maximum potential energy and capacity savings available from actual and projected customer usage through cost-effective energy efficiency measures and programs, taking into consideration the utility service area's historic energy load, projected demand, customer base, and other relevant factors. Each utility shall establish an energy efficiency goal based upon this assessment of potential and shall establish cost-effective energy efficiency programs designed to meet the energy efficiency goal. Separate goals may be established for various customer groupings.

(2) Energy efficiency programs shall include efficiency improvements to a utility infrastructure and system and activities conducted by a utility intended to enable or encourage customers to increase the amount of heat, light, cooling, motive power, or other forms of work performed per unit of energy used. In the case of a municipal utility, for purposes of this paragraph, other utilities and departments of the municipal utility shall be considered customers to the same extent that such utilities and departments would be considered customers if served by an electric or gas utility that is not a municipal utility. Energy efficiency programs include activities which lessen the amount of heating, cooling, or other forms of work which must be performed, including but not limited to energy studies or audits, general information, financial assistance, direct rebates to customers or vendors of energy-efficient products, research projects, direct installation by the utility of energy-efficient equipment, direct and indirect load control, time-of-use rates, tree planting programs, educational programs, and hot water insulation distribution programs.

(3) Each utility shall commence the process of determining its cost-effective energy efficiency goal on or before July 1, 2008, shall provide a progress report to the board on or before January 1, 2009, and complete the process and submit a final report to the board on or before January 1, 2010. The report shall include the utility's cost-effective energy efficiency goal, and for each measure utilized by the utility in meeting the goal, the measure's description, projected costs, and the analysis of its cost-effectiveness. Each utility or group of utilities shall evaluate cost-effectiveness using the cost-effectiveness tests in accordance with section 476.6, subsection 14. Individual utilities or groups of utilities may collaborate in conducting the studies required hereunder and may file a joint report or reports with the board. However, the board may require individual information from any utility, even if it participates in a joint report.

(4) On January 1 of each even-numbered year, commencing January 1, 2012, gas and electric utilities that are not required to be rate-regulated shall file a report with the board identifying their progress in meeting the energy efficiency goal and any updates or amendments to their energy efficiency plans and goals. Filings made pursuant to this paragraph "bb" shall be deemed to meet the filing requirements of section 476.1A, subsection 7, and section 476.1B, subsection 1, paragraph "l".

NEW PARAGRAPH. bbb. (1) The board shall evaluate the reports required to be filed pur-

suant to paragraph "b" by gas and electric utilities required to be rate-regulated, and shall submit a report summarizing the evaluation to the general assembly on or before January 1, 2009.

(2) The board shall evaluate the reports required to be filed pursuant to paragraph "bb" by gas and electric utilities that are not required to be rate-regulated, and shall submit a report summarizing the evaluation to the general assembly on or before January 1, 2011.

(3) The reports submitted by the board to the general assembly pursuant to this paragraph "bbb" shall include the goals established by each of the utilities. The reports shall also include the projected costs of achieving the goals, potential rate impacts, and a description of the programs offered and proposed by each utility or group of utilities, and may take into account differences in system characteristics, including but not limited to sales to various customer classes, age of facilities of new large customers, and heating fuel type. The reports may contain recommendations concerning the achievability of certain intermediate and long-term energy efficiency goals based upon the results of the assessments submitted by the utilities.

Sec. 6. NEW SECTION. 476.44A TRADING OF CREDITS.

The board may establish or participate in a program to track, record, and verify the trading of credits for[2] electricity generated from alternative energy production facilities or renewable energy sources among electric generators, utilities, and other interested entities, within this state and with similar entities in other states.

Sec. 7. RENEWABLE ENERGY GENERATION — COST-EFFECTIVE POTENTIAL STUDY. The Iowa utility association, in consultation with the Iowa association of electric cooperatives and the Iowa association of municipal utilities, shall conduct a technical study of the potential for achieving or engaging in renewable energy generation on a cost-effective basis by 2025. The study shall be transmitted to the office of energy independence by December 1, 2008, to be submitted with the energy independence plan required to be submitted by the office to the governor and the general assembly by December 14, 2008.

Sec. 8. ENERGY EFFICIENCY INTERIM STUDY COMMITTEE — CONSUMER FOCUS — REQUEST TO ESTABLISH. The legislative council is requested to establish an interim study committee to examine the existence and effectiveness of energy efficiency plans and programs implemented by gas and electric public utilities, with an emphasis on results achieved by current plans and programs from the demand, or customer, perspective, and to make recommendations for additional requirements applicable to energy efficiency plans and programs that would improve such results. In conducting the study and developing recommendations, the committee shall consider testimony from the Iowa utilities board, rate and nonrate-regulated gas and electric utilities, the consumer advocate, state agencies involved with energy efficiency program administration, environmental groups and associations, and consumers. The committee shall be composed of ten members, representing both political parties and both houses of the general assembly. Five members shall be members of the senate, three of whom shall be appointed by the majority leader of the senate and two of whom shall be appointed by the minority leader of the senate. The other five members shall be members of the house of representatives, three of whom shall be appointed by the speaker of the house of representatives, and two of whom shall be appointed by the minority leader of the house of representatives. The committee shall issue a report of its recommendations to the general assembly by January 15, 2009.

Sec. 9. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 6, 2008

[2] See chapter 1191, §129 herein

CHAPTER 1134

SCHOOL INFRASTRUCTURE FUNDING AND TAXATION

H.F. 2663

AN ACT relating to the repeal of the local option sales and services tax for school infrastructure purposes by using the revenues from the increase in the state sales and use taxes for replacing lost school district revenues resulting from the repeal, providing property tax relief, providing for the reduction in the state sales and use tax, providing a penalty, and including an effective date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.4, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. For the budget year beginning July 1, ~~2006~~ 2008, and succeeding budget years, the department of management shall annually determine an adjusted additional property tax levy and a statewide maximum adjusted additional property tax levy rate, not to exceed the statewide average additional property tax levy rate, calculated by dividing the total adjusted additional property tax levy dollars statewide by the statewide total net taxable valuation. For purposes of this paragraph, the adjusted additional property tax levy shall be that portion of the additional property tax levy corresponding to the state cost per pupil multiplied by a school district's weighted enrollment, and then multiplied by one hundred percent less the regular program foundation base per pupil percentage pursuant to section 257.1. The district shall receive adjusted additional property tax levy aid in an amount equal to the difference between the adjusted additional property tax levy rate and the statewide maximum adjusted additional property tax levy rate, as applied per thousand dollars of assessed valuation on all taxable property in the district. The statewide maximum adjusted additional property tax levy rate shall be annually determined by the department taking into account amounts allocated pursuant to section 257.15, subsection 4. The statewide maximum adjusted additional property tax levy rate shall be annually determined by the department taking into account amounts allocated pursuant to section 257.15, subsection 4, and the balance of the property tax equity and relief fund created in section 257.16A at the end of the calendar year.

Sec. 2. Section 257.15, subsection 4, Code 2007, is amended to read as follows:

4. a. ALLOCATIONS FOR MAXIMUM ADJUSTED ADDITIONAL PROPERTY TAX LEVY RATE CALCULATION AND ADJUSTED ADDITIONAL PROPERTY TAX LEVY AID. The department of management shall allocate from amounts appropriated pursuant to section 257.16, subsection 1, and from funds appropriated from the property tax equity and relief fund created in section 257.16A for the purpose of calculating the statewide maximum adjusted additional property tax levy rate and providing adjusted additional property tax levy aid as provided in section 257.4, subsection 1, paragraph "b", an amount ~~not to exceed the following~~ equal to the sum of subparagraphs (1) and (2) as follows:

(1) From the amount appropriated from the general fund of the state pursuant to section 257.16, subsection 1, equal to the following:

~~a.~~ (a) For the budget year beginning July 1, 2006, six million dollars.

~~b.~~ (b) For the budget year beginning July 1, 2007, twelve million dollars.

~~c.~~ (c) For the budget year beginning July 1, 2008, eighteen million dollars.

~~d.~~ (d) For the budget year beginning July 1, 2009, and succeeding budget years, twenty-four million dollars.

(2) From the amount appropriated from the property tax equity and relief fund created in section 257.16A.

b. After lowering all school district additional property tax levy rates to the statewide maximum adjusted additional property tax levy rate under paragraph "a", the department of man-

agement shall use any remaining funds at the end of the calendar year to further lower additional property taxes by increasing for the budget year beginning the following July 1, the state foundation base percentage. Moneys used pursuant to this paragraph shall supplant an equal amount of the appropriation made from the general fund of the state pursuant to section 257.16 that represents the increase in state foundation aid.

Sec. 3. NEW SECTION. 257.16A PROPERTY TAX EQUITY AND RELIEF FUND.

1. A property tax equity and relief fund is created as a separate and distinct fund in the state treasury under the control of the department of management. Moneys in the fund include revenues credited to the fund, appropriations made to the fund, and other moneys deposited into the fund.

2. There is appropriated annually all moneys in the fund to the department of management for purposes of section 257.15, subsection 4.

3. Notwithstanding section 8.33, any moneys remaining in the property tax equity and relief fund at the end of a fiscal year shall not revert to any other fund but shall remain in the property tax equity and relief fund for use as provided in this section for the following fiscal year.

Sec. 4. Section 423.2, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

There is imposed a tax of ~~five~~ six percent upon the sales price of all sales of tangible personal property, consisting of goods, wares, or merchandise, sold at retail in the state to consumers or users except as otherwise provided in this subchapter.

Sec. 5. Section 423.2, subsections 2, 3, 4, and 5, Code Supplement 2007, are amended to read as follows:

2. A tax of ~~five~~ six percent is imposed upon the sales price of the sale or furnishing of gas, electricity, water, heat, pay television service, and communication service, including the sales price from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, pay television service, and communication service to the public in its proprietary capacity, except as otherwise provided in this subchapter, when sold at retail in the state to consumers or users.

3. A tax of ~~five~~ six percent is imposed upon the sales price of all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions. A tax of ~~five~~ six percent is imposed on the sales price of an entry fee or like charge imposed solely for the privilege of participating in an activity at a place of amusement, fair, or athletic event unless the sales price of tickets or admissions charges for observing the same activity are taxable under this subchapter. A tax of ~~five~~ six percent is imposed upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

4. A tax of ~~five~~ six percent is imposed upon the sales price derived from the operation of all forms of amusement devices and games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, and card game tournaments conducted under section 99B.7B, that are operated or conducted within the state, the tax to be collected from the operator in the same manner as for the collection of taxes upon the sales price of tickets or admission as provided in this section. Nothing in this subsection shall legalize any games of skill or chance or slot-operated devices which are now prohibited by law.

The tax imposed under this subsection covers the total amount from the operation of games of skill, games of chance, raffles, and bingo games as defined in chapter 99B, card game tournaments conducted under section 99B.7B, and musical devices, weighing machines, shooting galleries, billiard and pool tables, bowling alleys, pinball machines, slot-operated devices selling merchandise not subject to the general sales taxes and on the total amount from devices or systems where prizes are in any manner awarded to patrons and upon the receipts from fees charged for participation in any game or other form of amusement, and generally upon the sales price from any source of amusement operated for profit, not specified in this section, and

upon the sales price from which tax is not collected for tickets or admission, but tax shall not be imposed upon any activity exempt from sales tax under section 423.3, subsection 78. Every person receiving any sales price from the sources described in this section is subject to all provisions of this subchapter relating to retail sales tax and other provisions of this chapter as applicable.

5. There is imposed a tax of ~~five~~ six percent upon the sales price from the furnishing of services as defined in section 423.1.

Sec. 6. Section 423.2, subsection 7, paragraph a, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

A tax of ~~five~~ six percent is imposed upon the sales price from the sales, furnishing, or service of solid waste collection and disposal service.

Sec. 7. Section 423.2, subsection 8, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A tax of ~~five~~ six percent is imposed on the sales price from sales of bundled transactions. For the purposes of this subsection, a "bundled transaction" is the retail sale of two or more distinct and identifiable products, except real property and services to real property, which are sold for one nonitemized price. A "bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction.

Sec. 8. Section 423.2, subsection 9, Code Supplement 2007, is amended to read as follows:

9. A tax of ~~five~~ six percent is imposed upon the sales price from any mobile telecommunications service which this state is allowed to tax by the provisions of the federal Mobile Telecommunications Sourcing Act, Pub. L. No. 106-252, 4 U.S.C. § 116 et seq. For purposes of this subsection, taxes on mobile telecommunications service, as defined under the federal Mobile Telecommunications Sourcing Act that are deemed to be provided by the customer's home service provider, shall be paid to the taxing jurisdiction whose territorial limits encompass the customer's place of primary use, regardless of where the mobile telecommunications service originates, terminates, or passes through and shall in all other respects be taxed in conformity with the federal Mobile Telecommunications Sourcing Act. All other provisions of the federal Mobile Telecommunications Sourcing Act are adopted by the state of Iowa and incorporated into this subsection by reference. With respect to mobile telecommunications service under the federal Mobile Telecommunications Sourcing Act, the director shall, if requested, enter into agreements consistent with the provisions of the federal Act.

Sec. 9. Section 423.2, subsection 11, Code Supplement 2007, is amended to read as follows:

11. a. All revenues arising under the operation of the provisions of this section shall be deposited into the general fund of the state.

b. Subsequent to the deposit into the general fund of the state and after the transfer of such revenues collected under chapter 423B, the department shall transfer one-sixth of such remaining revenues to the secure an advanced vision for education fund created in section 423F.2. This paragraph is repealed December 31, 2029.

Sec. 10. Section 423.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13. The sales tax rate of six percent is reduced to five percent on January 1, 2030.

Sec. 11. Section 423.5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

~~An~~ Except as provided in subsection 3, an excise tax at the rate of ~~five~~ six percent of the purchase price or installed purchase price is imposed on the following:

Sec. 12. Section 423.5, subsection 3, Code 2007, is amended to read as follows:

3. ~~The~~ An excise tax at the rate of five percent is imposed on the use of vehicles subject to registration, or subject only to the issuance of a certificate of title and the use of leased vehicles, on the amount subject to tax as calculated pursuant to section 423.27.[1]

Sec. 13. Section 423.5, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The use tax rate of six percent is reduced to five percent on January 1, 2030.

Sec. 14. Section 423.43, Code Supplement 2007, is amended to read as follows:

423.43 DEPOSIT OF REVENUE — APPROPRIATIONS.

1. a. Except as otherwise provided in subsection 2 and section 328.36, all revenues arising under the operation of the use tax under subchapter III shall be deposited into the general fund of the state.

b. Subsequent to the deposit into the general fund of the state and after the transfer of such revenues collected under chapter 423B, the department shall transfer one-sixth of such remaining revenues to the secure an advanced vision for education fund created in section 423F.2. This paragraph is repealed December 31, 2029.

2. Except as otherwise provided in section 312.2, subsection 14, all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund and shall be used exclusively for the construction, maintenance, and supervision of public highways~~.~~, except as follows:

~~1.~~ a. ~~Notwithstanding any provision of this section which provides that all revenues derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to sections 423.26 and 423.27 shall be deposited and credited to the road use tax fund, eighty~~ Eighty percent of the revenues collected pursuant to sections 423.26 and 423.27 shall be deposited and credited as follows:

~~a.~~ (1) Twenty-five percent of all such revenue, up to a maximum of four million two hundred fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

~~b.~~ (2) Any such revenues remaining shall be credited to the road use tax fund.

~~2.~~ b. ~~Notwithstanding any other provision of this section that provides that all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.26 shall be deposited and credited to the road use tax fund, twenty~~ Twenty percent of the revenues collected pursuant to section 423.26 shall be credited and deposited as follows: ~~one-half~~

(1) One-half to the road use tax fund ~~and one-half.~~

(2) One-half to the primary road fund to be used for the commercial and industrial highway network.

~~3. All other revenue arising under the operation of the use tax under subchapter III shall be credited to the general fund of the state.~~[2]

Sec. 15. Section 423E.3, subsections 1, 2, 3, and 4, Code 2007, are amended by striking the subsections.[3]

Sec. 16. Section 423E.3, subsection 5, paragraphs a, b, and c, Code 2007, are amended by striking the paragraphs.

Sec. 17. Section 423E.3, subsections 6 and 7, Code 2007, are amended by striking the subsections.

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[1] See chapter 1113, §126 herein

[2] See chapter 1113, §127 herein

[3] See chapter 1191, §96 herein

Sec. 18. Section 423E.4, subsection 1, Code 2007, is amended by striking the subsection.

Sec. 19. Section 423E.4, subsection 2, paragraph b, subparagraph (3), Code 2007, is amended to read as follows:

(3) A school district that is located in whole or in part in a county that voted on and approved the extension of the local sales and services tax for school infrastructure purposes pursuant to section 423E.2, subsection 5, Code 2007, on or after April 1, 2003, shall receive for any extended period an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 5, paragraph "d", not to exceed its guaranteed school infrastructure amount. However, if the school district's pro rata share is less than its guaranteed school infrastructure amount, the district shall receive an additional amount equal to its supplemental school infrastructure amount.

Sec. 20. Section 423E.4, subsection 3, paragraph a, Code 2007, is amended to read as follows:

a. The director of revenue by August 15 of each fiscal year shall compute the guaranteed school infrastructure amount for each school district, each school district's sales tax capacity per student for each county, the statewide tax revenues per student, and the supplemental school infrastructure amount for the ~~coming~~ fiscal year.

Sec. 21. Section 423E.4, subsection 3, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) "Sales tax capacity per student" means for a school district the estimated amount of revenues that a school district ~~receives or~~ would receive if a local sales and services tax for school infrastructure purposes ~~is~~ was imposed at one percent in the county pursuant to section 423E.2, Code 2007, as computed in subsection 8,[4] divided by the school district's actual enrollment as determined in section 423E.3, subsection 5, paragraph "d".

Sec. 22. Section 423E.4, subsection 3, paragraph b, subparagraph (3), Code 2007, is amended by striking the subparagraph and inserting in lieu thereof the following:

(3) "Statewide tax revenues per student" means the amount determined by estimating the total revenues that would be generated by a one percent local option sales and services tax for school infrastructure purposes if imposed by all the counties during the entire fiscal year, as computed in subsection 8,[5] and dividing this estimated revenue amount by the sum of the combined actual enrollment for all counties as determined in section 423E.3, subsection 5, paragraph "d", subparagraph (2).

Sec. 23. Section 423E.4, subsection 4, paragraph a, Code 2007, is amended to read as follows:

a. For the purposes of distribution under subsection 2, paragraph "b", subparagraph (1), a school district with a sales tax capacity per student below its guaranteed school infrastructure amount shall use the amount equal to the guaranteed school infrastructure amount less the pro rata share amount in accordance with section 423E.3, subsection 5, paragraph "d", for the purpose of paying principal and interest on outstanding bonds previously issued for school infrastructure purposes as defined in section 423E.1, subsection 3, Code 2007. Any money remaining after the payment of all principal and interest on outstanding bonds previously issued for infrastructure purposes may be used for any authorized infrastructure purpose of the school district. If a majority of the voters in the school district approves the use of revenue pursuant to a revenue purpose statement in an election held after July 1, 2003, in the school district pursuant to section 423E.2, Code 2007, the school district may use the amount for the purposes specified in its revenue purpose statement.

Sec. 24. Section 423E.4, subsection 7, Code 2007, is amended to read as follows:

7. Notwithstanding subsection 2 ~~of this section~~ or any other provision to the contrary, a school district that is located in whole or in part in a county that has not previously imposed

[4] See chapter 1191, §69 herein

[5] See chapter 1191, §70 herein

the local sales and services tax for school infrastructure, and which votes on and approves the tax at a rate of one percent ~~on or~~ after January 1, 2007, and before July 1, ~~2008~~ 2007, shall receive an amount equal to its pro rata share of the local sales and services tax receipts as provided in section 423E.3, subsection 5, paragraph "d", for a period corresponding to one-half the duration of the tax authorized by the voters. For the second half of the duration of the tax authorized by the voters, local sales and services tax receipts shall be distributed as otherwise applicable pursuant to subsection 2 ~~of this section~~.

Sec. 25. Section 423E.4, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8. For purposes of calculating the amount generated in a county, the sales tax capacity per student and the statewide tax revenues per student under subsections 2 and 3, the following shall apply:

a. For fiscal years beginning on or after July 1, 2008, the amount of revenues generated in a county by a one percent local option sales and services tax for school infrastructure purposes shall be deemed to equal the following:

(1) For the fiscal year beginning July 1, 2008, the amount of revenues generated in a county equals the amount of revenues generated in that county during the fiscal year beginning July 1, 2007, increased or decreased by the revenue factor, as computed in subparagraph (3).

(2) For fiscal years beginning on or after July 1, 2009, the amount of revenues generated in a county equals the amount of revenues generated in that county during the previous fiscal year, as computed in this paragraph, increased or decreased by the revenue factor, as computed in subparagraph (3).

(3) The revenue factor for a fiscal year equals the percentage change in the amount of state sales and use tax revenues to be deposited in the general fund of the state for that fiscal year compared to the amount of such revenues for the previous fiscal year as estimated by the revenue estimating conference at its latest meeting in the previous fiscal year.

b. For fiscal years beginning on or after July 1, 2008, the total statewide amount of revenues generated by a one cent local option sales and services tax for school infrastructure purposes shall be equal to the total of the amounts computed under paragraph "a" for all counties for the fiscal year.[6]

Sec. 26. Section 423E.5, Code 2007, is amended to read as follows:

423E.5 BONDING.

The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes and the supplemental school infrastructure amount distributed pursuant to section 423E.4, subsection 2, paragraph "b", and revenues received pursuant to section 423F.2, for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 423E.1, subsection 3, Code 2007, and section 423F.3. Bonds issued under this section may be sold at public sale as provided in chapter 75, or at private sale, without notice and hearing as provided in section 73A.12. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may be then outstanding. Bonds may be issued to refund outstanding and previously issued bonds under this section. ~~Local option sales and services tax revenue~~ The bonds are a ~~contract between~~ contractual obligation of the school district ~~and holders~~, and the resolu-

[6] See chapter 1191, §71 herein

tion issuing the bonds and pledging local option sales and services tax revenues or its share of the revenues distributed pursuant to section 423F.2 to the payment of principal and interest on the bonds is a part of the contract. Bonds issued pursuant to this section shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to any other law relating to the authorization, issuance, or sale of bonds.

A school district ~~in which a local option sales tax for school infrastructure purposes has been imposed~~ shall be authorized to enter into a chapter 28E agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the ~~local option sales and services tax~~ revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district ~~in which a local option sales tax for school infrastructure purposes has been imposed~~ shall be authorized to expend its designated portion of the ~~local option sales and services tax~~ revenues to provide property tax relief within the boundaries of the school district located in the county. A school district ~~where a local option sales and services tax is imposed~~ is also authorized to enter into a chapter 28E agreement with another school district, a community college, or an area education agency which is located partially or entirely in or is contiguous to the county where the ~~tax is imposed~~ school district is located. The school district or community college shall only expend its designated portion of the ~~local option sales and services tax~~ revenues for infrastructure purposes. The area education agency shall only expend its designated portion of the ~~local option school infrastructure sales tax~~ revenues for infrastructure and maintenance purposes.

The governing body of a city may authorize the issuance of bonds which are payable from its designated portion of the revenues ~~of the local option sales and services tax~~ to be received under this section, and not from property tax, by following the authorization procedures set forth for cities in section 384.83. A city may pledge irrevocably any amount derived from its designated portions of the revenues ~~of the local option sales and services tax~~ to the support or payment of such bonds.

Sec. 27. NEW SECTION. 423F.1 LEGISLATIVE INTENT.

It is the intent of the general assembly that the increase in the state sales, services, and use taxes under chapter 423, subchapters II and III, from five percent to six percent on July 1, 2008, shall be used solely for purposes of providing revenues to local school districts under this chapter to be used solely for school infrastructure purposes or school district property tax relief.

Sec. 28. NEW SECTION. 423F.2 REPEAL OF LOCAL SALES AND SERVICES TAXES — SECURE AN ADVANCED VISION FOR EDUCATION FUND.

1. a. After July 1, 2008, all local sales and services taxes for school infrastructure purposes imposed under chapter 423E are repealed. After July 1, 2008, a county no longer has the authority under chapter 423E or any other provision of law to impose or to extend an existing local sales and services tax for school infrastructure purposes.

b. The increase in the state sales, services, and use taxes under chapter 423, subchapters II and III, from five percent to six percent shall replace the repeal of the county's local sales and services tax for school infrastructure purposes. The distribution of moneys in the secure an advanced vision for education fund and the use of the moneys for infrastructure purposes or property tax relief shall be as provided in this chapter. However, the formula for the distribution of the moneys in the fund shall be based upon amounts that would have been received if the local sales and services taxes under chapter 423E, Code 2007, continued in existence, as computed pursuant to section 423E.4, subsection 8.[7]

c. To the extent that any school district has issued bonds anticipating the proceeds of a local sales and services tax for school infrastructure purposes prior to July 1, 2008, the pledge of such tax receipts for the payment of principal and interest on such bonds shall be replaced by a pledge of its share of the revenues the school district receives under this section.

[7] See chapter 1191, §72 herein

2. A secure an advanced vision for education fund is created as a separate and distinct fund in the state treasury under the control of the department of revenue. Moneys in the fund include revenues credited to the fund pursuant to this chapter, appropriations made to the fund, and other moneys deposited into the fund. Subject to subsection 3, any amounts disbursed from the fund shall be utilized for school infrastructure purposes or property tax relief.

3. The moneys available in a fiscal year in the secure an advanced vision for education fund shall be distributed by the department of revenue to each school district in an amount equal to the amount the school district would have received pursuant to the formula in section 423E.4 as if the local sales and services tax for school infrastructure purposes was imposed. Moneys in a fiscal year that are in excess of that needed to provide each school district with its formula amount shall be distributed and credited to the property tax equity and relief fund created in section 257.16A.

4. a. The director of revenue by August 15 of each fiscal year shall send to each school district 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.

b. The director shall remit ninety-five percent of the estimated tax receipts for the school district to the school district on or before August 31 of the fiscal year and on or before the last day of each following month.

c. The director shall remit a final payment of the remainder of tax moneys due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the November payment shall be adjusted to reflect any overpayment.

Sec. 29. NEW SECTION. 423F.3 USE OF REVENUES.

1. A school district receiving revenues from the secure an advanced vision for education fund under this chapter without a valid revenue purpose statement shall expend the revenues subject to subsections 2 and 3 for the following purposes:

a. Reduction of bond levies under sections 298.18 and 298.18A and all other debt levies.

b. Reduction of the regular and voter-approved physical plant and equipment levy under section 298.2.

c. Reduction of the public educational and recreational levy under section 300.2.

d. Reduction of the schoolhouse tax levy under section 278.1, subsection 7, Code 1989.

e. For any authorized infrastructure purpose of the school district as defined in subsection 6.

f. For the payment of principal and interest on bonds issued under sections 423E.5 and 423F.4.

2. A revenue purpose statement in existence for the expenditure of local sales and services tax for school infrastructure purposes imposed by a county pursuant to section 423E.2, Code 2007, prior to July 1, 2008, shall remain in effect until amended or extended. The board of directors of a school district may take action to adopt or amend a revenue purpose statement specifying the specific purposes for which the revenues received from the secure an advanced vision for education fund will be expended. If a school district is located in a county which has imposed a local sales and services tax for school infrastructure purposes prior to July 1, 2008, this action shall be taken before expending or anticipating revenues to be received after the unextended term of the tax unless the school district elects to adopt a revenue purpose statement as provided in subsection 3.

3. a. If the board of directors adopts a resolution to use funds received under the operation of this chapter solely for providing property tax relief by reducing indebtedness from the levies specified under section 298.2 or 298.18, the board of directors may approve a revenue purpose statement for that purpose without submitting the revenue purpose statement to a vote of the electors.

b. If the board of directors intends to use funds for purposes other than those listed in paragraph “a”, or change the use of funds to purposes other than those listed in paragraph “a”, the board shall adopt a revenue purpose statement, subject to approval of the electors, listing the

proposed use of the funds. School districts shall submit the statement to the voters no later than sixty days prior to the expiration of any existing revenue purpose statement or change in use not included in the existing revenue purpose statement.

c. The board secretary shall notify the county commissioner of elections of the intent to take the issue to the voters. The county commissioner of elections shall publish the notices required by law for special or general elections, and the election shall be held not sooner than thirty days nor later than forty days after notice from the school board.[8] A majority of those voting on the question must favor approval of the revenue purpose statement. If the proposal is not approved, the school district shall not submit the same or new revenue purpose statement to the electors for a period of six months from the date of the previous election.

4. The revenues received pursuant to this chapter shall be expended for the purposes specified in the revenue purpose statement. If a board of directors has not approved a revenue purpose statement, the revenues shall be expended in the order listed in subsection 1 except that the payment of bonds for which the revenues have been pledged shall be paid first. Once approved, a revenue purpose statement is effective until amended or repealed by the foregoing procedures. A revenue purpose statement shall not be amended or repealed to reduce the amount of revenue pledged to the payment of principal and interest on bonds as long as any bonds authorized by sections 423E.5 and 423F.4 are outstanding unless funds sufficient to pay principal, interest, and premium, if any, on the outstanding obligations at or prior to maturity have been properly set aside and pledged for that purpose.

5. A school district with a certified enrollment of fewer than two hundred fifty pupils in the entire district or certified enrollment of fewer than one hundred pupils in high school shall not expend the amount received for new construction without prior application to the department of education and receipt of a certificate of need pursuant to this subsection. A certificate of need is not required for repairing schoolhouses or buildings, equipment, technology, or transportation equipment for transporting students as provided in section 298.3, or for construction necessary for compliance with the federal Americans With Disabilities Act pursuant to 42 U.S.C. § 12101 – 12117. In determining whether a certificate of need shall be issued or denied, the department shall consider all of the following:

a. Enrollment trends in the grades that will be served at the new construction site.

b. The infeasibility of remodeling, reconstructing, or repairing existing buildings.

c. The fire and health safety needs of the school district.

d. The distance, convenience, cost of transportation, and accessibility of the new construction site to the students to be served at the new construction site.

e. Availability of alternative, less costly, or more effective means of serving the needs of the students.

f. The financial condition of the district, including the effect of the decline of the budget guarantee and unspent balance.

g. Broad and long-term ability of the district to support the facility and the quality of the academic program.

h. Cooperation with other educational entities including other school districts, area education agencies, postsecondary institutions, and local communities.

6. a. For purposes of this chapter, "school infrastructure" means those activities authorized in section 423E.1, subsection 3, Code 2007.

b. Additionally, "school infrastructure" includes the payment or retirement of outstanding bonds previously issued for school infrastructure purposes as defined in this subsection, and the payment or retirement of bonds issued under sections 423E.5 and 423F.4.

c. A school district that uses secure an advanced vision for education fund moneys for school infrastructure shall comply with the state building code in the absence of a local building code.

7. The general assembly shall not alter the purposes for which the revenues received under this section may be used from infrastructure and property tax relief purposes to any other purpose unless the bill is approved by a vote of at least two-thirds of the members of both chambers of the general assembly and is signed by the governor.

[8] See chapter 1191, §73 herein

Sec. 30. NEW SECTION. 423F.4 BORROWING AUTHORITY FOR SCHOOL DISTRICTS.

A school district may anticipate its share of the revenues under section 423F.2 by issuing bonds in the manner provided in section 423E.5. However, to the extent any school district has issued bonds anticipating the proceeds of an extended local sales and services tax for school infrastructure purposes imposed by a county pursuant to chapter 423E, Code 2007, prior to July 1, 2008, the pledge of such revenues for the payment of principal and interest on such bonds shall be replaced by a pledge of its share of the revenues under section 423F.2.

Sec. 31. NEW SECTION. 423F.5 CONTENTS OF FINANCIAL AUDIT.

A school district shall include as part of its financial audit for the budget year beginning July 1, 2007, and for each subsequent budget year the amount received during the year pursuant to chapter 423E or 423F, as applicable. In addition, the financial audit shall include the amount of bond levies, physical plant and equipment levy, and public educational and recreational levy reduced as a result of the moneys received under chapter 423E or 423F, as applicable. The amount of the reductions shall be stated in terms of dollars and cents per one thousand dollars of valuation and in total amount of property tax dollars. Also included shall be an accounting of the amount of moneys received which were spent for infrastructure purposes pursuant to chapter 423E or 423F, as applicable.

The auditor of state may prescribe necessary forms and procedures for the consistent collection of the information required by this section.

Sec. 32. NEW SECTION. 423F.6 REPEAL.

This chapter is repealed December 31, 2029.

Sec. 33. Section 423E.1, Code 2007, is repealed.

Sec. 34. Section 423E.2, Code Supplement 2007, is repealed.

Sec. 35. CONSTRUCTION CONTRACTORS.

1. Construction contractors may make application to the department of revenue for a refund of the additional one percent tax paid under chapter 423 by reason of the increase in the sales and use taxes from five to six percent for taxes paid on goods, wares, or merchandise under the following conditions:

a. The goods, wares, or merchandise are incorporated into an improvement to real estate in fulfillment of a written contract fully executed prior to July 1, 2008. The refund shall not apply to equipment transferred in fulfillment of a mixed construction contract.

b. The contractor has paid to the department of revenue or to a retailer the full six percent tax.

c. The claim is filed on forms provided by the department of revenue and is filed within one year of the date the tax is paid.

2. A contractor who makes an erroneous application for refund shall be liable for payment of the excess refund paid plus interest at the rate in effect under section 421.7. In addition, a contractor who willfully makes a false application for refund is liable for a penalty equal to fifty percent of the excess refund claimed. Excess refunds, penalties, and interest due under this section may be enforced and collected in the same manner as the tax imposed by chapter 423.

Sec. 36. APPLICABILITY. This section applies in regard to the increase in the state sales and use taxes from five to six percent. The six percent rate applies to all sales of taxable personal property, consisting of goods, wares, or merchandise if delivery occurs on or after July 1, 2008. The six percent use tax rate applies to the use of property when the first taxable use in this state occurs on or after July 1, 2008. The six percent rate applies to the gross receipts from the sale, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service if the date of billing the customer is on or after July 1, 2008. In the case of a service contract entered into prior to July 1, 2008, which contract calls for periodic pay-

ments, the six percent rate applies to those payments made or due on or after July 1, 2008. This periodic payment applies but is not limited to tickets or admissions, private club membership fees, sources of amusement, equipment rental, dry cleaning, reducing salons, dance schools, and all other services subject to tax, except the aforementioned utility services which are subject to a special transitional rule. Unlike periodic payments under service contracts, installment sales of goods, wares, and merchandise are subject to the full amount of sales or use tax when the sales contract is entered into or the property is first used in Iowa.

COORDINATING AMENDMENTS

Sec. 37. Section 8.57, subsection 6, paragraph f, Code Supplement 2007, is amended to read as follows:

f. There is appropriated from the rebuild Iowa infrastructure fund to the secure an advanced vision for education fund created in section ~~423E.4~~ 423F.2, for each fiscal year of the fiscal period beginning July 1, ~~2004~~ 2008, and ending June 30, 2014, the amount of the moneys in excess of the first forty-seven million dollars credited to the rebuild Iowa infrastructure fund during the fiscal year, not to exceed ten million dollars.

Sec. 38. Section 76.4, Code 2007, is amended to read as follows:

76.4 PERMISSIVE APPLICATION OF FUNDS.

Whenever the governing authority of such political subdivision shall have on hand funds derived from any other source than taxation which may be appropriated to the payment either of interest or principal, or both principal and interest of such bonds, such funds may be so appropriated and used and the levy for the payment of the bonds correspondingly reduced. This section shall not restrict the authority of a political subdivision to apply sales and services tax receipts collected pursuant to chapter 423B for such purpose. Notwithstanding section ~~423E.1, subsection 3~~ 423F.3, a school district may apply ~~local sales and services~~ tax receipts ~~collected~~ received pursuant to chapter ~~423E~~ 423F for the purposes of this section.

Sec. 39. Section 292.1, subsection 8, Code 2007, is amended to read as follows:

8. "Sales tax capacity per pupil" means the estimated amount of revenues that a school district receives or would receive ~~if a local sales and services tax for school infrastructure is imposed at one percent~~ from the secure an advanced vision for education fund pursuant to section ~~423E.2~~ 423F.2, divided by the school district's basic enrollment for the budget year. ~~For the budget year beginning July 1, 2000, the school district's actual enrollment shall be used in the calculation in place of the school district's basic enrollment for the budget year.~~

Sec. 40. Section 292.2, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. The department of education, in consultation with the department of revenue and the legislative services agency, shall annually calculate the estimated ~~sales and services~~ tax for school infrastructure~~, if imposed at one percent,~~ that is or would be received by each school district in the state pursuant to section ~~423E.3~~ 423F.2. These calculations shall be made on a total tax and on a tax per pupil basis for each school district.

Sec. 41. Section 292.2, subsection 2, paragraph a, subparagraph (2), Code 2007, is amended to read as follows:

(2) ~~Local sales and services tax~~ Tax moneys received pursuant to section ~~423E.3~~ 423F.2.

Sec. 42. Section 292.2, subsection 3, paragraph i, Code 2007, is amended by striking the paragraph.

Sec. 43. Section 292.2, subsection 7, paragraph d, Code 2007, is amended to read as follows:

d. A school district ~~for which a sales and services tax for school infrastructure has not been~~

~~imposed pursuant to section 423E.2 or a school district~~ receiving minimal revenues under section ~~423E.3~~ 423F.2 when the total enrollment of the school district is considered.

Sec. 44. Section 292.2, subsection 10, Code 2007, is amended by striking the subsection.

Sec. 45. Section 312.1, subsection 4, Code 2007, is amended to read as follows:

4. To the extent provided in section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), from revenue derived from the use tax, under chapter 423 on motor vehicles, trailers, and motor vehicle accessories and equipment.[9]

Sec. 46. Section 312.2, subsection 14, Code Supplement 2007, 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 state department of transportation from revenue credited to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), an amount equal to one-twentieth of eighty percent of the revenue from the operation of section 423.26, to be used for purposes of public transit assistance under chapter 324A.[10]

Sec. 47. Section 321.34, subsection 7, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The fees for a collegiate registration plate are as follows:

(1) A registration fee of twenty-five dollars.

(2) A special collegiate registration fee of twenty-five dollars.

These fees are in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited by the treasurer of state to the road use tax fund. Notwithstanding section 423.43 and prior to the revenues being credited to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall credit monthly from those revenues respectively, to Iowa state university of science and technology, the university of northern Iowa, and the state university of Iowa, the amount of the special collegiate registration fees collected in the previous month for collegiate registration plates designed for the university. The moneys credited are appropriated to the respective universities to be used for scholarships for students attending the universities.[11]

Sec. 48. Section 321.34, subsection 10, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the Paul Ryan memorial fire fighter safety training fund created pursuant to section 100B.12 the amount of the special fees collected in the previous month for the fire fighter plates.[12]

Sec. 49. Section 321.34, subsection 10A, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the emergency medical services fund created in section 135.25 the amount

[9] See chapter 1113, §126 herein

[10] See chapter 1113, §127 herein

[11] See chapter 1113, §127 herein

[12] See chapter 1113, §127 herein

of the special fees collected in the previous month for issuance of emergency medical services plates.[13]

Sec. 50. Section 321.34, subsection 11, paragraph c, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The special natural resources fee for letter number designated natural resources plates is forty-five dollars. The fee for personalized natural resources plates is forty-five dollars which shall be paid in addition to the special natural resources fee of forty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall credit monthly from those revenues to the Iowa resources enhancement and protection fund created pursuant to section 455A.18, the amount of the special natural resources fees collected in the previous month for the natural resources plates.[14]

Sec. 51. Section 321.34, subsection 11A, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated love our kids plates is thirty-five dollars. The fee for personalized love our kids plates is twenty-five dollars, which shall be paid in addition to the special love our kids fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the love our kids plates. Notwithstanding section 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.[15]

Sec. 52. Section 321.34, subsection 11B, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated motorcycle rider education plates is thirty-five dollars. The fee for personalized motorcycle rider education plates is twenty-five dollars, which shall be paid in addition to the special motorcycle rider education fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the department for use in accordance with section 321.180B, subsection 6, the amount of the special fees collected in the previous month for the motorcycle rider education plates.[16]

Sec. 53. Section 321.34, subsection 13, paragraph d, Code Supplement 2007, is amended to read as follows:

d. A state agency may submit a request to the department recommending a special registration plate. The alternate fee for letter number designated plates is thirty-five dollars with a ten dollar annual special renewal fee. The fee for personalized plates is twenty-five dollars which is in addition to the alternative fee of thirty-five dollars with an annual personalized plate renewal fee of five dollars which is in addition to the special renewal fee of ten dollars. The alternate fees are in addition to the regular annual registration fee. The alternate fees collected under this paragraph shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of the revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2),

[13] See chapter 1113, §127 herein
[14] See chapter 1113, §127 herein
[15] See chapter 1113, §127 herein
[16] See chapter 1113, §127 herein

the treasurer of state shall credit monthly the amount of the alternate fees collected in the previous month to the state agency that recommended the special registration plate.[17]

Sec. 54. Section 321.34, subsection 16, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a member of the national guard, as defined in chapter 29A, may, upon written application to the department, order special registration plates with a national guard processed emblem with the emblem designed by the department in cooperation with the adjutant general which emblem signifies that the applicant is a member of the national guard. The application shall be approved by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized national guard plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for national guard plates. Special registration plates with a national guard processed emblem shall be surrendered, as provided in subsection 12, in exchange for regular registration plates upon termination of the owner's membership in the active national guard.[18]

Sec. 55. Section 321.34, subsection 17, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was at Pearl Harbor, Hawaii, as a member of the armed services of the United States on December 7, 1941, may, upon written application to the department, order special registration plates with a Pearl Harbor processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized Pearl Harbor plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for Pearl Harbor plates.[19]

Sec. 56. Section 321.34, subsection 18, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a purple heart medal by the United States government for wounds received in military or naval combat against an armed enemy of the United States may, upon written application to the department and presentation of satisfactory proof of the award of the purple heart medal, order special registration plates with a purple heart processed emblem. The design of the emblem shall include a representation of a purple heart medal and ribbon. The application is subject to approval by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized purple heart plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for purple heart plates.[20]

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[17] See chapter 1113, §127 herein

[18] See chapter 1113, §127 herein

[19] See chapter 1113, §127 herein

[20] See chapter 1113, §127 herein

Sec. 57. Section 321.34, subsection 19, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who is a retired member of the United States armed forces may, upon written application to the department and upon presentation of satisfactory proof of membership, order special registration plates with a United States armed forces retired processed emblem. The emblem shall be designed by the department in consultation with service organizations. The application is subject to approval by the department. For purposes of this subsection, a person is considered to be retired if the person is recognized by the United States armed forces as retired from the United States armed forces. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized armed forces retired plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for armed forces retired plates.[21]

Sec. 58. Section 321.34, subsection 20, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a silver or a bronze star by the United States government, may, upon written application to the department and presentation of satisfactory proof of the award of the silver or bronze star, order special registration plates with a silver or bronze star processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized silver star and bronze star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for silver star and bronze star plates.[22]

Sec. 59. Section 321.34, subsection 20A, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a distinguished service cross, a navy cross, or an air force cross by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special registration plates with a distinguished service cross, navy cross, or air force cross processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized distinguished service cross, navy cross, and air force cross plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for distinguished service cross, navy cross, and air force cross plates.[23]

Sec. 60. Section 321.34, subsection 20B, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An owner referred to in subsection 12 who was awarded a soldier's medal, a navy and marine corps medal, or an airman's medal by the United States government may, upon written application to the department and presentation of satisfactory proof of the award, order special reg-

[21] See chapter 1113, §127 herein

[22] See chapter 1113, §127 herein

[23] See chapter 1113, §127 herein

istration plates with a soldier's medal, navy and marine corps medal, or airman's medal processed emblem. The emblem shall be designed by the department in consultation with the adjutant general. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized soldier's medal, navy and marine corps medal, and airman's medal plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for soldier's medal, navy and marine corps medal, and airman's medal plates.[24]

Sec. 61. Section 321.34, subsection 21, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall credit monthly to the Iowa heritage fund created under section 303.9A the amount of the special fees collected in the previous month for the Iowa heritage plates.[25]

Sec. 62. Section 321.34, subsection 22, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The special school transportation fee for letter number designated education plates is thirty-five dollars. The fee for personalized education plates is twenty-five dollars, which shall be paid in addition to the special school transportation fee of thirty-five dollars. The annual special school transportation fee is ten dollars for letter number designated registration plates and is fifteen dollars for personalized registration plates which shall be paid in addition to the regular annual registration fee. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the school budget review committee in accordance with section 257.31, subsection 17, the amount of the special school transportation fees collected in the previous month for the education plates.[26]

Sec. 63. Section 321.34, subsection 23, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The special fee for letter number designated breast cancer awareness plates is thirty-five dollars. The fee for personalized breast cancer awareness plates is twenty-five dollars, which shall be paid in addition to the special breast cancer awareness fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the Iowa department of public health the amount of the special fees collected in the previous month for the breast cancer awareness plates and such funds are appropriated to the Iowa department of public health. The Iowa department of public health shall distribute one hundred percent of the funds received monthly in the form of grants to support breast cancer screenings for both men and women who meet eligibility requirements like those established by the Susan G. Komen foundation. In the awarding of grants, the Iowa department of public health shall give first consideration to affiliates of the Susan G. Komen foundation and similar nonprofit organizations providing for breast cancer screenings at no cost in Iowa. Notwithstanding sec-

[24] See chapter 1113, §127 herein
[25] See chapter 1113, §127 herein
[26] See chapter 1113, §127 herein

tion 8.33, moneys transferred under this subsection shall not revert to the general fund of the state.[27]

Sec. 64. Section 321.34, subsection 24, Code Supplement 2007, is amended to read as follows:

24. GOLD STAR PLATES. An owner referred to in subsection 12 who is the surviving spouse, parent, child, or sibling of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict may order special registration plates bearing a gold star emblem upon written application to the department accompanied by satisfactory supporting documentation as determined by the department. The gold star emblem shall be designed by the department in cooperation with the commission of veterans affairs. The special plate fees collected by the director under subsection 12, paragraph "a", from the issuance and annual validation of letter-number designated and personalized gold star plates shall be paid monthly to the treasurer of state and credited to the road use tax fund. Notwithstanding section 423.43, and prior to the crediting of revenues to the road use tax fund under section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), the treasurer of state shall transfer monthly from those revenues to the veterans license fee fund created in section 35A.11 the amount of the special fees collected in the previous month for gold star plates.[28]

Sec. 65. Section 327I.26, Code 2007, is amended to read as follows:

327I.26 APPROPRIATION TO AUTHORITY.

Notwithstanding section 423.43, and prior to the application of section 423.43, subsection ~~1~~ 2, paragraph ~~"b"~~ "a", subparagraph (2), there shall be deposited into the general fund of the state and is appropriated to the authority from eighty percent of the revenues derived from the operation of section 423.26, the amounts certified by the authority under section 327I.25. However, the total amount deposited into the general fund and appropriated to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys appropriated to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 327I.25.[29]

Sec. 66. Section 423.36, subsection 8, paragraph a, Code 2007, is amended to read as follows:

a. Except as provided in paragraph "b", purchasers, users, and consumers of tangible personal property or enumerated services taxed pursuant to subchapter II or III of this chapter or ~~chapters~~ chapter 423B ~~and 423E~~ may be authorized, pursuant to rules adopted by the director, to remit tax owed directly to the department instead of the tax being collected and paid by the seller. To qualify for a direct pay tax permit, the purchaser, user, or consumer must accrue a tax liability of more than four thousand dollars in tax under subchapters II and III in a semimonthly period and make deposits and file returns pursuant to section 423.31. This authority shall not be granted or exercised except upon application to the director and then only after issuance by the director of a direct pay tax permit.

Sec. 67. Section 423.57, Code Supplement 2007, is amended to read as follows:

423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection ~~3~~ 1, and sections 423.45, 423.46, and 423.47.[30]

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[27] See chapter 1113, §127 herein

[28] See chapter 1113, §127 herein

[29] See chapter 1113, §126 herein

[30] See chapter 1113, §127 herein

Sec. 68. Section 423B.7, subsection 6, paragraphs a and b, Code 2007, are amended by striking the paragraphs.

Sec. 69. Section 455G.3, subsection 1, Code 2007, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section, section 423.43, subsection ~~1~~ 2, paragraph "a", subparagraph (1), and sections 455G.8, 455G.9, and 455G.11, Code 2003, and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.[31]

Sec. 70. Section 455G.6, subsection 4, Code 2007, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the use tax under section 423.43, subsection ~~1~~ 2, paragraph "a", subparagraph (1), and deposited in the fund or an account of the fund.[32]

Sec. 71. Section 455G.8, subsection 2, Code 2007, is amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423, subchapter III. The proceeds of the use tax under section 423.43, subsection ~~1~~ 2, paragraph "a", subparagraph (1), shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board.[33]

Sec. 72. 2007 Iowa Acts, chapter 179, section 6, is amended to read as follows:

SEC. 6. Section 423.57, Code 2007, as amended by this Act, is amended to read as follows:

423.57 STATUTES APPLICABLE.

The director shall administer this subchapter as it relates to the taxes imposed in this chapter in the same manner and subject to all the provisions of, and all of the powers, duties, authority, and restrictions contained in sections 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22, 423.23, 423.24, 423.25, 423.28, 423.29, 423.31, 423.32, 423.33, 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40, 423.41, and 423.42, section 423.43, subsection ~~3~~ 1, and sections 423.45, 423.46, and 423.47.[34]

Sec. 73. EFFECTIVE DATE. The section of this Act amending 2007 Iowa Acts, chapter 179, takes effect January 1, 2009.[35]

Approved May 6, 2008

[31] See chapter 1113, §126 herein
[32] See chapter 1113, §126 herein
[33] See chapter 1113, §126 herein
[34] See chapter 1113, §128 herein
[35] See chapter 1113, §128 herein

CHAPTER 1135

ANIMAL CONTEST EVENTS — SPECTATORS

S.F. 2203

AN ACT relating to contest events where an animal is injured, tormented, or killed, by providing a penalty for spectators.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 717D.1, subsection 8, Code 2007, is amended to read as follows:

8. "Spectator" means a person who attends an establishment ~~for purposes of witnessing~~ knowingly to watch or observe a contest event.

Sec. 2. Section 717D.2, subsection 9, Code 2007, is amended to read as follows:

9. Gambling at a contest event conducted in this state, including but not limited to wagering on the outcome of a contest involving animals.

10. 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. 3. Section 717D.4, Code 2007, is amended to read as follows:

717D.4 PENALTIES.

1. Except as provided in ~~subsection 2~~ section 717D.2, subsection 10, a person who violates a provision of this chapter ~~is guilty of~~ commits a class "D" felony.

2. A person who violates section 717D.2, subsection 10, by acting as a spectator of a contest event conducted in this state ~~is guilty of an~~ commits the following:

a. An aggravated misdemeanor for the first offense.

b. A class "D" felony for a second or subsequent offense.

Approved May 7, 2008

CHAPTER 1136

PAYMENT OF WAGES

S.F. 2222

AN ACT relating to payment of wages.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 91A.3, subsection 3, paragraph a, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The wages paid under subsection 1 shall be ~~sent to the employee by mail or be~~ paid at the employee's normal place of employment during normal employment hours or at a place and hour mutually agreed upon by the employer and employee, or the employee may elect to have the wages sent for direct deposit, on or by the regular payday of the employee, into a financial institution designated by the employee. Upon written request by the employee, wages due may be sent to the employee by mail. The employer shall maintain a copy of the request for

as long as it is effective and for at least two years thereafter. An employee hired on or after July 1, 2005, may be required, as a condition of employment, to participate in direct deposit of the employee's wages in a financial institution of the employee's choice unless any of the following conditions exist:

Sec. 2. Section 91A.3, subsection 3, paragraph b, Code Supplement 2007, is amended to read as follows:

b. If the employer fails to ~~send~~ pay an employee's wages ~~for direct deposit~~ on or by the regular payday in accordance with this subsection, the employer is liable for the amount of any overdraft charge if the overdraft is created on the employee's account because of the employer's failure to ~~send~~ pay the wages on or by the regular payday. The overdraft charges may be the basis for a claim under section 91A.10 and for damages under section 91A.8.

Approved May 7, 2008

CHAPTER 1137

WORKERS' COMPENSATION BENEFITS —
SETTLEMENTS AND EMPLOYER SURCHARGES

S.F. 2303

AN ACT relating to workers' compensation provisions for continued medically related benefits in certain settlements of workers' compensation claims and to funding of the second injury fund and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 85.35, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The parties to any settlement made pursuant to this section may agree that the employee has the right to benefits pursuant to section 85.27 under such terms and conditions as agreed to by the parties in the settlement, for a specified period of time after the settlement has been approved by the workers' compensation commissioner. During that specified period of time, the commissioner shall have jurisdiction of the settlement for the purpose of adjudicating the employee's entitlement to benefits provided for in section 85.27 as agreed upon in the settlement.

Sec. 2. Section 85.65A, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2008

CHAPTER 1138

MERCURY-CONTAINING LAMPS RECYCLING STUDY

S.F. 2321

AN ACT relating to the recycling of mercury-containing lamps by providing for a study.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. MERCURY-CONTAINING LAMPS RECYCLING PROGRAM STUDY.

1. The department of natural resources shall conduct a study on and make recommendations for the implementation and financing of a convenient and effective mercury-containing lamp recycling program. The department shall submit a report containing the recommendations to the general assembly by January 1, 2009.

2. The department shall consult with stakeholders including persons who represent retailers of mercury-containing lamps, waste haulers, mercury-containing lamp recyclers, mercury-containing lamp manufacturers, cities, counties, environmental organizations, public interest organizations, and other interested parties that have a role or interest in the recycling of mercury-containing lamps.

3. In conducting the study, the department shall assess potential methods for establishing and financing a convenient and effective statewide recycling program for mercury-containing lamps. The assessment includes but is not limited to all of the following:

a. The recycling challenges unique to rural and urban areas.

b. The involvement of mercury-containing lamp manufacturers.

c. The various methods of financing recycling programs for mercury-containing lamps.

d. The various methods to encourage the return of mercury-containing lamps for recycling.

e. The impact of different recycling approaches on local governments, nonprofit organizations, waste haulers, and other stakeholders.

f. The existing recycling infrastructure that could be used for mercury-containing lamp recycling.

g. Information obtained from existing mercury-containing lamp recycling programs.

4. The department shall also describe in the report what improvements could be achieved through voluntary efforts by stakeholders and what efforts would require legislation or the adoption of rules to implement a statewide recycling program for mercury-containing lamps.

Approved May 7, 2008

CHAPTER 1139

LIABILITY INSURANCE COVERAGE FOR FAIRS

S.F. 2337

AN ACT relating to the purchase of liability insurance and to self-insurance by the association of Iowa fairs.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 87.4, Code 2007, is amended to read as follows:

87.4 GROUP AND SELF-INSURED PLANS — TAX EXEMPTION — PLAN APPROVAL.

For the purpose of complying with this chapter, groups of employers by themselves or in an

association with any or all of their workers, may form insurance associations as hereafter provided, subject to such reasonable conditions and restrictions as may be fixed by the insurance commissioner; and membership in such mutual insurance organization as approved, together with evidence of the payment of premiums due, shall be evidence of compliance with this chapter.

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or the association of county[1] fairs or a fair as defined in section 174.1, or community colleges as defined in section 260C.2 or school corporations, or both, or other political subdivisions, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

A plan shall be submitted to the commissioner of insurance for review and approval prior to its implementation. The commissioner shall adopt rules for the review and approval of a self-insured group plan provided under this section. The rules shall include, but are not limited to, the following:

1. Procedures for submitting a plan for approval including the establishment of a fee schedule to cover the costs of conducting the review.

2. Establishment of minimum financial standards to ensure the ability of the plan to adequately cover the reasonably anticipated expenses.

A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities or counties, or both, or the association of county[2] fairs or a fair as defined in section 174.1, or community colleges, as defined in section 260C.2, or other political subdivisions, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

The workers' compensation premium written on a municipality which is a member of an insurance pool which provides workers' compensation insurance coverage to a statewide group of municipalities, as defined in section 670.1, shall not be considered in the determination of any assessments levied pursuant to an agreement established under section 515A.15.

Sec. 2. NEW SECTION. 174.8A LIABILITY INSURANCE.

The association of Iowa fairs, or a fair, shall have the power to join a local government risk pool as provided in section 670.7.

Sec. 3. Section 670.7, Code 2007, is amended to read as follows:

670.7 INSURANCE.

1. The governing body of a municipality may purchase a policy of liability insurance insuring against all or any part of liability which might be incurred by the municipality or its officers, employees, and agents under section 670.2 and section 670.8 and may similarly purchase insurance covering torts specified in section 670.4. The governing body of a municipality may adopt a self-insurance program, including but not limited to the investigation and defense of claims, the establishment of a reserve fund for claims, the payment of claims, and the administration and management of the self-insurance program, to cover all or any part of the liability. The governing body of a municipality may join and pay funds into a local government risk pool to protect itself against any or all liability. The governing body of a municipality may enter into insurance agreements obligating the municipality to make payments beyond its current budget year to provide or procure the policies of insurance, self-insurance program, or local government risk pool. The premium costs of the insurance, the costs of a self-insurance program, the costs of a local government risk pool, and the amounts payable under the insurance agree-

[1] See chapter 1191, §121 herein

[2] See chapter 1191, §122 herein

ments may be paid out of the general fund or any available funds or may be levied in excess of any tax limitation imposed by statute. However, for school districts, the costs shall be included in the district management levy as provided in section 296.7 if the district has certified a district management levy. If the district has not certified a district management levy, the cost shall be paid from the general fund. Any independent or autonomous board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly enter into insurance agreements, procure liability insurance, adopt a self-insurance program, or join a local government risk pool within the field of its operation.

2. The procurement of this insurance constitutes a waiver of the defense of governmental immunity as to those exceptions listed in section 670.4 to the extent stated in the policy but shall have no further effect on the liability of the municipality beyond the scope of this chapter, but if a municipality adopts a self-insurance program or joins and pays funds into a local government risk pool the action does not constitute a waiver of the defense of governmental immunity as to the exceptions listed in section 670.4.

3. The existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff, or lack of any such insurance, shall not be material in the trial of any action brought against the governing body of a municipality, or its officers, employees, or agents and any reference to such insurance, or lack of insurance, is grounds for a mistrial. A self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C.

4. The association of county fairs as defined in section 174.1, or a fair,[3] shall be deemed to be a municipality as defined in this chapter only for the purpose of joining a local government risk pool as provided in this section.

Approved May 7, 2008

CHAPTER 1140

ALZHEIMER'S DISEASE SERVICES

S.F. 2341

AN ACT relating to Alzheimer's disease and similar forms of irreversible dementia.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 135.154 ALZHEIMER'S DISEASE SERVICE NEEDS.

1. The department shall regularly analyze Iowa's population by county and age to determine the existing service utilization and future service needs of persons with Alzheimer's disease and similar forms of irreversible dementia. The analysis shall also address the availability of existing caregiver services for such needs and the appropriate service level for the future.

2. The department shall modify its community needs assessment activities to include questions to identify and quantify the numbers of persons with Alzheimer's disease and similar forms of irreversible dementia at the community level.

3. The department shall collect data on the numbers of persons demonstrating combative behavior related to Alzheimer's disease and similar forms of irreversible dementia. The department shall also collect data on the number of physicians and geropsychiatric units available in the state to provide treatment and services to such persons. Health care facilities that serve such persons shall provide information to the department for the purposes of the data collection required by this subsection.

[3] See chapter 1191, §132 herein

4. The department's implementation of the requirements of this section shall be limited to the extent of the funding appropriated or otherwise made available for the requirements.

Sec. 2. NEW SECTION. 231.62 ALZHEIMER'S DISEASE SERVICES AND TRAINING.

1. The department shall regularly review trends and initiatives to address the long-term living needs of Iowans to determine how the needs of persons with Alzheimer's disease and similar forms of irreversible dementia can be appropriately met.

2. The department shall act within the funding available to the department to expand and improve training and education of persons who regularly deal with persons with Alzheimer's disease and similar forms of irreversible dementia. Such persons shall include but are not limited to law enforcement personnel, long-term care resident's advocates, state employees with responsibilities for oversight or monitoring of agencies providing long-term care services, and workers and managers in services providing direct care to such persons, such as nursing facilities and other long-term care settings, assisted living programs, elder group homes, residential care facilities, adult day facilities, and home health care services. The actions shall include but are not limited to adopting rules.

3. The department shall adopt rules in consultation with the direct care worker task force established pursuant to 2005 Iowa Acts, chapter 88, and in coordination with the recommendations made by the task force, to implement all of the following training and education provisions:

a. Standards for initial hours of training for direct care staff, which shall require at least eight hours of classroom instruction and at least eight hours of supervised interactive experiences.

b. Standards for continuing and in-service education for direct care staff, which shall require at least eight hours annually.

c. Standards which provide for assessing the competency of those who have received training.

d. A standard curriculum model for the training and education. The curriculum model shall include but is not limited to the diagnosis process; progression of the disease; skills for communicating with persons with the disease, family members and friends, and caregivers; daily life skills; caregiver stress; the importance of building relationships and understanding personal histories; expected challenging behaviors; nonpharmacologic interventions; and medication management.

e. A certification process which shall be implemented for the trainers and educators who use the standard curriculum model.

4. The department shall conduct a statewide campaign to educate health care providers regarding tools and techniques for early detection of Alzheimer's disease and similar forms of irreversible dementia so that patients and their families will better understand the progression of such disease.

5. Within the funding available, the department shall provide funding for public awareness efforts and educational efforts for agencies providing long-term care services, direct care workers, caregivers, and state employees with responsibilities for providing oversight or monitoring of agencies providing long-term care services. The department shall work with local Alzheimer's disease association chapters and other stakeholders in providing the funding.

Sec. 3. IMPLEMENTATION. The department of elder affairs shall implement on or before July 1, 2010, the initial provisions for expanding and improving training and education of those who regularly deal with persons with Alzheimer's disease and similar forms of irreversible dementia and for providing funding for public awareness efforts and educational efforts in accordance with section 231.62, as enacted by this Act.

Approved May 7, 2008

CHAPTER 1141

MANAGEMENT OF COOPERATIVE ASSOCIATIONS

S.F. 2348

AN ACT relating to the management of cooperative associations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 499.36A STANDARDS OF CONDUCT FOR DIRECTORS.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the association, and with the care that a person in a like position would reasonably believe appropriate under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the cooperative.[1]

2. a. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the association whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, duly established by the board as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

b. Paragraph "a" does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by that paragraph unwarranted.

3. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless any of the following applies:

a. The director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of this chapter.

b. The director votes against the action at the meeting.

c. The director is prohibited by a conflict of interest from voting on the action.

4. In discharging the duties of a director, the director may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the following community interest factors:

a. The effects of the action on the association's employees, suppliers, creditors, and customers.

b. The interests of and effects on communities and the cooperative system in which the association and its members operate.

c. The long-term as well as short-term interests of the association and its members, including the possibility that these interests may be best served by the continued independence of the association.

Sec. 2. NEW SECTION. 499.37A STANDARDS OF CONDUCT FOR OFFICERS.

1. An officer, when performing in such capacity, shall act in conformity with all of the following:

a. In good faith.

b. With the care 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 association.

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[1] According to enrolled Act; the word "association" probably intended

2. In discharging the officer's duties, an officer who does not have knowledge that makes such reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the association whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the association whom the officer reasonably believes to be reliable and competent in the matters presented.

c. Legal counsel, public accountants, or other persons retained by the association 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 shall not be liable as an officer to the association or its members 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 is liable depends in such instance on applicable law, including those principles of section 499.36A that have relevance.

Sec. 3. NEW SECTION. 499.41A GREATER VOTING REQUIREMENTS.

An amendment to the articles of incorporation of an association that adds, changes, or deletes a greater voting or quorum requirement by the members than required by this chapter must be adopted by the voting or quorum requirements then in effect or proposed to be adopted, whichever is greater.

Sec. 4. Section 499.47B, subsections 1 and 3, Code 2007, are amended to read as follows:

1. The board of directors shall adopt a resolution recommending the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of the membership, which may either be an annual or a special meeting. The board of directors may condition its recommendation and submission of the sale, lease, exchange, or other disposition to the members for approval under this section on any basis.

3. At the meeting the membership may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the cooperative association. Such authorization ~~shall~~ for the sale, lease, exchange, or other disposition shall be approved by the members as follows:

a. Except as provided in paragraph "b", the sale, lease, exchange, or other disposition must be approved ~~if~~ by a two-thirds vote of the members ~~vote affirmatively~~ on a ballot in which a majority of all voting members participate.

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members on a ballot in which a majority of all voting members participate, the sale, lease, exchange, or other disposition must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the sale, lease, exchange, or other disposition as provided in subsection 1, the additional conditions must be satisfied in order for the sale, lease, exchange, or other disposition to be approved.

Sec. 5. NEW SECTION. 499.47D CONSIDERATION OF ACQUISITION PROPOSALS — COMMUNITY INTERESTS.

1. A director, in determining what is in the best interest of the association when considering a tender offer or proposal of acquisition, proposal of merger, proposal of consolidation, or similar proposal, may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the community interest factors described in section 499.36A.

2. If on the basis of the community interest factors described in section 499.36A, the board of directors determines that a tender offer or proposal to acquire, merge, or consolidate the

association or any similar proposal is not in the best interests of the association, it may reject the tender offer or proposal. If the board of directors rejects any such tender offer or proposal, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding the tender offer or proposal. 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 members, or a group of members, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the association or a member or group of members.

Sec. 6. Section 499.64, Code 2007, is amended to read as follows:

499.64 VOTE OF MEMBERS.

1. The board of directors of a cooperative association, upon ~~approving~~ recommending a plan of merger or consolidation be approved by the members, shall, by motion or resolution, direct that the plan be submitted to a vote at a meeting of members, which may be either an annual or special meeting. The board of directors may condition its recommendation and submission of a plan of merger or consolidation to the members for approval under this section on any basis. Written notice shall be given not less than twenty days prior to the meeting, either personally or by mail to each voting member and shareholder of record. The notice shall state the time, place, and purpose of the meeting, and a summary of the plan of merger or consolidation shall be included in or enclosed with the notice.

2. At the meeting, a ballot of the members who are entitled to vote in the affairs of the association shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved ~~if~~ as follows:

a. Except as provided in paragraph "b", the proposed plan of merger or consolidation must be approved by a two-thirds vote of the members ~~vote affirmatively~~ on a ballot in which a majority of all voting members participate.

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members on a ballot in which a majority of all voting members participate, the proposed plan of merger or consolidation must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the plan of merger or consolidation as provided in subsection 1, the additional conditions must be satisfied in order for the plan of merger or consolidation to be approved.

3. Voting by members may be by mail ballot notwithstanding any contrary provision in the articles of incorporation or bylaws.

Approved May 7, 2008

CHAPTER 1142

SCHOOL BUDGET ADJUSTMENTS

S.F. 2413

AN ACT relating to school budgets, including by providing for requests and applications submitted by school districts to the school budget review committee and documents submitted to other state agencies concerning school district finances, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 257.13, subsection 2, Code 2007, is amended to read as follows:

2. The board of directors of a school district that wishes to receive an on-time funding bud-

get adjustment shall adopt a resolution to receive the adjustment and notify the school budget review committee ~~by November 1,~~ annually, but not earlier than November 1, as determined by the department of education. The school budget review committee shall establish a modified allowable growth in an amount determined pursuant to subsection 1.

Sec. 2. Section 257.14, subsection 2, Code 2007, 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 by ~~April~~ May 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. 3. Section 257.14, subsection 3, unnumbered paragraph 2, Code 2007, 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 by ~~April~~ May 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. 4. MODIFIED ALLOWABLE GROWTH GRANTED FOR A CHANGE IN ACCOUNTING OR BUDGETING METHODS. Notwithstanding any provision in chapter 257 or title 289 of the Iowa administrative code to the contrary, this section applies to a school district, required to budget on the generally accepted accounting principles basis of budgeting beginning with fiscal year beginning July 1, 2006, and ending June 30, 2007.

1. a. If the school district determines that the amount of modified allowable growth granted for the change in accounting or budgeting methods was not adequate as provided in 289 IAC 6.5, the school district requested on March 10, 2008, modified allowable growth for the conversion to the generally accepted accounting principles basis of budgeting and the school district has been notified by the department of education that it is likely to have a negative unspent authorized budget on June 30, 2008, or June 30, 2009, and the school budget review committee has not previously considered a timely submitted request, the school district may make a request to the school budget review committee to grant additional modified allowable growth for purposes of increasing the amount of the school district's unspent balance. The request must include a verification from the school district's independent auditor of the amount by which the change to generally accepted accounting principles basis of budgeting contributed to the district's negative unspent authorized budget.

b. The school budget review committee must receive the request described in paragraph "a" on or before August 15, 2008.

2. Except as provided in subsection 1, the school budget review committee shall approve or disapprove the request using the same criteria as if the request had been submitted at its May 2006 regular meeting.

Sec. 5. ON-TIME FUNDING BUDGET ADJUSTMENTS. Notwithstanding any provision in chapter 257 or title 289 of the Iowa administrative code to the contrary, all of the following shall apply:

1. a. If the board of directors of a school district determines under section 257.6 that the school district's actual enrollment for the budget year beginning July 1, 2006, and ending June 30, 2007, was greater than its budget enrollment for the budget year, the district shall be eligible to receive an on-time funding budget adjustment as provided in section 257.13.

b. A school district that wishes to receive an on-time funding budget adjustment under paragraph "a" shall adopt a resolution to receive the adjustment and notify the school budget re-

view committee in the same manner as provided in section 257.13 and submit an application to the school budget review committee as provided in 289 IAC 7.4. The school budget review committee must receive the application on or before August 15, 2008.

c. Except as otherwise provided in paragraphs "a" and "b", the school budget review committee shall approve or disapprove the application using the same criteria as if the application had been submitted on November 1, 2006. However, the school budget review committee shall not approve a timely submitted application that it previously considered.

2. a. If the board of directors of a school district determines under section 257.6 that the school district's actual enrollment for the budget year beginning July 1, 2007, and ending June 30, 2008, was greater than its budget enrollment for the budget year, the district shall be eligible to receive an on-time funding budget adjustment as provided in section 257.13.

b. A school district that wishes to receive an on-time funding budget adjustment under paragraph "a" shall adopt a resolution to receive the adjustment and notify the school budget review committee in the same manner as provided in section 257.13 and submit an application to the school budget review committee as provided in 289 IAC 7.4. The school budget review committee must receive the application on or before August 15, 2008.

c. Except as otherwise provided in paragraphs "a" and "b", the school budget review committee shall approve or disapprove the application using the same criteria as if the application had been submitted on November 1, 2007. However, the school budget review committee shall not approve a timely submitted application that it previously considered.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2008

CHAPTER 1143

SPECULATIVE SHELL BUILDING PROPERTY TAX INCENTIVES

S.F. 2419

AN ACT relating to the property tax exemption for speculative shell buildings and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 427.1, subsection 27, Code Supplement 2007, is amended to read as follows:

27. a. SPECULATIVE SHELL BUILDINGS OF CERTAIN ORGANIZATIONS. New construction of shell buildings by community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities for speculative purposes ~~or the portion of the value added to buildings being reconstructed or renovated by community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities in order to become speculative shell buildings~~ as provided in this subsection.

b. The exemption shall be for one of the following:

(1) The value added by new construction of a shell building or addition to an existing building or structure by a community development organization, not-for-profit cooperative association under chapter 499, or for-profit entity.

(2) The value of an existing building being reconstructed or renovated, and the value of the land on which the building is located, if the reconstruction or renovation constitutes complete replacement or refitting of the existing building or structure, by a community development organization, not-for-profit cooperative association under chapter 499, or for-profit entity.

c. The exemption or partial exemption shall be allowed only pursuant to ordinance of a city council or board of supervisors, which ordinance shall specify if the exemption will be available for community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities ~~and~~. If the exemption is for a project described in paragraph "b", subparagraph (1), the exemption shall be effective for the assessment year in which the building is first assessed for property taxation or the assessment year in which the ~~reconstruction or renovation~~ addition to an existing building first adds value ~~and~~. If the exemption is for a project described in paragraph "b", subparagraph (2), the exemption shall be effective for the assessment year following the assessment year in which the project commences. An exemption allowed under this subsection shall be allowed for all subsequent years until the property is leased or sold or for a specific time period stated in the ordinance or until the exemption is terminated by ordinance of the city council or board of supervisors which approved the exemption. Eligibility for an exemption as a speculative shell building shall be determined as of January 1 of the assessment year. However, an exemption shall not be granted a speculative shell building of a not-for-profit cooperative association under chapter 499 or a for-profit entity if the building is used by the cooperative association or for-profit entity, or a subsidiary or majority owners thereof for other than as a speculative shell building. If the shell building or any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold, and a proportionate share of the land on which it is located if applicable, shall not be entitled to an exemption under this subsection for subsequent years. ~~An application shall be filed pursuant to section 427B.4 for each project for which an exemption is claimed.~~ Upon the sale of the shell building, the shell building shall be considered new construction for purposes of section 427B.1 if used for purposes set forth in section 427B.1.

d. (1) If the speculative shell building project is a speculative shell building project described in paragraph "b", subparagraph (1), an application shall be filed pursuant to section 427B.4 for each such project for which an exemption is claimed.

(2) If the speculative shell building project is a speculative shell building project described in paragraph "b", subparagraph (2), an application shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the project commences. Applications for exemption shall be made on forms prescribed by the director of revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the director of revenue. The city council or the board of supervisors, by ordinance, shall give its approval of a tax exemption for the project if the project is in conformance with the zoning plans for the city or county. The approval shall also be subject to the hearing requirements of section 427B.1. Approval under this subparagraph (2) entitles the owner to exemption from taxation beginning in the assessment year following the assessment year in which the project commences. However, if the tax exemption for the building and land is not approved, the person may submit an amended proposal to the city council or board of supervisors to approve or reject.

e. For purposes of this subsection the following definitions apply:

~~a.~~ (1) (a) "Community development organization" means an organization, which meets the membership requirements of subparagraph ~~(2)~~ subdivision (b), formed within a city or county or multicommunity group for one or more of the following purposes:

~~(a)~~ (i) To promote, stimulate, develop, and advance the business prosperity and economic welfare of the community, area, or region and its citizens.

~~(b)~~ (ii) To encourage and assist the location of new business and industry.

~~(c)~~ (iii) To rehabilitate and assist existing business and industry.

~~(d)~~ (iv) To stimulate and assist in the expansion of business activity.

~~(2)~~ (b) For purposes of this definition, a community development organization must have at least fifteen members with representation from the following:

~~(a)~~ (i) A representative from government at the level or levels corresponding to the community development organization's area of operation.

~~(b)~~ (ii) A representative from a private sector lending institution.

~~(c)~~ (iii) A representative of a community organization in the area.

~~(d)~~ (iv) A representative of business in the area.

~~(e)~~ (v) A representative of private citizens in the community, area, or region.

~~b.~~ (2) "New construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovation of an existing building or structure which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations, not-for-profit cooperative associations under chapter 499, or for-profit entities to market a building or structure as a speculative shell building, which determination must receive prior approval from the city council of the city or county board of supervisors of the county.

~~c.~~ (3) "Speculative shell building" means a building or structure owned and constructed or reconstructed by a community development organization, a not-for-profit cooperative association under chapter 499, or a for-profit entity without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

Sec. 2. EFFECTIVE AND APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 2007, for projects approved by a city council or board of supervisors prior to that date. Claims for exemption for the 2007 or 2008 or 2009 assessment year shall be filed with the appropriate governing body on or before October 1, 2008.

Approved May 7, 2008

CHAPTER 1144

ENERGY INDEPENDENCE INITIATIVES —
MISCELLANEOUS CHANGES

S.F. 2422

AN ACT relating to energy independence initiatives, specifying procedures applicable to Iowa power fund applications, authorizing allocations from the fund, directing that specified payments, repayments, or recaptures made to or received by the board shall be deposited in the fund, authorizing increased allocations for administrative costs, authorizing repayment of audit expenses to the auditor of state, and providing an effective date and applicability provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 11.5B, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 15. Office of energy independence.

Sec. 2. Section 22.7, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 60. Information possessed by the office of energy independence, the Iowa power fund board, or the due diligence committee associated with the office and the board, relating to a prospective applicant with which the office, board, or committee is currently negotiating, or an award recipient, shall only be released as provided in section 469.6, subsection 6.

Sec. 3. Section 455B.851, subsection 7, Code Supplement 2007, is amended to read as follows:

7. After consideration of a full range of policies and strategies, including the cost-effectiveness of the strategies, the council shall develop multiple scenarios designed to reduce statewide greenhouse gas emissions including one scenario that would reduce such emissions by fifty percent by 2050. The council shall also develop short-term, medium-term, and long-term scenarios designed to reduce statewide greenhouse gas emissions and shall consider the cost-effectiveness of the scenarios. The council shall establish a baseline year for purposes of calculating reductions in statewide greenhouse gas emissions. The council shall take nuclear power into consideration as part of its discussion of greenhouse gas reductions, and shall incorporate that consideration into its proposal. The council shall submit ~~the~~ an initial proposal to the governor and the general assembly by January 1, 2008, and shall submit an updated proposal by January 1, 2009.

Sec. 4. Section 469.4, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The plan shall provide cost-effective options and strategies for reducing the state's consumption of energy, dependence on foreign sources of energy, use of fossil fuels, and greenhouse gas emissions. The options and strategies developed in the plan shall provide for achieving energy independence from foreign sources of energy by the year 2025. The plan shall include a review of a range of energy sources including nuclear power.

Sec. 5. Section 469.6, subsection 5, paragraph d, Code Supplement 2007, is amended to read as follows:

d. Direct moneys from the fund to be used to purchase private or public technical assistance needed to conduct due diligence activities ~~and to develop an Iowa energy independence plan~~ and to address all technical, financial, and management processes associated with applications to the extent not financed by the applicant. Such moneys shall also be used to research, develop, produce, and initiate implementation of the energy independence plan. Other than applicant financing, if agreed to by an applicant and the due diligence committee, an application fee shall not be imposed. Payments received in the form of applicant financing pursuant to this paragraph shall be deposited in the fund and utilized exclusively for the purposes for which the payments were received.

Sec. 6. Section 469.6, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. In establishing guidelines, procedures, and policies for the awarding of financial assistance, the board shall give due regard to the confidentiality of certain information disclosed during the financial assistance application process and the contract administration process.

b. All information contained in an application for financial assistance submitted to the board shall remain confidential while the board is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the board. The board may release certain information in an application for financial assistance to a third party for technical review. If the board releases such information to a third party, the board shall ensure that the third party protects such information from public disclosure. After the board has considered a request for confidentiality, any information not deemed confidential by the board shall be made publicly available. Any information

deemed confidential by the board shall also be kept confidential by the office and board during and following administration of a contract executed pursuant to a successful application.

c. The board shall consider the written request of an applicant or award recipient to keep confidential certain details of an application, a contract, or the materials submitted in support of an application or a contract. If the request includes a sufficient explanation as to why the public disclosure of such details would give an unfair advantage to competitors, the board shall keep such details confidential. If the board elects to keep certain details confidential, the board shall release only the nonconfidential details in response to a request for records pursuant to chapter 22. If confidential details are withheld from a request for records pursuant to chapter 22, the board shall release an explanation of why the information was deemed confidential and a summary of the nature of the information withheld and the reasons for withholding it. In considering requests for confidential treatment, the board shall narrowly construe the provisions of this subsection in order to appropriately balance an applicant's need for confidentiality against the public's right to information about the board's activities.

d. If a request for confidentiality is denied by the board, an applicant may withdraw an application and any supporting materials, and the board shall not retain any copies of the application or supporting materials. Upon notice that an application has been withdrawn, the board shall not release a copy in response to a request for records pursuant to chapter 22.

e. The board shall adopt by rule a process for considering requests to keep information confidential pursuant to this subsection. The board may adopt emergency rules pursuant to chapter 17A to implement this subsection. The rules shall include criteria for guiding the board's decisions about the confidential treatment of applicant information. The criteria may include, but are not limited to the following:

(1) The nature and extent of competition in the applicant's industry sector.

(2) The likelihood of adverse financial impact to the applicant if the information were to be released.

(3) The risk that the applicant would locate in another state if the request is denied.

(4) Any other factor the board reasonably considers relevant.

Sec. 7. Section 469.9, subsection 4, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Payments of interest, repayments of moneys loaned, payments of royalties, recaptures of grants or loans, and any other payments made pursuant to an agreement approved by the board pursuant to this chapter shall be deposited in the fund.

Sec. 8. Section 469.10, subsection 1, Code Supplement 2007, is amended to read as follows:

1. There is appropriated from the general fund of the state to the office of energy independence for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2011, the sum of twenty-five million dollars to be used for awarding grants and making loans from the Iowa power fund, and for all other purposes specified in and consistent with this subchapter.

Sec. 9. Section 469.10, subsection 2, Code Supplement 2007, is amended to read as follows:

2. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to ~~one and five-tenths~~ three and five-tenths percent of the amount appropriated from the fund for a fiscal year for administrative costs. From the funds available for administrative costs, the office shall not employ more than four full-time equivalent positions.

Sec. 10. Section 469.10, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Of the moneys appropriated to the office and deposited in the fund, the board may make allocations for the purchase of private or public technical assistance needed to conduct due diligence activities and to address all technical, financial, and management processes associated with applications to the extent not financed by the applicant. Such

moneys shall also be used to research, develop, produce, and initiate implementation of the energy independence plan.

Sec. 11. 2007 Iowa Acts, chapter 209, section 2, is amended to read as follows:

SEC. 2. IOWA POWER FUND. There is appropriated from the general fund of the state to the office of energy independence, if enacted by 2007 Iowa Acts, House File 918,[1] or its successor, for the fiscal year beginning July 1, 2006, and ending June 30, 2007, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the Iowa power fund, if enacted by 2007 Iowa Acts, House File 918,[2] or its successor, to be used for awarding grants and making loans from the Iowa power fund, and for all other purposes specified in and consistent with the provisions of House File 918,[3] or its successor:

. . . . . $ 24,670,000

1. Of the moneys appropriated to the office and deposited in the fund, the office shall utilize up to one and five-tenths percent of the amount appropriated from the fund for administrative purposes.

2. Of the moneys appropriated to the office and deposited in the fund, there shall be allocated two million five hundred thousand dollars to the department of economic development for deposit into the workforce training and economic development funds of the community colleges created pursuant to section 260C.18A. Of the funds so deposited into the workforce training and economic development funds of the community colleges, two million five hundred thousand dollars shall be used each year in the development and expansion of energy industry areas and for the department's north American industrial classification system for targeted industry areas established pursuant to section 260C.18A.

2A. Of the moneys appropriated to the office and deposited in the fund, the board may allocate moneys for the purchase of private or public technical assistance needed to conduct due diligence activities and to address all technical, financial, and management processes associated with applications to the extent not financed by the applicant. Such moneys shall also be used to research, develop, produce, and initiate implementation of the energy independence plan.

3. Notwithstanding section 8.33, amounts appropriated pursuant to this section shall not revert but shall remain available for the purposes designated for the following fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the funds shall be credited to the fund.

Sec. 12. APPLICABILITY. The section of this Act amending section 22.7, relating to an exception to the open records law, and enacting section 469.6, subsection 6, relating to board determination of confidentiality upon a request for records pursuant to chapter 22, shall apply to requests in relation to applications that are in process on the effective date of this Act.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2008

[1] 2007 Iowa Acts, chapter 168
[2] 2007 Iowa Acts, chapter 168
[3] 2007 Iowa Acts, chapter 168

CHAPTER 1145

BUDGET REQUIREMENTS FOR QUALIFIED CITIES

S.F. 2429

AN ACT relating to budget requirements by certain small cities and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. BUDGET REQUIREMENTS BY CITIES — DEADLINE EXTENSIONS.

1. As used in this section, "qualified city" means a city in this state having a population of seventy-five persons or less as shown by the 2000 certified federal census.

2. Notwithstanding any provision in section 384.22 to the contrary, a qualified city that failed to publish an annual report for the fiscal year ending June 30, 2005, and failed to file a copy of the report with the auditor of state on or before December 1, 2005, as provided in section 384.22, may publish such annual report and file a copy of the report with the auditor of state no later than July 1, 2008, as otherwise provided in that section. A qualified city that meets the extended publication and filing deadline as provided in this subsection shall be deemed to have published the annual report and filed a copy of the report with the auditor of state on December 1, 2005.

3. a. Notwithstanding any provision in section 384.16 to the contrary, a qualified city that failed to prepare and submit a budget as provided in that section for the fiscal year beginning July 1, 2006, including by showing income from sources other than property taxation and by showing actual expenditures and revenues from its annual report as provided in section 384.22, or as corrected by a subsequent audit report, by March 15, 2006, may comply with the requirements in section 384.16 by submitting the budget no later than July 1, 2008, as otherwise provided by that section.

b. A qualified city that complies with the requirements of paragraph "a" is not required to conduct a hearing as required in section 384.16 or 384.18. In addition, the provisions allowing persons affected by the budget to file a written protest with the county auditor as provided in section 384.19 are inapplicable.

c. A qualified city that meets the extended submission deadline as provided in this subsection shall be deemed to have complied with the requirements of section 384.16 on March 15, 2006.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2008

CHAPTER 1146

TEXTBOOKS USED AT HIGHER EDUCATION INSTITUTIONS

H.F. 2197

AN ACT recommending institutions of higher learning to provide students with specific textbook information.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 261.7 TEXTBOOK NOTICE — LEGISLATIVE INTENT AND RECOMMENDATION.

1. In order to promote consumer choice and lower the costs of textbooks in higher education, the general assembly intends that students enrolled in institutions of higher learning have access to appropriate textbook information prior to the start of classes, with adequate time to pursue alternative purchase avenues.

2. The general assembly recommends that every public and private institution for higher education in this state, including those institutions referenced in chapters 260C and 262 and section 261.9, post the list of required and suggested textbooks for all courses and the corresponding international standard book numbers for such textbooks at least fourteen days before the start of each semester or term, to the extent possible, at the locations where textbooks are sold on campus and on the web site for the respective institution for higher education.

3. The college student aid commission is directed to convey the legislative intent and recommendation contained in this section to every institution for higher education in the state registered pursuant to chapter 261B at least once a year.[1]

Approved May 7, 2008

CHAPTER 1147

ELUDING LAW ENFORCEMENT AND EXPLOSIVES REGULATION

H.F. 2266

AN ACT relating to the criminal offenses of eluding or attempting to elude a law enforcement vehicle and the possession of an incendiary or explosive device or material, and the regulation of explosives, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 101A.1, subsection 3, Code 2007, is amended to read as follows:

3. "Explosive" ~~or "explosives"~~ means any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion~~, i.e.,~~ with substantially instantaneous release of gas and heat, unless such compound, mixture, or device is otherwise specifically classified by the United States department of transportation. The term ~~"explosives"~~ "explosive" includes all ~~material~~ materials which ~~is~~ are classified as a class ~~A, class B, and class C explosives~~ 1, division 1.1, 1.2, 1.3, or 1.4 explosive by the United States department of transportation, under 49 C.F.R. § 173.50, and all materials classified as explosive materials under 18 U.S.C. § 841, and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuse, fuse lighters, fuse igniters, squibs, cordeau detonative fuse, instantaneous fuse, igniter cord, igniters, smokeless pro-

[1] See chapter 1191, §125 herein

pellant, cartridges for propellant-actuated power devices, ~~and~~ cartridges for industrial guns, and overpressure devices, but ~~shall~~ does not include "fireworks" as defined in section 727.2 ~~nor~~ or ammunition or small arms primers manufactured for use in shotguns, rifles, and pistols. Commercial explosives are those explosives which are intended to be used in commercial or industrial operations.

Sec. 2. Section 101A.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Overpressure device" means any device constructed of a container or improvised container which is filled with a mixture of chemicals or sublimating materials or gases that generate an expanding gas, which is designed or constructed to cause the container to break, fracture, or rupture in a violent manner capable of causing death, serious injury, or property damage.

Sec. 3. Section 321.279, subsection 1, Code 2007, 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", "f", "g", and "h".

Sec. 4. Section 712.6, Code 2007, is amended to read as follows:

712.6 EXPLOSIVE OR INCENDIARY MATERIALS OR DEVICES.

1. ~~Any~~ A person who ~~shall possess~~ possesses any incendiary or explosive device or material with the intent to use such device or material to commit ~~any~~ a public offense shall be guilty of a class "C" felony.

2. a. A person who possesses any incendiary or explosive device or material shall be guilty of an aggravated misdemeanor.

b. This subsection does not apply to a person holding a valid commercial license or user's permit issued pursuant to chapter 101A, provided that the person is acting within the scope of authority granted by the license or permit.

~~2.~~ 3. ~~Any~~ A person who, with the intent to intimidate, annoy, or alarm another person, ~~who~~ places a simulated explosive or simulated incendiary device in or near an occupied structure as defined in section 702.12, is guilty of a serious misdemeanor.

Approved May 7, 2008

CHAPTER 1148

DISPOSITION OF SCHOOL PROPERTY

H.F. 2526

AN ACT relating to the disposition of school property.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 278.1, subsection 2, Code 2007, is amended to read as follows:

2. ~~Direct~~ Except when restricted by section 297.25, direct the sale, lease, or other disposition

of any schoolhouse or school site or other property belonging to the corporation, and the application to be made of the proceeds thereof~~, provided, however, that~~. However, nothing ~~herein~~ in this section shall be construed to prevent the ~~sale~~ independent action by the board of directors of the corporation to sell, lease, exchange, gift, ~~or~~ grant ~~and acceptance~~, or otherwise dispose of any interest in real or other property ~~by the board of directors without an election~~ of the corporation to the extent authorized in section 297.22. For the purposes of this subsection, "dispose" or "disposition" includes the exchange, transfer, demolition, or destruction of any real or other property of the corporation.

Sec. 2. Section 297.22, subsection 1, Code 2007, is amended to read as follows:

1. a. The board of directors of a school district may sell, lease, or dispose of, in whole or in part, a schoolhouse, school site, or other property belonging to the district. If the real property contains less than two acres, is located outside of a city, is not adjacent to a city, and was previously used as a schoolhouse site, the procedure contained in sections 297.15 through 297.20 shall be followed in lieu of this section.

b. Proceeds from the sale or disposition of real property shall be placed in the physical plant and equipment levy fund. Proceeds from the sale or disposition of property other than real property shall be placed in the general fund. Proceeds from the lease of real or other property shall be placed in the general fund.

c. Before the board of directors may sell, lease for a period in excess of one year, or dispose of any property belonging to the school, the board shall hold a public hearing on the proposal. The board shall set forth its proposal in a resolution and shall publish notice of the time and the place of the public hearing on the resolution. The notice shall also describe the property. A locally known address for real property may be substituted for a legal description of real property contained in the resolution. Notice of the time and place of the public hearing shall be published at least once not less than ten days but not more than twenty days prior to the date of the hearing in a newspaper of general circulation in the district. After the public hearing, the board may make a final determination on the proposal contained in the resolution.

d. However, property having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in a newspaper having general circulation in the district.

e. For the purposes of this subsection, "dispose" or "disposition" includes the exchange, transfer, demolition, or destruction of any real or personal property of the school district.

Sec. 3. Section 297.25, Code 2007, is amended to read as follows:

297.25 RULE OF CONSTRUCTION.

Section 297.22 shall be construed as independent of the power vested in the electors by section 278.1, and as additional to such power. If a board of directors has exercised its independent power under section 297.22 regarding the disposition of real or personal property of the school district and has by resolution approved such action, the electors may subsequently proceed to exercise their power under section 278.1 for a purpose directly contrary to an action previously approved by the board of directors in accordance with section 297.22. However, the electors shall be limited to twelve calendar months after an action by the board to exercise such power for a purpose directly contrary to the board's action.

Approved May 7, 2008

CHAPTER 1149

ECONOMIC DEVELOPMENT
FINANCIAL ASSISTANCE APPLICATIONS — CONFIDENTIALITY
H.F. 2558

AN ACT relating to economic development by providing for the confidentiality of certain details contained in contracts and applications for financial assistance.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 15.118 CONFIDENTIALITY OF INFORMATION IN FINANCIAL ASSISTANCE APPLICATIONS.

1. The board and the department shall give due regard to the confidentiality of certain information disclosed by applicants for financial assistance during the application process, the contract administration process, and the period following closeout of a contract in the manner described in this section.

2. All information contained in an application for financial assistance submitted to the department shall remain confidential while the department is reviewing the application, processing requests for confidentiality, negotiating with the applicant, and preparing the application for consideration by the director or the board. The department may release certain information in an application for financial assistance to a third party for technical review. If the department releases such information to a third party, the department shall ensure that the third party protects such information from public disclosure. After the department has considered a request for confidentiality, any information not deemed confidential shall be made publicly available. Any information deemed confidential by the department shall also be kept confidential during and following administration of a contract executed pursuant to a successful application.

3. The department shall consider the written request of an applicant or award recipient to keep confidential certain details of an application, a contract, or the materials submitted in support of an application or a contract. If the request includes a sufficient explanation as to why the public disclosure of such details would give an unfair advantage to competitors, the department shall keep certain details confidential. If the department elects to keep certain details confidential, the department shall release only the nonconfidential details in response to a request for records pursuant to chapter 22. If confidential details are withheld from a request for records pursuant to chapter 22, the department shall release an explanation of why the information was deemed confidential and a summary of the nature of the information withheld and the reasons for withholding it. In considering requests for confidential treatment, the department shall narrowly construe the provisions of this section in order to appropriately balance an applicant's need for confidentiality against the public's right to information about the department's activities.

4. If a request for confidentiality is denied by the department, an applicant may withdraw the application and any supporting materials, and the department shall not retain any copies of the application or supporting materials. Upon notice that an application has been withdrawn, the department shall not release a copy in response to a request for records pursuant to chapter 22.

5. The department shall adopt by rule a process for considering requests to keep information confidential pursuant to this section. The department may adopt emergency rules pursuant to chapter 17A to implement this section. The rules shall include criteria for guiding the department's decisions about the confidential treatment of applicant information. The criteria may include but are not limited to the following:

a. The nature and extent of competition in the applicant's industry sector.

b. The likelihood of adverse financial impact to the applicant if the information were to be released.

c. The risk that the applicant will locate in another state if the request is denied.
d. Any other factor the department reasonably considers relevant.

Approved May 7, 2008

CHAPTER 1150

STATE INTERAGENCY MISSOURI RIVER AUTHORITY

H.F. 2601

AN ACT providing for the state interagency Missouri river authority.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 28L.1, Code 2007, is amended to read as follows:

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 or the director's designee 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 of states and tribes 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, and in a manner that positively impacts this state's many interests along, in, and on the river. The Missouri river ~~basin~~ association of states and tribes is an interstate association of government representatives formed to seek consensus solutions to issues impacting the Missouri river basin.

3. The director of the department of natural resources or the director's designee shall coordinate regular meetings of the state interagency Missouri river authority to determine the state's position before any meeting of the Missouri river association of states and tribes or before a substantive proposal or action is voted upon at such meeting. The members of the state interagency Missouri river authority shall attempt to achieve consensus on the state's position regarding any substantive proposal or action being considered by the Missouri river association of states and tribes. Regardless of whether a consensus can be achieved, a vote of the members shall be taken. 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 of states and tribes without the ~~agreement~~ approval of ~~the directors of all four state departments and the chairperson of the utilities board who are~~ a majority of the 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.~~ The director of the department of natural resources or the director's designee shall cast the votes for the state interagency Missouri river authority that are reflective of the position of the authority.

4. The state interagency Missouri river authority shall ~~meet regularly with~~ seek input from

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~~ with regard to issues impacting the Missouri river basin.

Approved May 7, 2008

CHAPTER 1151

PORTABLE HIGH-VOLTAGE PULSE DEVICES OR OTHER WEAPONS

H.F. 2628

†**AN ACT** including a portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person in the definition of a dangerous weapon and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 702.7, Code 2007, is amended to read as follows:

702.7 DANGEROUS WEAPON.

A "dangerous weapon" is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed, except a bow and arrow when possessed and used for hunting or any other lawful purpose. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon, pistol, revolver, or other firearm, dagger, razor, stiletto, switchblade knife, ~~or~~ knife having a blade exceeding five inches in length, or any portable device or weapon directing an electric current, impulse, wave, or beam that produces a high-voltage pulse designed to immobilize a person.

Approved May 7, 2008

CHAPTER 1152

EMERGENCY RESPONSE DISTRICTS — PILOT PROJECTS

S.F. 2415

AN ACT allowing certain counties to participate in a pilot project for emergency response districts and providing for a district tax levy.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 357I.1 AUTHORIZATION AND PURPOSE.

This chapter authorizes a pilot project for which a county of the state may establish an emergency response district.

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† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

The purpose of this chapter is to provide a county within the state an opportunity to participate in a pilot project having a new governance structure to facilitate the delivery and funding of fire protection service and emergency medical service to residents of the county.

Sec. 2. NEW SECTION. 357I.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the board of supervisors of a county.

2. "Commission" means a governing body composed of a member of the board of supervisors, the sheriff, and the mayor from each city within the district. A member of the commission shall not appoint a designee to serve on the commission in the member's capacity.

3. "District" means an emergency response district.

Sec. 3. NEW SECTION. 357I.3 MOTION FOR PUBLIC HEARING.

1. The board of supervisors of any county having a population of at least sixteen thousand nine hundred twenty-five but not more than sixteen thousand nine hundred fifty, according to the 2000 certified federal census, shall, on the board's own motion, hold a public hearing concerning the establishment of a proposed district. The motion shall include a statement containing the following information:

a. The need for fire protection service and emergency medical service.

b. The geographic boundaries of the district to be served.

c. The approximate number of families in the district.

d. The proposed personnel, equipment, and facilities to provide the fire protection service and emergency medical service.

2. The board of supervisors shall notify the state fire marshal's office that a motion has been adopted to form a district.

Sec. 4. NEW SECTION. 357I.4 DISTRICT.

The boundary lines of a district may include any incorporated or unincorporated areas within a county.

Sec. 5. NEW SECTION. 357I.5 TIME OF HEARING.

The public hearing required in section 357I.3 shall be held within thirty days of the adoption of the motion. Notice of hearing shall be given by publication in two successive issues of any newspaper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 6. NEW SECTION. 357I.6 DISTRICT ESTABLISHED — PLAN — PILOT AUTHORIZED.

1. Within ten days after the hearing, the board shall adopt a resolution establishing the district or abandoning the board's motion.

2. Within ten days after establishing a district, the board shall submit a plan to the state fire marshal's office and the county finance committee. The plan shall include all of the following:

a. Personnel, equipment, facilities, and other available resources that may be shared by all of the various fire departments and emergency medical service providers within the district.

b. Financial information demonstrating the ability to provide fire protection service and emergency medical service to the residents of the district.

c. A plan for transition of delivery and funding of fire protection service and emergency medical service to the new district.

d. A plan for the dissolution of the district and a plan for the allocation of any assets acquired by the district in the event of dissolution.

3. The county finance committee shall review the district's financial information, including revenues, expenditures, and budget items as well as the financial implications and plan for transitioning to a new financing structure. Within thirty days after receiving the plan, the county finance committee shall report its findings to the state fire marshal.

4. The state fire marshal shall consider the county finance committee's findings and review the district's personnel, equipment, facilities, and other available resources that may be shared by all of the various fire departments and emergency medical service providers as well as the practical considerations and plan for transitioning to a new structure for delivering fire protection service and emergency medical service to the district. The state fire marshal shall determine whether the district can successfully deliver fire protection service and emergency medical service throughout the district.

5. Within sixty days of receiving the board's plan, the state fire marshal shall notify the board whether the board's plan is approved.

Sec. 7. NEW SECTION. 357I.7 PILOT PROJECT — FIVE YEARS — REPORT.

1. A district established by the board and having a plan approved by the state fire marshal under section 357I.6 is authorized to proceed and continue as a pilot project for five years beginning on July 1 of the fiscal year following the date of the board's resolution establishing the district. However, if the date of the board's action falls after November 1, the pilot project shall not begin until July 1 of the fiscal year subsequent to the next following fiscal year.

2. The commission shall submit an annual report to the state fire marshal summarizing the results of the pilot project, including the strengths of the project, whether delivery of fire protection service and emergency medical service was improved throughout the district, and additional measures needed to improve the delivery of such services.

3. The fourth annual report prepared by the commission under subsection 2 shall also be submitted to the governor and the general assembly. It is the intent of the general assembly to use that report to determine whether to continue the pilot project, revise it, terminate it, or implement the pilot project provisions or a similar approach statewide.

Sec. 8. NEW SECTION. 357I.8 ENGINEER.

1. When the pilot project is approved, the board shall appoint a civil engineer or county engineer who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the county auditor's plat books with the names of the owners.

c. The assessed valuation of the lots and parcels.

2. The board shall determine the compensation for the engineer's preliminary investigation. The engineer shall file a report with the county auditor within thirty days of appointment. The board may extend the time upon good cause shown.

Sec. 9. NEW SECTION. 357I.9 HEARING ON ENGINEER'S REPORT.

After the engineer's report is filed, the board shall give notice, as provided in section 357I.5, of a public hearing to be held concerning the engineer's preliminary plat. Within ten days after the hearing, the board shall, by resolution, approve or disapprove the engineer's plan.

Sec. 10. NEW SECTION. 357I.10 APPROVAL OF DISTRICT PROPERTY TAX LEVY.

Annually, the commission shall propose the levy of a tax of not more than one dollar and sixty and three-quarters cents per one thousand dollars of assessed value on all taxable property within the district. A proposed property tax levy rate shall not be approved by the commission unless two-thirds of the commission's members are present when the proposed property tax levy rate is approved. The commission shall hold a public hearing within thirty days of the commission's approval of a proposed property tax levy rate to receive public comment. Notice of the hearing shall be given by publication in a newspaper of general circulation within the district and shall be posted in a public place in each city within the district no less than ten days before the public hearing. The notice shall include the commission's proposed property tax levy rate, the reason for the tax, and the time when and the place where the hearing shall be held. The commission shall be considered a municipality for purposes of adopting and certifying a budget pursuant to chapter 24 and shall set the property tax levy rate no more than ten

days following the public hearing. The tax shall be set to raise only the amount needed. The commission shall have exclusive tax-levying authority for the district.

Sec. 11. NEW SECTION. 357I.11 GOVERNANCE AUTHORITY — COMMISSION.
The district shall be governed by a commission, as defined in section 357I.2.

Sec. 12. NEW SECTION. 357I.12 COMMISSION POWERS.
1. The commission may purchase, own, rent, or maintain fire and emergency medical services apparatus or equipment within the state or outside the territorial jurisdiction and boundary limits of this state, provide housing for such apparatus and equipment, provide fire protection service and emergency medical service and facilities, and may certify for levy an annual tax as provided in section 357I.10. The commission may purchase material, employ fire protection service personnel, emergency medical service personnel, and other personnel, and may perform all other acts necessary to properly maintain and operate the district. The commission may contract under chapter 28E with any city or county or public or private agency that is not a member of the district for the purpose of providing fire protection service or emergency medical service under this chapter. The commissioners are allowed necessary expenses in the discharge of their duties.
2. The commission shall draw the boundaries of fire and emergency medical services areas within the district to be assigned to various fire departments and stations throughout the district.

Sec. 13. NEW SECTION. 357I.13 DISTRICT FIRE CHIEF.
The commission shall appoint a district fire chief who shall serve at the pleasure of the commission and shall be responsible for the coordination of fire protection service and emergency medical service throughout the district.

Sec. 14. NEW SECTION. 357I.14 FIRE CHIEFS.
The district fire chief shall appoint an assistant fire chief for each existing fire department and station within the district who shall be responsible for delivery of fire protection service and emergency medical service within the areas designated by the commission pursuant to section 357I.12.

Sec. 15. NEW SECTION. 357I.15 CITIES WITHIN THE DISTRICT.
If a city is included in a district, the maximum tax levy authorized for the general fund of that city under section 384.1 shall be reduced by the amount of the tax rate levied within the city by the district. Such city shall not be responsible for providing fire protection service and emergency medical service as provided in section 364.16, and shall have no liability for the method, manner, or means by which the district provides the fire protection service and emergency medical service.

Sec. 16. NEW SECTION. 357I.16 BONDS IN ANTICIPATION OF REVENUE.
A district may anticipate the collection of taxes by the levy authorized in section 357I.10, and to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be conducted by the county commissioner of elections pursuant to chapters 39 through 53. The commission shall give the county commissioner of elections thirty-two days' notice of the special election.

Sec. 17. NEW SECTION. 357I.17 TRANSITION — TOWNSHIP TAX DISCONTINUED.
When the boundary lines of the district include all or a portion of a township and the district has certified a tax levy within the township for the purpose of fire protection service and emergency medical service, the township trustees shall no longer levy the tax provided by section 359.43 in that portion of the township provided services by the district. Any indebtedness in-

curred for the purposes of sections 359.42 through 359.45 for a service now provided by the district shall be assumed by the district. Such township shall not be responsible for providing fire protection service and emergency medical service as provided in section 359.42 for the portion of the township within the district, and shall have no liability for the method, manner, or means by which the district provides the fire protection service and emergency medical service.

Sec. 18. NEW SECTION. 357I.18 TRANSITION — EMERGENCY MEDICAL SERVICES DISTRICT TAXES DISCONTINUED.

When the boundary lines of the emergency response district include all or a portion of an emergency medical services district under chapter 357F or chapter 357G and the emergency response district has certified a tax to be levied on property located within the emergency medical services district for the purpose of emergency medical service, the emergency medical services district trustees shall no longer levy the taxes authorized in section 357F.8 or section 357G.8 in that portion of such emergency medical services district that is provided services by the emergency response district. Any indebtedness incurred by an emergency medical services district under chapter 357F or chapter 357G for a service now provided by the emergency response district shall be assumed by the emergency response district.

Approved May 9, 2008

CHAPTER 1153

DISPOSITION OF SEIZED PROPERTY — NOTICE — VALUE

S.F. 2132

AN ACT relating to notices regarding the disposition of seized property and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 809.5, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Seized property ~~which is no longer required as evidence or for use in an investigation~~ shall be returned to the owner~~, provided that the person's possession of the property is not prohibited by law and there is no forfeiture claim filed on behalf of the state~~ if the property is no longer required as evidence or the property has been photographed and the photograph will be used as evidence in lieu of the property, if the property is no longer required for use in an investigation, if the owner's possession is not prohibited by law, and if a forfeiture claim has not been filed on behalf of the state.

a. ~~The~~ If the aggregate fair market value of the property is greater than five hundred dollars, the seizing agency shall ~~send~~ serve notice by personal service or by sending the notice by restricted certified mail, return receipt requested, to the last known address of any person having an ownership or possessory right in the property ~~stating that the property must be claimed within thirty days from the date of receipt of the notice~~. Refusal of restricted certified mail, return receipt requested, shall be construed as receipt of the notice. ~~Such notice shall state that if no written claim for the property is filed with the seizing agency within thirty days from the date of receipt of the notice, the property shall be deemed abandoned and disposed of accordingly.~~

b. If the aggregate fair market value of the property is equal to or less than five hundred dollars, the seizing agency shall serve notice by personal service or by sending the notice by regular mail to the last known address of any person having an ownership or possessory right in the property.

c. A person having an ownership or possessory right in the property must file a written claim for the property with the seizing agency within thirty days from the date of receipt of the notice and must take possession of the property within thirty days of the expiration of the period of time for filing a written claim. If no written claim is filed within thirty days from the date of receipt of the notice or if a written claim is filed but the claimant does not take possession of the property within thirty days of the expiration of the period of time for filing the written claim, the property shall be deemed abandoned and shall be disposed of accordingly.

d. The notice served or sent pursuant to this subsection shall inform the recipient of the filing and possession requirements of paragraph "c".

~~b.~~ e. The seizing agency shall not release the property to any party until the expiration of the date for filing claims. In the event that there is more than one claim filed for the return of property under this section, at the expiration of the period for filing claims the seizing agency shall file a copy of all such claims with the clerk of court and the clerk shall proceed as if such claims were filed by the parties under section 809.3. ~~In the event that no owner can be located or no claim is filed under this section for property having a value of less than five hundred dollars, the property shall be deemed abandoned and the seizing agency shall become the owner of such property and may dispose of it in any reasonable manner.~~

~~c.~~ f. ~~For unclaimed property having a~~ In the event that the owner is unable to be located or the property is deemed abandoned the following shall apply:

(1) If the aggregate fair market value ~~equal to or~~ of the property is greater than five hundred dollars, forfeiture proceedings shall be initiated pursuant to the provisions of chapter 809A. If the court does not order the property forfeited to the state in the forfeiture proceedings pursuant to chapter 809A, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner. ~~Unclaimed firearms and ammunition, if not forfeited pursuant to chapter 809A, shall be disposed of by the department of public safety or the department of natural resources pursuant to section 809.21.~~

(2) If the aggregate fair market value of the property is equal to or less than five hundred dollars, the seizing agency shall become the owner of the property and may dispose of it in any reasonable manner.

(3) Notwithstanding subparagraph (2), firearms or ammunition with an aggregate fair market value equal to or less than five hundred dollars shall be deposited with the department of public safety. The firearms or ammunition may be held by the department of public safety and be used for law enforcement, testing, or comparisons by the criminalistics laboratory, or may be destroyed or disposed of by the department of public safety in accordance with section 809.21.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2008

CHAPTER 1154

IDENTITY THEFT AND PERSONAL INFORMATION —
SECURITY BREACHES — DISCLOSURE

S.F. 2308

AN ACT relating to identity theft by providing for the notification of a breach in the security of personal information, requesting the establishment of an interim study committee relating to disclosure of personal information by public officials, entities, and affiliated organizations, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 715C.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Breach of security" means unauthorized acquisition of personal information maintained in computerized form by a person that compromises the security, confidentiality, or integrity of the personal information. Good faith acquisition of personal information by a person or that person's employee or agent for a legitimate purpose of that person is not a breach of security, provided that the personal information is not used in violation of applicable law or in a manner that harms or poses an actual threat to the security, confidentiality, or integrity of the personal information.

2. "Consumer" means an individual who is a resident of this state.

3. "Consumer reporting agency" means the same as defined by the federal Fair Credit Reporting Act, 15 U.S.C. § 1681a.

4. "Debt" means the same as provided in section 537.7102.

5. "Encryption" means the use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without the use of a confidential process or key.

6. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes.

7. "Financial institution" means the same as defined in section 536C.2, subsection 6.

8. "Identity theft" means the same as provided in section 715A.8.

9. "Payment card" means the same as defined in section 715A.10, subsection 3, paragraph "b".

10. "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

11. "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements that relate to the individual if any of the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such a manner that the name or data elements are unreadable:

a. Social security number.

b. Driver's license number or other unique identification number created or collected by a government body.

c. Financial account number, credit card number, or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account.

d. Unique electronic identifier or routing code, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

e. Unique biometric data, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data.

"Personal information" does not include information that is lawfully obtained from publicly available sources, or from federal, state, or local government records lawfully made available to the general public.

12. "Redacted" means altered or truncated so that no more than five digits of a social security number or the last four digits of other numbers designated in section 715A.8, subsection 1, paragraph "a", is[1] accessible as part of the data.

Sec. 2. NEW SECTION. 715C.2 SECURITY BREACH — CONSUMER NOTIFICATION — REMEDIES.

1. Any person who owns or licenses computerized data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation, or volunteer activities and that was subject to a breach of security shall give notice of the breach of security following discovery of such breach of security, or receipt of notification under subsection 2, to any consumer whose personal information was included in the information that was breached. The consumer notification shall be made in the most expeditious manner possible and without unreasonable delay, consistent with the legitimate needs of law enforcement as provided in subsection 3, and consistent with any measures necessary to sufficiently determine contact information for the affected consumers, determine the scope of the breach, and restore the reasonable integrity, security, and confidentiality of the data.

2. Any person who maintains or otherwise possesses personal information on behalf of another person shall notify the owner or licensor of the information of any breach of security immediately following discovery of such breach of security if a consumer's personal information was included in the information that was breached.

3. The consumer notification requirements of this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation and the agency has made a written request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that the notification will not compromise the investigation and notifies the person required to give notice in writing.

4. For purposes of this section, notification to the consumer may be provided by one of the following methods:

a. Written notice to the last available address the person has in the person's records.

b. Electronic notice if the person's customary method of communication with the consumer is by electronic means or is consistent with the provisions regarding electronic records and signatures set forth in chapter 554D and the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001.

c. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, that the affected class of consumers to be notified exceeds three hundred fifty thousand persons, or if the person does not have sufficient contact information to provide notice. Substitute notice shall consist of the following:

(1) Electronic mail notice when the person has an electronic mail address for the affected consumers.

(2) Conspicuous posting of the notice or a link to the notice on the internet web site of the person if the person maintains an internet web site.

(3) Notification to major statewide media.

5. Notice pursuant to this section shall include, at a minimum, all of the following:

a. A description of the breach of security.

b. The approximate date of the breach of security.

c. The type of personal information obtained as a result of the breach of security.

d. Contact information for consumer reporting agencies.

e. Advice to the consumer to report suspected incidents of identity theft to local law enforcement or the attorney general.

6. Notwithstanding subsection 1, notification is not required if, after an appropriate investigation or after consultation with the relevant federal, state, or local agencies responsible for law enforcement, the person determined that no reasonable likelihood of financial harm to the consumers whose personal information has been acquired has resulted or will result from the breach. Such a determination must be documented in writing and the documentation must be maintained for five years.

[1] According to enrolled Act; the word "are" probably intended

7. This section does not apply to any of the following:

a. A person who complies with notification requirements or breach of security procedures that provide greater protection to personal information and at least as thorough disclosure requirements than that provided by this section pursuant to the rules, regulations, procedures, guidance, or guidelines established by the person's primary or functional federal regulator.

b. A person who complies with a state or federal law that provides greater protection to personal information and at least as thorough disclosure requirements for breach of security or personal information than that provided by this section.

c. A person who is subject to and complies with regulations promulgated pursuant to Title V of the Gramm-Leach-Bliley Act of 1999, 15 U.S.C. § 6801-6809.

8. a. A violation of this chapter is an unlawful practice pursuant to section 714.16 and, in addition to the remedies provided to the attorney general pursuant to section 714.16, subsection 7, the attorney general may seek and obtain an order that a party held to violate this section pay damages to the attorney general on behalf of a person injured by the violation.

b. The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under the law.

Sec. 3. DISCLOSURE OF PERSONAL INFORMATION BY PUBLIC OFFICIALS, ENTITIES, OR AFFILIATED ORGANIZATIONS — INTERIM STUDY COMMITTEE REQUESTED. The legislative council is requested to establish an interim study committee to assess and review the extent to which public officials, entities, and affiliated organizations in possession of or with access to personal identifying information of a resident of this state which could, if disclosed, render the resident vulnerable to identity theft, are disclosing or selling such information for compensation. Based upon this assessment and review, the committee shall develop recommendations relating to these practices. The committee shall be composed of ten members representing both political parties and both houses of the general assembly. Five members shall be members of the senate, three of whom shall be appointed by the majority leader of the senate and two of whom shall be appointed by the minority leader of the senate. The other five members shall be members of the house of representatives, three of whom shall be appointed by the speaker of the house of representatives and two of whom shall be appointed by the minority leader of the house of representatives. The committee shall issue a report of its recommendations to the general assembly by January 15, 2009.

Approved May 10, 2008

CHAPTER 1155

VIATICAL SETTLEMENTS

S.F. 2392

AN ACT to regulate viatical settlements, and providing for fees and penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 508E.1A SHORT TITLE.

This Act may be cited as the "Viatical Settlements Act".

Sec. 2. Section 508E.2, Code 2007, is amended to read as follows:

508E.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio; television; the internet; or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public in this state, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy pursuant to a viatical settlement contract.

2. "Business of viatical settlements" means an activity involved in but not limited to the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner acquiring an interest in a life insurance policy by means of a viatical settlement contract.

~~1.~~ 3. "Chronically ill" means any of the following:

a. Being unable to perform or maintain at least two activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence.

b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

c. Having a level of disability similar to that described in paragraph "a" as determined by the United States secretary of health and human services.

~~2.~~ 4. "Commissioner" means the commissioner of insurance.

5. a. "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract, but subject to all of the following:

(1) Whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies.

(2) Who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.

b. "Financing entity" does not include a nonaccredited investor or a viatical settlement purchaser.

6. "Fraudulent viatical settlement act" includes any of the following:

a. An act or omission committed by any person who, knowingly or with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts including any of the following:

(1) Presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, financing entity, insurer, insurance producer, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(a) An application for the issuance of a viatical settlement contract or insurance policy.

(b) The underwriting of a viatical settlement contract or insurance policy.

(c) A claim for payment or benefit pursuant to a viatical settlement contract or insurance policy.

(d) Premiums paid on an insurance policy.

(e) Payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy.

(f) The reinstatement or conversion of an insurance policy.

(g) In the solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy.

(h) The issuance of written evidence of viatical settlement contract or insurance policy.

(i) A financing transaction.

(2) Employing any plan, financial structure, device, scheme, or artifice to defraud related to viaticated policies.

(3) Entering into any practice or plan which involves stranger-originated life insurance.

(4) Failing to disclose to the insurer when requested by the insurer that the prospective insured has undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representative in connection with the issuance of the policy.

b. In the furtherance of a fraud or to prevent the detection of a fraud to do, or permit an employee or agent to do, any of the following:

(1) Remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a licensee or other person engaged in the business of viatical settlements.

(2) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person.

(3) Transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements.

(4) File with the commissioner or the equivalent chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the commissioner.

c. Embezzlement, theft, misappropriation, or conversion of moneys, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance.

d. Recklessly entering into, negotiating, brokering, or otherwise dealing in a viatical settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the person or the persons intended to defraud the policy's issuer, the viatical settlement provider, or the viator. As used in this paragraph, "recklessly" means engaging in the conduct in conscious and clearly unjustifiable disregard of a substantial likelihood of the existence of the relevant facts or risks, such disregard involving a gross deviation from acceptable standards of conduct.

e. Facilitating the change of state of ownership of a policy or certificate or the state of residency of a viator to a state or jurisdiction that does not have a law similar to this chapter for the express purposes of evading or avoiding the provisions of this chapter.

f. Attempting to commit, assisting, aiding or abetting in the commission of, or conspiracy to commit the acts or omissions specified in this subsection.

7. "Life insurance producer" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance coverage or a life line of coverage pursuant to chapter 522B.

8. "Person" means a natural person or a legal entity, including, without limitation, an individual, partnership, limited liability company, association, trust, or corporation.

9. "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

10. "Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed viatical settlement provider.

11. "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets for or in connection with any of the following:

a. For a financing entity or licensed viatical settlement provider.

b. (1) In connection with a transaction in which the securities in the special purposes entity are acquired by the viator or by qualified institutional buyers as defined in 17 C.F.R. § 230.144 promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. § 77a et seq.

(2) In connection with a transaction in which the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

12. "Stranger-originated life insurance" means a practice or an act to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured.

a. Stranger-originated life insurance practices include cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of the policy inception, could not lawfully initiate the policy by the person or entity, and where, at the time of the policy's inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third party. Trusts that are created to give the appearance of an insurable interest, and are used to initiate policies for investors, violate insurable interest laws and the prohibition against wagering on life.

b. Stranger-originated life insurance arrangements do not include those practices set forth in subsection 15, paragraph "d".

~~3.~~ 13. "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.

14. "Viatical settlement broker" means a person, including a life insurance producer as provided for in section 508E.3, who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. "Viatical settlement broker" does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

~~4.~~ 15. a. "Viatical settlement contract" means a written agreement entered into between a viator and a viatical settlement provider ~~and a person who owns or is insured under a life insurance~~ or any affiliate of the viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy in return for the viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate~~, or who owns or is covered under a group life~~ of insurance ~~policy~~.

b. "Viatical settlement contract" includes a premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy where any of the following applies:

(1) The viator or the insured receives on the date of the premium finance loan a guarantee of a future viatical settlement value of the policy.

(2) The viator or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

c. "Viatical settlement contract" also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns a life insurance policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance policies, which life insurance policy insures the life of a person residing in this state.

d. "Viatical settlement contract" does not ~~mean a written agreement entered into between~~

~~a viator and a person having an insurable interest in the viator's life.~~ include any of the following:

(1) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms.

(2) Loan proceeds that are used solely to pay any of the following:

(a) Premiums for the policy.

(b) The costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third-party collateral provider fees and expenses, including fees payable to letter of credit issuers.

(3) A loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with such default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter.

(4) A loan made by a lender that does not violate insurance premium finance law, provided that the premium finance loan is not described in paragraph "b".

(5) An agreement where all the parties are closely related to the insured by blood or law; have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured; or are trusts established primarily for the benefit of such parties.

(6) Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee.

(7) A bona fide business succession planning arrangement between one or more of the following:

(a) Shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders.

(b) Partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners.

(c) Members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members.

(8) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business.

(9) Any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by the commissioner based on a determination that the contract, transaction, or arrangement is not of the type intended to be regulated by this chapter.

16. a. "Viatical settlement provider" means a person, other than a viator, that enters into or effectuates a viatical settlement contract with a viator resident in this state.

b. "Viatical settlement provider" does not include any of the following:

(1) A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy solely as collateral for a loan.

(2) The issuer of the life insurance policy.

(3) An authorized or eligible insurer that provides stop-loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust.

(4) A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit.

(5) A financing entity.

(6) A special purpose entity.

(7) A related provider trust.

(8) A viatical settlement purchaser.

(9) Any other person that the commissioner determines is not the type of person intended to be covered by the definition of viatical settlement provider.

17. a. "Viatical settlement purchaser" means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

b. "Viatical settlement purchaser" does not include any of the following:

(1) A licensee under this chapter.

(2) An accredited investor or qualified institutional buyer as defined, respectively, in 17 C.F.R. § 230.501(a) or 17 C.F.R. § 230.144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. § 77a et seq.

(3) A financing entity.

(4) A special purpose entity.

(5) A related provider trust.

18. "Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

~~5.~~ 19. a. "Viator" means ~~a person selling~~ the owner of a life insurance policy or a certificate holder under a group policy who resides in this state and enters or seeks to enter into a viatical settlement contract. "Viator" includes but is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one viator on a single policy and the viators are residents of different states, the transaction shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all the viators.

b. "Viator" does not include any of the following:

(1) A licensee under this chapter, including a life insurance producer acting as a viatical settlement broker pursuant to this chapter.

(2) A qualified institutional buyer as defined in 17 C.F.R. § 230.144-144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. § 77a et seq.

(3) A financing entity.

(4) A special purpose entity.

(5) A related provider trust.

Sec. 3. Section 508E.3, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

508E.3 LICENSE REQUIREMENTS.

1. a. A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the commissioner of the state of residence of the viator.

b. (1) A life insurance producer who has been duly licensed as a resident insurance producer with a life line of authority in this state or the life insurance producer's home state for at least one year and is licensed as a nonresident producer in this state shall be deemed to meet the licensing requirements of this section and shall be permitted to operate as a viatical settlement broker.

(2) Not later than thirty days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the commissioner that the life insurance producer is acting as a viatical settlement broker on a form prescribed by the commissioner, and shall pay any applicable fee of up to one hundred dollars as provided by rules adopted by the commissioner. The notification shall include an acknowledgment by the life insurance producer that

the life insurance producer will operate as a viatical settlement broker in accordance with this chapter.

(3) The insurer that issued the policy being viaticated shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

c. A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

2. An application for a viatical settlement provider or viatical settlement broker license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and the application shall be accompanied by a fee of not more than one hundred dollars as provided by rules adopted by the commissioner.

3. A license may be renewed from year to year on the anniversary date upon payment of the annual renewal fee of not more than one hundred dollars as provided by rules adopted by the commissioner. A failure to pay the fee by the renewal date results in expiration of the license.

4. An applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this chapter.

5. A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers or viatical settlement brokers, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

6. Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant complies with all of the following:

a. If a viatical settlement provider, has provided a detailed plan of operation.

b. Is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for.

c. Has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for.

d. If a legal entity, provides a certificate of good standing from the state of its domicile.

e. If a viatical settlement provider or viatical settlement broker, has provided an antifraud plan that meets the requirements of section 508E.15, subsection 7.

7. The commissioner shall not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

8. A viatical settlement provider or viatical settlement broker shall provide to the commissioner new or revised information about officers, ten-percent-or-more stockholders, partners, directors, members, or designated employees within thirty days of the change.

9. An individual licensed as a viatical settlement broker shall complete on a biennial basis fifteen hours of training related to viatical settlements and viatical settlement transactions, as required by the commissioner; provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to subsection 1, paragraph "b", shall not be subject to the requirements of this subsection. Any person failing to meet the requirements of this subsection shall be subject to the penalties imposed by the commissioner.

10. Fees collected pursuant to this section shall be deposited into the general fund of the state.

Sec. 4. Section 508E.4, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

508E.4 LICENSE REVOCATION AND DENIAL.

1. The commissioner may refuse to issue, suspend, revoke, or refuse to renew the license of a viatical settlement provider or viatical settlement broker if the commissioner finds that any of the following applies:

a. There was any material misrepresentation in the application for the license.

b. The licensee or any officer, partner, member, or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent.

c. The viatical settlement provider demonstrates a pattern of unreasonable payments to viators.

d. The licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court.

e. The viatical settlement provider has entered into any viatical settlement contract form that has not been approved pursuant to this chapter.

f. The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract.

g. The licensee no longer meets the requirements for initial licensure.

h. The viatical settlement provider has assigned, transferred, or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this state, viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in 17 C.F.R. § 230.501(a) or 17 C.F.R. § 230.144A as promulgated by the United States securities and exchange commission under the federal Securities Act of 1933, as amended, 15 U.S.C. § 77a et seq., a financing entity, special purpose entity, or related provider trust.

i. The licensee or any officer, partner, member, or key management personnel has violated any provision of this chapter.

2. The commissioner may suspend, revoke, or refuse to renew the license of a viatical settlement broker or a life insurance producer operating as a viatical settlement broker pursuant to this chapter if the commissioner finds that the viatical settlement broker or life insurance producer has violated the provisions of this chapter or has otherwise engaged in bad faith conduct with one or more viators.

3. If the commissioner denies a license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider or viatical settlement broker, or suspends, revokes, or refuses to renew a license of a life insurance producer operating as a viatical settlement broker pursuant to this chapter, the commissioner shall conduct a hearing in accordance with chapter 17A.

Sec. 5. NEW SECTION. 508E.5 APPROVAL OF VIATICAL SETTLEMENT CONTRACTS AND DISCLOSURE STATEMENTS.

A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this state unless first filed with and approved by the commissioner. The commissioner shall disapprove a viatical settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract or provisions contained therein fail to meet the requirements of sections 508E.8, 508E.10, 508E.14, and 508E.15, subsection 2, or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the commissioner's discretion, the commissioner may require the submission of advertising material. The commissioner's approval of any of the materials shall not be a defense or otherwise preclude a civil action for fraud.

Sec. 6. NEW SECTION. 508E.6 REPORTING REQUIREMENTS AND PRIVACY.

1. For any policy settled within five years of policy issuance, each viatical settlement provider shall file with the commissioner on or before March 1 of each year an annual statement containing such information as the commissioner may adopt by rule. In addition to any other requirements, the annual statement shall specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement shall also include the names of the insurance companies whose policies have been settled and the viatical settlement brokers that have settled said policies. Such information shall be limited to only those transactions where the viator is a resident of this state. Notwithstanding chapter 22, individual transaction data regarding the business of viatical settlements or data that could compromise the privacy of personal, financial, and health information of the viator or insured shall be filed with the commissioner on a confidential basis.

2. Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity shall not disclose that identity as an insured, or the insured's financial or medical information to any other person unless the disclosure is any of the following:

a. Necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure.

b. Provided in response to an investigation or examination by the commissioner or any other governmental officer or agency or pursuant to the requirements of section 508E.15, subsection 3.

c. A term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider.

d. Necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure.

e. Necessary to allow the viatical settlement provider, viatical settlement broker, or their authorized representatives to make contacts for the purpose of determining health status.

f. Required to purchase stop-loss coverage or financial guaranty insurance.

Sec. 7. NEW SECTION. 508E.7 EXAMINATION OR INVESTIGATIONS.

1. AUTHORITY, SCOPE, AND SCHEDULING OF EXAMINATIONS.

a. (1) The commissioner may conduct an examination under this chapter of a licensee as often as the commissioner in the commissioner's discretion deems appropriate after considering the factors set forth in this paragraph "a".

(2) In scheduling and determining the nature, scope, and frequency of the examinations, the commissioner shall consider such matters as the consumer complaints, results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other relevant criteria as determined by the commissioner.

b. For purposes of completing an examination of a licensee under this chapter, the commissioner may examine or investigate any person, or the business of any person, in so far as the examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the licensee.

c. In lieu of an examination under this chapter of any foreign or alien licensee licensed in this state, the commissioner may, at the commissioner's discretion, accept an examination report on the licensee as prepared by the commissioner for the licensee's state of domicile or port-of-entry state.

d. As far as practical, the examination of a foreign or alien licensee shall be made in cooperation with the insurance supervisory officials of other states in which the licensee transacts business.

2. RECORD RETENTION REQUIREMENTS.

a. A person required to be licensed pursuant to section 508E.3 shall for five years retain copies of all of the following:

(1) Proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later.

(2) All checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction.

(3) All other records and documents related to the requirements of this chapter.

b. This section does not relieve a person of the obligation to produce documents described in paragraph "a" to the commissioner after the retention period has expired if the person has retained the documents.

c. Records required to be retained by paragraph "a" must be legible and complete and may be retained in paper, photograph, microprocess, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

3. CONDUCT OF EXAMINATIONS.

a. Upon determining that an examination should be conducted, the commissioner shall issue an examination warrant appointing one or more examiners to perform the examination and instructing them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners handbook adopted by the national association of insurance commissioners. The commissioner may also adopt rules for such other guidelines or procedures as the commissioner may deem appropriate.

b. Every licensee or person from whom information is sought, its officers, directors, and agents shall provide to the examiners timely, convenient, and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined. The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of a licensee, by its officers, directors, employees, or agents, to submit to examination or to comply with any reasonable written request of the commissioner shall be grounds for suspension or refusal of, or nonrenewal of, any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the commissioner's jurisdiction. Any proceedings for suspension, revocation, or refusal of any license or authority shall be conducted pursuant to section 507B.6A.

c. The commissioner shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. A failure to obey the court order shall be punishable as contempt of court.

d. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

e. Nothing contained in this chapter shall be construed to limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

f. The commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or licensee workpapers, or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action shall be permitted consistent with section 507.14.

4. EXAMINATION REPORTS.

a. Examination reports shall be comprised of only facts appearing upon the books, records, or other documents of the licensee, its agents, or other persons examined, or as ascertained from the testimony of its officers, agents, or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

b. Not later than sixty days following completion of the examination, the examiner in charge shall file with the commissioner a verified written report of examination under oath. Upon receipt of the verified report, the commissioner shall transmit the report to the licensee examined, together with a notice that shall afford the licensee examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report.

c. In the event the commissioner determines that regulatory action is appropriate as a result of an examination, the commissioner may initiate any proceedings or actions provided by law.

5. CONFIDENTIALITY OF EXAMINATION INFORMATION.

a. Notwithstanding chapter 22, the names and individual identification data for all viators shall be considered private and confidential information and shall not be disclosed by the commissioner, unless required by law.

b. Except as otherwise provided in this chapter, all examination reports, working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this chapter, or in the course of an analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential by law and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. All examination reports, working papers, recorded information, documents, and their copies produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this chapter, or in the course of an analysis or investigation by the commissioner of the financial condition or market conduct of a licensee shall be privileged and confidential in any judicial or administrative proceeding except for any of the following:

(1) An administrative proceeding brought by the insurance division under chapter 17A.

(2) A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.

(3) An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.

c. Documents, materials, or other information, including but not limited to all working papers and copies, in the possession or control of the national association of insurance commissioners and its affiliates and subsidiaries shall be confidential by law and privileged, shall not be subject to chapter 22, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action if they are any of the following:

(1) Created, produced, or obtained by or disclosed to the national association of insurance commissioners and its affiliates and subsidiaries in the course of assisting an examination made under this chapter, or assisting the commissioner in the analysis or investigation of the financial condition or market conduct of a licensee.

(2) Disclosed to the national association of insurance commissioners and its affiliates and subsidiaries under paragraph "d" by the commissioner.

(3) For the purposes of paragraph "b", "chapter" includes the law of another state or jurisdiction that is substantially similar to this chapter.

d. In order to assist in the performance of the commissioner's duties, the commissioner may do all of the following:

(1) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph "a", with other state, federal, and international regulatory agencies, with the national association of insurance commission-

ers and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, communications, or other information.

(2) Receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, notwithstanding chapter 22, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information.

(3) Enter into agreements governing sharing and use of information consistent with section 507.14, subsection 4.

e. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in paragraph "c".

f. A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding in, and in any court of, this state.

g. Nothing contained in this chapter shall prevent or be construed as prohibiting the commissioner from disclosing the content of an examination report, preliminary examination report or results, or any matter relating thereto, to the commissioner of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time or to the national association of insurance commissioners, so long as such agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

6. CONFLICT OF INTEREST.

a. An examiner may not be appointed by the commissioner if the examiner, either directly or indirectly, has a conflict of interest or is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this chapter. This section shall not be construed to automatically preclude an examiner from being any of the following:

(1) A viator.

(2) An insured in a viaticated insurance policy.

(3) A beneficiary in an insurance policy that is proposed to be viaticated.

b. Notwithstanding the requirements of paragraph "a", the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants, or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this chapter.

7. COST OF EXAMINATIONS.

a. The commissioner may appoint insurance examiners who, while conducting examinations, shall possess all the powers conferred upon the commissioner for such purposes. The entire time of the examiners shall be under the control of the commissioner, and shall be employed as the commissioner may direct.

b. The commissioner may, when in the commissioner's judgment it is advisable, appoint assistants to aid in making examinations. The examiners shall be compensated on the basis of the normal workweek of the insurance division at a salary to be fixed by the commissioner subject, however, to the provisions of section 505.14. The compensation shall be paid from appropriations for such purposes upon certification of the commissioner, which shall be reimbursed as provided in sections 507.8 and 507.9.

c. When making an examination under this chapter, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.

d. The commissioner shall, upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, prepare an account of the costs in-

curred in performing and preparing the report of such examinations which shall be charged to and paid by the company examined, and upon failure or refusal of a company examined to pay such costs, the same may be recovered by the commissioner or the attorney general in an action brought in the name of the state, and the commissioner may also revoke the certificate of authority of such company to transact business within this state.

8. IMMUNITY FROM LIABILITY.

a. No cause of action shall arise, nor shall any liability be imposed, against the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for any statements made or conduct performed reasonably and in good faith while carrying out the provisions of this chapter.

b. No cause of action shall arise, nor shall any liability be imposed, against any person for the act of communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed reasonably and in good faith and without fraudulent intent or the intent to deceive. This paragraph does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in paragraph "a".

9. INVESTIGATIVE AUTHORITY OF THE COMMISSIONER. The commissioner may investigate suspected fraudulent viatical settlement acts and persons engaged in the business of viatical settlements.

Sec. 8. NEW SECTION. 508E.8 DISCLOSURE TO VIATOR.

1. With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures no later than the time the application for the viatical settlement contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker, and shall provide all of the following information:

a. There are possible alternatives to viatical settlement contracts including any accelerated death benefits or policy loans offered under the viator's life insurance policy.

b. That a viatical settlement broker represents exclusively the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator, including a duty to act according to the viator's instructions and in the best interest of the viator.

c. Some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance should be sought from a professional tax advisor.

d. Proceeds of the viatical settlement could be subject to the claims of creditors.

e. Receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies.

f. The viator has the right to rescind a viatical settlement contract before the earlier of thirty days after the date upon which the viatical settlement contract is executed by all parties or fifteen days after the viatical settlement proceeds have been paid to the viator, as provided in section 508E.10, subsection 3. Recision, if exercised by the viator, is effective only if both notice of the recision is given, and the viator repays all proceeds and any premiums, loans, and loan interest paid on account of the viatical settlement within the recision period. If the insured dies during the recision period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment by the viator or the viator's estate of all viatical settlement proceeds and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser within sixty days of the insured's death.

g. Funds will be sent to the viator within three business days after the viatical settlement provider has received the insurer's or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated.

h. Entering into a viatical settlement contract may cause other rights or benefits, including

conversion rights and waiver of premium benefits, that may exist under the policy or certificate, to be forfeited by the viator. Assistance should be sought from a financial adviser.

i. Disclosure to a viator shall include distribution of a brochure describing the process of viatical settlements. The national association of insurance commissioners form for the brochure shall be used unless another form is developed or[1] approved by the commissioner.

j. The disclosure document shall contain the following language:

"All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."

k. Following execution of a viatical contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in this chapter. This contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less. All such contracts[2] shall be made only by a duly licensed viatical settlement provider or by the authorized representative of a duly licensed viatical settlement provider.

2. A viatical settlement provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide all of the following information:

a. The affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy to be viaticated.

b. The name, business address, and telephone number of the viatical settlement provider.

c. If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, a notice of the viator's possible loss of coverage on the other lives under the policy and to consult with the viator's insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement.

d. The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. If known, the viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the viator's interest in those benefits will be transferred as a result of the viatical settlement contract.

e. Whether the funds will be escrowed with an independent third party during the transfer process, and if so, provide the name, business address, and telephone number of the independent third-party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

3. A viatical settlement broker shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide all of the following information:

a. The name, business address, and telephone number of the viatical settlement broker.

b. A full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract.

c. Any affiliations or contractual arrangements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contracts.

d. The amount and method of calculating the broker's compensation. As used in this paragraph, "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy.

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[1] See chapter 1191, §130 herein

[2] See chapter 1191, §130 herein

e. Where any portion of the viatical settlement broker's compensation, as defined in paragraph "d", is taken from a proposed viatical settlement offer, the broker shall disclose the total amount of the viatical settlement offer and the percentage of the viatical settlement offer comprised by the viatical settlement broker's compensation.

4. If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the viatical settlement provider shall communicate in writing the change in ownership or beneficiary to the insured within twenty days after the change.

5. A viatical settlement provider shall provide the viatical settlement purchaser with at least the following disclosures prior to the date the viatical settlement purchase agreement is signed by all parties. The disclosures shall be conspicuously displayed in any viatical purchase contract or in a separate document signed by the viatical settlement purchaser and viatical settlement provider or viatical settlement investment agent, and shall make the following disclosure to the viatical settlement purchaser:

a. The viatical settlement purchaser will receive no returns including dividends and interest, until the insured dies and a death claim payment is made.

b. The actual annual rate of return on a viatical settlement contract is dependent upon an accurate projection of the insured's life expectancy, and the actual date of the insured's death. An annual "guaranteed" rate of return is not determinable.

c. The viaticated life insurance contract should not be considered a liquid purchase since it is impossible to predict the exact timing of its maturity and the funds probably are not available until the death of the insured. There is no established secondary market for resale of these products by the viatical settlement purchaser.

d. The viatical settlement purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment.

e. The viatical settlement purchaser is responsible for payment of the insurance premium or other costs related to the policy, if required by the terms of the viatical purchase agreement. These payments may reduce the viatical settlement purchaser's return. If a party other than the viatical settlement purchaser is responsible for the payment, the name and address of that party also shall be disclosed.

f. The viatical settlement purchaser is responsible for payment of the insurance premiums or other costs related to the policy if the insured returns to health. The viatical settlement provider shall disclose the amount of such premiums, if applicable.

g. The name, business address, and telephone number of the independent third party providing escrow services and the relationship to the viatical settlement broker.

h. The amount of any trust fees or other expenses to be charged to the viatical settlement purchaser shall be disclosed.

i. Whether the viatical settlement purchaser is entitled to a refund of all or part of the viatical settlement purchaser's investment under the viatical settlement contract if the policy is later determined to be null and void.

j. That group policies may contain limitations or caps in the conversion rights, that additional premiums may have to be paid if the policy is converted, the name of the party responsible for the payment of the additional premiums, and, if a group policy is terminated and replaced by another group policy, that there may be no right to convert the original coverage.

k. The risks associated with policy contestability including but not limited to the risk that the viatical settlement purchaser will have no claim or only a partial claim to death benefits should the insurer rescind the policy within the contestability period.

l. Whether the viatical settlement purchaser will be the owner of the policy in addition to being the beneficiary, and if the viatical settlement purchaser is the beneficiary only and not also the owner, the special risks associated with that status, including but not limited to the risk that the beneficiary may be changed or the premium may not be paid.

m. The experience and qualifications of the person who determines the life expectancy of the insured, including in-house staff, independent physicians, and specialty firms that weigh medical and actuarial data; the information this projection is based on; and the relationship of the projection maker to the viatical settlement provider, if any.

n. A brochure describing the process of investment in viatical settlements. The national association of insurance commissioners form for the brochure shall be used unless another form is developed and approved by the commissioner.

6. A viatical settlement provider shall provide the viatical settlement purchaser with at least the following disclosures no later than at the time of the assignment, transfer, or sale of all or a portion of an insurance policy. The disclosures shall be contained in a document signed by the viatical settlement purchaser and viatical settlement provider, and shall make all of the following disclosures to the viatical settlement purchaser:

a. All the life expectancy certifications obtained by the provider in the process of determining the price paid to the viator.

b. Whether premium payments or other costs related to the policy have been escrowed. If escrowed, state the date upon which the escrowed funds will be depleted and whether the viatical settlement purchaser will be responsible for payment of premiums thereafter and, if so, the amount of the premiums.

c. Whether premium payments or other costs related to the policy have been waived. If waived, disclose whether the viatical settlement purchaser will be responsible for payment of the premiums if the insurer that wrote the policy terminates the waiver after purchase and the amount of those premiums.

d. The type of policy offered or sold, i.e., whole life, term life, universal life, or a group policy certificate, any additional benefits contained in the policy, and the current status of the policy.

e. If the policy is term insurance, the special risks associated with term insurance including but not limited to the viatical settlement purchaser's responsibility for additional premiums if the viator continues the term policy at the end of the current term.

f. Whether the policy is contestable.

g. Whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the viatical settlement purchaser's rights under the viatical settlement contract, what these rights are, and under what conditions these rights are activated.

h. The name and address of the person responsible for monitoring the insured's condition. The viatical settlement provider shall describe how often the monitoring of the insured's condition is done, how the date of death is determined, and how and when this information will be transmitted to the viatical settlement purchaser.

Sec. 9. NEW SECTION. 508E.9 DISCLOSURE TO INSURER.

A viatical settlement broker, or viatical settlement provider, shall fully disclose to an insurer a transaction or series of transactions to which the viatical settlement broker or viatical settlement provider is a party to originate, renew, continue, or finance a life insurance policy with the insurer for the purpose of engaging in the business of viatical settlements at any time prior to, or during the first five years after, issuance of the policy.

Sec. 10. NEW SECTION. 508E.10 GENERAL RULES.

1. a. A viatical settlement provider entering into a viatical settlement contract shall first obtain all of the following:

(1) If the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract.

(2) A document in which the insured consents to the release of the insured's medical records to a licensed viatical settlement provider, viatical settlement broker, and, if the policy was issued less than two years from the date of application for a viatical settlement contract, the insurance company that issued the life insurance policy covering the life of the insured.

b. Within twenty days after a viator executes documents necessary to transfer any rights under an insurance policy or within twenty days of entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by paragraph "c".

c. The viatical provider shall deliver a copy of the medical release required under paragraph "a", subparagraph (2), a copy of the viator's application for the viatical settlement contract, the notice required under paragraph "b", and a request for verification of coverage to the insurer that issued the life policy that is the subject of the viatical transaction. The national association of insurance commissioners form for verification of coverage shall be used unless another form is developed and approved by the commissioner.

d. The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider or viatical settlement broker within thirty days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on a national association of insurance commissioners form or any other form developed and approved by the commissioner. The insurer shall accept an original, facsimile, or electronic copy of such request and any accompanying authorization signed by the viator. A failure by the insurer to meet its obligations under this subsection shall be a violation of sections 508E.11 and 508E.17.

e. Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract, that the viator has a full and complete understanding of the benefits of the life insurance policy, acknowledges that the viator is entering into the viatical settlement contract freely and voluntarily, and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness or condition and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

f. If a viatical settlement broker performs any of these activities required of the viatical settlement provider, the viatical settlement provider is deemed to have fulfilled the requirements of this section.

2. All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information, including section 505.8.

3. All viatical settlement contracts entered into in this state shall provide the viator with an absolute right to rescind the contract before the earlier of thirty days after the date upon which the viatical settlement contract is executed by all parties or fifteen days after the viatical settlement proceeds have been sent to the viator as provided in section 508E.10, subsection 4. Recision by the viator may be conditioned upon the viator both giving notice and repaying to the viatical settlement provider within the recision period all viatical settlement proceeds, and any premiums, loans, and loan interest paid by or on behalf of the viatical settlement provider in connection with or as a consequence of the viatical settlement. If the insured dies during the recision period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser, which shall be paid within sixty days of the death of the insured. In the event of any recision, if the viatical settlement provider has paid commissions or other compensation to a viatical settlement broker in connection with the rescinded transaction, the viatical settlement broker shall refund all such commissions and compensation to the viatical settlement provider within five business days following receipt of written demand from the viatical settlement provider, which demand shall be accompanied by either the viator's notice of recision if rescinded at the election of the viator, or a notice of the death of the insured if rescinded by reason of the death of the insured within the applicable recision period.

4. The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three business days after the date the escrow agent receives the document, or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the viatical settlement provider,

the viatical settlement provider shall pay or transfer the viatical settlement proceeds into an escrow or trust account maintained in a state or federally chartered financial institution whose deposits are insured by the federal deposit insurance corporation. Upon payment of the viatical settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider or related provider trust, or other designated representative of the viatical settlement provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the viatical settlement proceeds to the viator.

5. A failure to tender consideration to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to section 508E.8, subsection 1, paragraph "g", renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. Funds shall be deemed sent by a viatical settlement provider to a viator as of the date that the escrow agent either releases funds for wire transfer to the viator or places a check for delivery to the viator via the United States postal service or other nationally recognized delivery service.

6. A contact with the insured for the purpose of determining the health status of the insured by the viatical settlement provider or viatical settlement broker after the viatical settlement has occurred shall only be made by the viatical settlement provider or viatical settlement broker licensed pursuant to section 508E.3 or its authorized representatives and shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. The viatical settlement provider or viatical settlement broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations set forth in this subsection shall not apply to any contact with an insured for reasons other than determining the insured's health status. A viatical settlement provider and a viatical settlement broker shall be responsible for the actions of their authorized representatives.

Sec. 11. NEW SECTION. 508E.11 PROHIBITED PRACTICES.

1. Except as provided in section 508E.12, it is a violation of this chapter for any person to enter into a viatical settlement contract at any time prior to the application or issuance of a policy which is the subject of a viatical settlement contract or within a five-year period commencing with the date of issuance of the insurance policy or certificate.

2. An insurer shall not, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a viatical settlement contract, require that the viator, insured, viatical settlement provider, or viatical settlement broker sign any form, disclosure, consent, or waiver form that has not been expressly approved by the commissioner for use in connection with viatical settlement contracts in this state.

3. Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within twenty days, with written acknowledgment confirming that the change has been effected or specifying the reasons why the requested change cannot be processed. The insurer shall not unreasonably delay effecting a change of ownership or beneficiary and shall not otherwise seek to interfere with any viatical settlement contract lawfully entered into in this state.

Sec. 12. NEW SECTION. 508E.12 PERMITTED PRACTICES.

1. Notwithstanding section 508E.11, at any time subsequent to the issuance of the policy, a person may enter into a viatical settlement contract if the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the five-year period:

a. The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least sixty months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

b. The viator submits an affidavit to the viatical settlement provider that one or more of the following conditions exists:

(1) The viator or insured is terminally or chronically ill.

(2) The viator's spouse or child dies.

(3) The viator divorces the viator's spouse.

(4) The viator retires from full-time employment.

(5) The viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment.

(6) The viator has filed for bankruptcy or sought reorganization in a court of competent jurisdiction, or a court of competent jurisdiction has appointed a receiver, trustee, or liquidator to all or a substantial part of the viator's assets.

(7) Other circumstances as established as eligible exemptions by the commissioner by rule, including but not limited to substantial adverse financial circumstances or other factors substantially affecting the viator.

2. Notwithstanding section 508E.11, a person may enter into a viatical settlement contract if at all times prior to the date that is two years after policy issuance, all of the following conditions are met with respect to the policy:

a. Policy premiums have been funded exclusively with any of the following:

(1) Unencumbered assets, including an interest in the life insurance policy being financed only to the extent of its net cash surrender value, provided by a person described in section 508E.2, subsection 15, paragraph "d".

(2) Fully recourse liability incurred by the insured or a person described in section 508E.2, subsection 15, paragraph "d".

b. There is no agreement or understanding with any other person to guarantee any such liability or to purchase, or stand ready to purchase, the policy, including through an assumption or forgiveness of the loan.

c. Neither the insured nor the policy has been evaluated for settlement.

3. Copies of the affidavits described in this section and documents required by section 508E.10, subsection 1, shall be submitted to the insurer when the viatical settlement provider or viatical settlement broker submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

4. If the viatical settlement provider submits to the insurer a copy of the owner's or insured's or insurer's affidavit described in this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirement of this section and the insurer shall timely respond to the request.

Sec. 13. NEW SECTION. 508E.13 PROHIBITED PRACTICES AND CONFLICTS OF INTEREST.

1. With respect to any viatical settlement contract or insurance policy, a viatical settlement broker shall not knowingly solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider trust that is controlling, controlled by, or under common control with such viatical settlement broker unless such relationship is disclosed to the viator.

2. With respect to any viatical settlement contract or insurance policy, a viatical settlement provider shall not knowingly enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract unless such relationship is disclosed to the viator.

3. A viatical settlement provider shall not enter into a premium finance agreement with any person or agency, or any person affiliated with such person or agency, pursuant to which such

person or agency shall receive any proceeds, fees, or other consideration, directly or indirectly, from the policy or owner of the policy or any other person with respect to the premium finance agreement or any viatical settlement contract or other transaction related to such policy that are in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums pursuant to the premium finance agreement or subsequent sale of such agreement. Any payments, charges, fees, normal insurance commissions, or other amounts in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums paid under the premium finance agreement shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of the overpayment.

4. A violation of subsection 1, 2, or 3 shall be deemed a fraudulent viatical settlement act.

5. A person shall not issue, solicit, market, or otherwise promote the purchase of an insurance policy for the sole purpose of or with a primary emphasis on settling the policy.

6. A person providing premium financing shall not receive any proceeds, fees, or other consideration from the policy or owner of the policy that are in addition to the amounts required to pay principal, interest, and any costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except for the event of a default, unless either the default on such loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter. Any payments, charges, fees, or other amounts received by a person providing premium financing in violation of this subsection shall be remitted to the original owner of the policy or to the original owner's estate if the original owner is not living at the time of the determination of overpayment.

7. In the solicitation, application for, or issuance of a life insurance policy, a person shall not employ any device, scheme, or artifice to create an insurable interest in the life of a person except as provided in sections 511.39 and 511.40.

8. No viatical settlement provider shall enter into a viatical settlement contract unless the viatical settlement promotional, advertising, and marketing materials, as may be prescribed by rules adopted by the commissioner, have been filed with the commissioner. In no event shall any marketing materials expressly reference that the insurance is free for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of this chapter.

9. No life insurance producer, insurance company, viatical settlement broker, or viatical settlement provider shall make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

Sec. 14. NEW SECTION. 508E.14 ADVERTISING FOR VIATICAL SETTLEMENTS.

The purpose of this section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any viatical settlement contract. This purpose is intended to be accomplished by rules adopted by the commissioner for the establishment of guidelines and standards of permissible and impermissible conduct in the advertising of viatical settlements to assure that product descriptions are presented in a manner that prevents unfair, deceptive, or misleading advertising, and is conducive to accurate presentation and description of viatical settlements through the advertising media and materials used by viatical settlement licensees.

1. This section shall apply to any advertising of viatical settlement contracts or related products or services intended for dissemination in this state, including internet advertising viewed by persons located in this state. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

2. Every viatical settlement licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the viatical settlement licensees, as well as the individual who created or presented the advertisement. A system of control shall include regular, routine notification, at least once a year, to agents and others authorized by the viatical settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

3. An advertisement shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

4. The information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

a. An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract includes a free-look period that satisfies or exceeds legal requirements, does not remedy a misleading statement.

b. An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurer.

c. An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

d. The words “free”, “no cost”, “without cost”, “no additional cost”, “at no extra cost”, or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

e. Testimonials, appraisals, analyses, or endorsements used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement contract product or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. In using a testimonial, appraisal, analysis, or endorsement, a licensee under this chapter makes as its own all the statements contained therein, and the statements are subject to all of the provisions of this section.

(1) If the individual making a testimonial, appraisal, analysis, or an endorsement has a financial interest in the party making use of the testimonial, appraisal, analysis, or endorsement, either directly or through a related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(2) An advertisement shall not state or imply that a viatical settlement contract benefit or product or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(3) When an endorsement refers to benefits received under a viatical settlement contract, all pertinent information shall be retained by the viatical settlement licensee for a period of five years after its use.

5. An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

6. An advertisement shall not disparage an insurer, viatical settlement provider, viatical settlement broker, insurance producer, policy, services, or methods of marketing.

7. The name of the viatical settlement licensee shall be clearly identified in all advertisements about the viatical settlement licensee or its viatical settlement contract, products, or services, and if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

8. An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol or other device, or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement contract.

9. An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

10. An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the viatical settlement licensee's internet site or contact the commissioner to find out if the state requires licensing and, if so, whether the viatical settlement provider or viatical settlement broker is licensed.

11. An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

12. The name of the actual viatical settlement licensee shall be stated in each of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate, or controlling entity of the viatical settlement licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual viatical settlement licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the viatical settlement licensee.

13. An advertisement shall not directly or indirectly create the impression that any division or agency of the state or of the United States government endorses, approves, or favors any of the following:

a. A viatical settlement licensee or its business practices or methods of operation.

b. The merits, desirability, or advisability of any viatical settlement contract.

c. Any viatical settlement contract.

d. Any life insurance policy or life insurance company.

14. If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

15. If the advertising emphasizes the dollar amounts available to viators, the advertising

shall disclose the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past six months.

Sec. 15. NEW SECTION. 508E.15 FRAUD PREVENTION AND CONTROL.

1. FRAUDULENT VIATICAL SETTLEMENT ACTS — INTERFERENCE AND PARTICIPATION OF CONVICTED FELONS PROHIBITED.

a. A person shall not commit a fraudulent viatical settlement act.

b. A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this chapter or investigations of suspected or actual violations of this chapter.

c. A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

2. FRAUD WARNING REQUIRED.

a. A viatical settlements contract and application for a viatical settlement, regardless of the form of transmission, shall contain the following statement or a substantially similar statement:

"Any person who knowingly presents false information in an application for insurance or viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison."

b. The lack of a statement as required in paragraph "a" does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

3. MANDATORY REPORTING OF FRAUDULENT VIATICAL SETTLEMENT ACTS.

a. Any person engaged in the business of viatical settlements having knowledge or a reasonable suspicion that a fraudulent viatical settlement act is being, will be, or has been committed shall provide to the commissioner such information as required by and in a manner prescribed by rules adopted by the commissioner.

b. Any other person having knowledge or a reasonable belief that a fraudulent viatical settlement act is being, will be, or has been committed may provide to the commissioner the information required by and in a manner prescribed by rules adopted by the commissioner.

4. IMMUNITY FROM LIABILITY.

a. No civil liability shall be imposed on and no cause of action shall arise from a person, who acting reasonably and in good faith, furnishes information concerning suspected, anticipated, or completed fraudulent viatical settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from any of the following:

(1) The commissioner or the commissioner's employees, agents, or representatives.

(2) A federal, state, or local law enforcement or regulatory official or the official's employees, agents, or representatives.

(3) A person involved in the prevention and detection of fraudulent viatical settlement acts or that person's agents, employees, or representatives.

(4) The national association of insurance commissioners; the national association of securities dealers; the north American securities administrators association; their employees, agents, or representatives; or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud.

(5) A life insurer that issued the life insurance policy covering the life of the insured.

b. Paragraph "a" does not apply to a statement made in bad faith or with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent viatical settlement act, the party bringing the action shall plead specifically any allegation that paragraph "a" does not apply because the person filing the report or furnishing the information did so in bad faith or with actual malice.

c. A person furnishing information as identified in paragraph "a" shall be entitled to an award of attorney fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of an activity in carrying out the provisions of this chapter and the party bringing the action was not substantially justified in doing so. For purposes of this paragraph, a proceeding is substantially justified if it had a reasonable

basis in law or fact at the time that it was initiated. However, such an award does not apply to any person furnishing information concerning the person's own fraudulent viatical settlement act.

d. This section does not abrogate or modify a common law or statutory privilege or immunity enjoyed by a person described in paragraph "a".

5. CONFIDENTIALITY.

a. A document or evidence provided pursuant to subsection 4 or obtained by the commissioner in an investigation of a suspected or actual fraudulent viatical settlement act shall be privileged and confidential, notwithstanding chapter 22, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

b. Paragraph "a" does not prohibit the release by the commissioner of a document or evidence obtained in an investigation of a suspected or actual fraudulent viatical settlement act if any of the following applies:

(1) In an administrative or judicial proceeding to enforce laws administered by the commissioner.

(2) To a federal, state, or local law enforcement or regulatory agency, to an organization established for the purpose of detecting and preventing fraudulent viatical settlement acts, or to the national association of insurance commissioners.

(3) At the discretion of the commissioner, to a person in the business of viatical settlements that is aggrieved by a fraudulent viatical settlement act.

c. Release of a document or evidence under paragraph "b" does not abrogate or modify the privilege granted in paragraph "a".

6. OTHER LAW ENFORCEMENT OR REGULATORY AUTHORITY. This chapter shall not do any of the following:

a. Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law.

b. Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the commissioner.

c. Limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

7. VIATICAL SETTLEMENT ANTIFRAUD INITIATIVES.

a. A viatical settlement provider or viatical settlement broker shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the commissioner, the commissioner may order, or a licensee may request and the commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

b. Antifraud initiatives shall include all of the following:

(1) A fraud investigator, who may be a viatical settlement provider, viatical settlement broker, a viatical settlement provider's or viatical settlement broker's employee, or an independent contractor.

(2) An antifraud plan, which shall be submitted to the commissioner. The antifraud plan shall include, but is not limited to all of the following:

(a) A description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications.

(b) A description of the procedures for reporting possible fraudulent viatical settlement acts to the commissioner.

(c) A description of the plan for antifraud education and training of underwriters and other personnel.

(d) A description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical set-

tlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

c. An antifraud plan submitted to the commissioner shall be privileged and confidential, notwithstanding chapter 22, shall not be a public record, and shall not be subject to discovery or subpoena in a civil or criminal action.

Sec. 16. NEW SECTION. 508E.16 INJUNCTIONS — CIVIL REMEDIES — CEASE AND DESIST ORDERS — CIVIL PENALTY.

1. In addition to the penalties and other enforcement provisions of this chapter, if any person violates this chapter or any rule implementing this chapter, the commissioner may seek an injunction in a court of competent jurisdiction and may apply for a temporary or permanent order that the commissioner determines is necessary to restrain the person from committing the violation.

2. A person damaged by the act of a person in violation of this chapter may bring a civil action against the person committing the violation in a court of competent jurisdiction.

3. The commissioner may issue, in accordance with chapter 17A, a cease and desist order upon a person that violates any provision of this chapter, any rule or order adopted by the commissioner, or any written agreement entered into with the commissioner.

4. When the commissioner finds that an activity in violation of this chapter presents an immediate danger to the health, safety, or welfare of the public requiring immediate agency action, the commissioner may proceed under section 17A.18A.

5. In addition to the penalties and other enforcement provisions of this chapter, any person who violates this chapter is subject to a civil penalty of up to five thousand dollars for each violation of this chapter. The civil penalty shall be deposited into the general fund of the state. If a person has not been ordered to pay restitution by a court, the commissioner's order may require a person found to be in violation of this chapter to make restitution to a person aggrieved by a violation of this chapter.

6. Except for a fraudulent viatical settlement act committed by a viator, the enforcement provisions and penalties of this section shall not apply to a viator.

Sec. 17. NEW SECTION. 508E.17 UNFAIR TRADE PRACTICES.

A violation of this chapter, including the commission of a fraudulent viatical settlement act, is an unfair trade practice under chapter 507B and a person convicted of the violation is subject to the penalties contained in that chapter.

Sec. 18. NEW SECTION. 508E.18 CRIMINAL PENALTIES.

1. a. A person acting in this state as a viatical settlement provider or viatical settlement broker, without being licensed pursuant to section 508E.3, who willfully violates any provision of this chapter or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

b. A person acting in this state as a viatical settlement provider or viatical settlement broker, without proper licensure who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, and when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

2. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of this chapter, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

Sec. 19. NEW SECTION. 508E.19 AUTHORITY TO PROMULGATE RULES.

The commissioner shall have the authority to do all of the following:

1. Adopt rules implementing and administering this chapter.

2. Establish standards for evaluating reasonableness of payments under viatical settlement

contracts for persons who are terminally or chronically ill. This authority includes but is not limited to regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a life insurance policy insuring the life of a person who is chronically or terminally ill.

3. Establish appropriate licensing requirements, fees, and standards for continued licensure for viatical settlement providers and brokers.

4. Require a bond or other mechanism for financial accountability for viatical settlement providers and viatical settlement brokers.

5. Adopt rules governing the relationship and responsibilities of both insurers and viatical settlement providers and viatical settlement brokers during the viatication of a life insurance policy or certificate.

Sec. 20. Section 507B.3, subsection 1, Code 2007, is amended to read as follows:

1. A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the business of insurance.

a. A person who violates a provision in chapter 508E shall be deemed to have committed an unfair trade practice under this chapter.

b. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

Sec. 21. CODIFICATION.

1. The Code editor shall codify section 508E.1 as section 508E.1A.

2. The Code editor shall codify section 508E.1A, as enacted in this Act, as section 508E.1.

Sec. 22. Section 508E.3A, Code 2007, is repealed.

Approved May 10, 2008

CHAPTER 1156

STATUTORY BOARDS, COMMISSIONS,
COUNCILS, AND COMMITTEES —
LEGISLATIVE APPOINTMENTS AND MEMBERSHIP

S.F. 2406

AN ACT relating to appointments by members of the general assembly to statutory boards, commissions, councils, and committees, abolishing certain related entities, and including effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 2.32A APPOINTMENTS BY MEMBERS OF THE GENERAL ASSEMBLY TO STATUTORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES — PER DIEM AND EXPENSES.

1. A member of the general assembly who is charged with making an appointment to a statutory board, commission, council, or committee shall make the appointment prior to the fourth Monday in January of the first regular session of each general assembly and in accordance with section 69.16B. If multiple appointing members are charged with making appointments of public members to the same board, commission, council, or committee, including as provid-

ed in section 333A.2, the appointing members shall consult with one another in making the appointments. If the senate appointing member for a legislative appointment is the president, majority leader, or the minority leader, the appointing authority shall consult with the other two leaders in making the appointment. If the house of representatives appointing member is the speaker, majority leader, or minority leader, the appointing member shall consult with the other two leaders in making the appointment.

2. Each appointing member shall inform the director of the legislative services agency of the appointment and of the term of the appointment. The legislative services agency shall maintain an up-to-date listing of all appointments made or to be made by members of the general assembly.

3. The legislative services agency shall inform each appointee and each affected board, commission, council, or committee of the appointment and of the term of the appointment.

4. Unless otherwise specifically provided by law, a member of the general assembly shall be paid, in accordance with section 2.10, per diem and necessary travel and actual expenses incurred in attending meetings of a statutory board, commission, council, or committee to which the member is appointed by a member of the general assembly.

Sec. 2. Section 2.41, Code 2007, is amended to read as follows:

2.41 LEGISLATIVE COUNCIL CREATED.

A continuing legislative council of twenty-four members is created. The council is composed of the president and president pro tempore of the senate, the speaker and speaker pro tempore of the house of representatives, the majority and minority floor leaders of the senate, the chairperson of the senate committee on appropriations, the minority party ranking member of the senate committee on appropriations, ~~six~~ three members of the senate appointed by the majority leader of the senate, three members of the senate appointed by the minority leader of the senate, the majority and minority floor leaders of the house of representatives, the chairperson of the house committee on appropriations, the minority party ranking member of the house committee on appropriations, ~~and six~~ three members of the house of representatives appointed by the speaker of the house of representatives, and three members of the house of representatives appointed by the minority leader of the house of representatives. ~~Of the six members appointed by the majority leader of the senate and speaker of the house, three from each house shall be appointed from the majority party and three from each house shall be appointed from the minority party.~~ Members shall be appointed prior to the fourth Monday in January of the first regular session of each general assembly and shall serve for two-year terms ending upon the convening of the following general assembly or when their successors are appointed. Vacancies on the council, including vacancies which occur when a member of the council ceases to be a member of the general assembly, shall be filled by the ~~majority leader of the senate and the speaker of the house respectively~~ appointing authority who made the original appointment. Insofar as possible at least two members of the council from each house shall be reappointed. The council shall hold regular meetings at a time and place fixed by the chairperson of the council and shall meet at any other time and place as the council deems necessary.

Sec. 3. Section 2A.4, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Maintenance of an up-to-date listing of all appointments made or to be made by members of the general assembly as required by section 2.32A and in accordance with section 69.16B. The legislative services agency may post on the general assembly's internet site information regarding the organization and activities of boards, commissions, councils, and committees to which members of the general assembly make appointments.

Sec. 4. Section 2D.3, Code 2007, is amended to read as follows:

2D.3 LEGISLATIVE BRANCH PROTOCOL OFFICER.

The legislative services agency shall employ a legislative branch protocol officer to coordinate activities related to state, national, and international visitors to the state capitol or with an interest in the general assembly, and related to travel of members of the general assembly

abroad. ~~The protocol officer shall serve in a consultative capacity and shall provide staff support to the international relations advisory council.~~ The protocol officer shall ~~also~~ work with the executive branch protocol officer to coordinate state, national, and international relations activities. The legislative branch protocol officer shall submit periodic reports to the international relations committee of the legislative council regarding the visits of state, national, and international visitors and regarding international activities.

Sec. 5. Section 2D.4, Code 2007, is amended to read as follows:

2D.4 EXECUTIVE BRANCH PROTOCOL OFFICER.

The lieutenant governor, or the lieutenant governor's designee, shall be the executive branch protocol officer. ~~The protocol officer shall serve in a consultative capacity to the international relations advisory council.~~ The protocol officer shall work with the international relations committee of the legislative council and the legislative branch protocol officer in developing and implementing protocol for state, national, and international visitors to the state capitol and in improving coordination between the legislative and executive branches in international relations activities.

Sec. 6. Section 7E.7, subsection 1, Code Supplement 2007, is amended by striking the subsection.

Sec. 7. Section 7K.1, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The board of directors of the foundation shall consist of fifteen members ~~serving staggered three-year terms beginning on May 1 of the year of appointment~~ who shall be appointed as follows:

Sec. 8. Section 7K.1, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The term of the members appointed by the governor shall be for three years, staggered by the governor, beginning upon the convening of a regular session of the general assembly and ending upon the convening of a regular session of the general assembly three years later. The term of the members appointed by a member of the general assembly shall be as provided in section 69.16B.

Sec. 9. Section 8A.204, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 6. LEGISLATIVE INFORMATION. The board shall allow representatives of the senate, house of representatives, legislative services agency, and office of citizens' aide to provide information to and seek information from the board.

Sec. 10. Section 8A.221, subsection 3, paragraph a, Code 2007, is amended to read as follows:

a. The advisory council shall be composed of ~~nineteen~~ fourteen members including the following:

(1) Five persons appointed by the governor representing the primary customers of IowAccess.

(2) ~~Six~~ Five persons representing lawful custodians as follows:

~~(a) One person representing the legislative branch, who shall not be a member of the general assembly, to be appointed jointly by the president of the senate, after consultation with the majority and minority leaders of the senate, and by the speaker of the house of representatives, after consultation with the majority and minority leaders of the house of representatives.~~

~~(b)~~ (a) One person representing the judicial branch as designated by the chief justice of the supreme court.

~~(c)~~ (b) One person representing the executive branch as designated by the governor.

~~(d)~~ (c) One person to be appointed by the governor representing cities who shall be actively engaged in the administration of a city.

~~(e)~~ (d) One person to be appointed by the governor representing counties who shall be actively engaged in the administration of a county.

~~(f)~~ (e) One person to be appointed by the governor representing the federal government.

(3) Four members to be appointed by the governor representing a cross section of the citizens of the state.

~~(4) Four members of the general assembly, two from the senate and two from the house of representatives, 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. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.~~

The advisory council shall allow representatives of the senate, house of representatives, legislative services agency, and office of citizens' aide to provide information to and seek information from the advisory council.

Sec. 11. Section 8A.371, subsection 1, Code Supplement 2007, is amended to read as follows:

1. Four members of the general assembly serving as ex officio, nonvoting members, ~~two~~ one representative to be appointed by the speaker of the house ~~from the membership of the house, and two~~ of representatives, one representative to be appointed by the minority leader of the house of representatives, one senator to be appointed by the president of the senate~~,~~ after consultation with the majority leader ~~and the minority leader~~ of the senate, ~~from the membership of the senate~~ and one senator to be appointed by the minority leader of the senate.

Sec. 12. Section 8A.372, subsections 2 and 3, Code Supplement 2007, are amended to read as follows:

2. The legislative members of the commission shall be appointed to ~~four-year~~ terms of office~~, two of which shall expire every two years~~ as provided in section 69.16B, unless sooner terminated by a commission member ceasing to be a member of the general assembly. Vacancies shall be filled by appointment of the ~~speaker of the house or the president of the senate, after consultation with the majority leader and the minority leader of the senate, as the case may be,~~ original appointing authority for the unexpired term of their predecessors.

3. The term of office of each appointive voting member of the commission shall begin on the first of May of the odd-numbered year in which the member is appointed.

Sec. 13. Section 12.28, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. "State agency" means a board, commission, bureau, division, office, department, or branch of state government. However, state agency does not mean the state board of regents, institutions governed by the board of regents, or authorities created under chapter 16, ~~16A,~~ 175, 257C, 261A, or 327I.

Sec. 14. Section 12.30, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. "Authority" means a department, or public or quasi-public instrumentality of the state including, but not limited to, the authority created under chapter 12E, 16, ~~16A,~~ 175, 257C, 261A, 327I, or 463C, which has the power to issue obligations, except that "authority" does not include the state board of regents or the Iowa finance authority to the extent it acts pursuant to chapter 260C. "Authority" also includes a port authority created under chapter 28J.

Sec. 15. Section 13B.2A, Code 2007, is amended to read as follows:

13B.2A INDIGENT DEFENSE ADVISORY COMMISSION.

1. An indigent defense advisory commission is established within the department to advise and make recommendations to the legislature and the state public defender regarding the hourly rates paid to court-appointed counsel and per case fee limitations. These recommendations shall be consistent with the constitutional requirement to provide effective assistance of counsel to those indigent persons for whom the state is required to provide counsel.

2. The advisory commission shall consist of ~~five~~ seven members. The governor shall appoint three members, including one member from nominations by the Iowa state bar association and one member from nominations by the supreme court. ~~Two~~ Four members, ~~one~~ two from each chamber of the general assembly, shall be appointed, with no more than one appointed from the same political party from each chamber. 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 shall each appoint one legislative member. Each member shall serve a three-year term, with initial terms to be staggered, except that legislative members shall serve for terms as provided in section 69.16B. No more than three members shall be licensed to practice law in Iowa. The state public defender shall serve as an ex officio member of the commission and shall serve as the nonvoting chair of the commission.

3. The members of the commission are entitled to receive reimbursement for actual expenses incurred as provided for in section 7E.6, subsection 2, while engaged in the performance of the duties of the commission. A legislative member is eligible for per diem and expenses as provided in section 2.10.

4. The advisory commission shall file a written report every three years with the governor and the general assembly by January 1 of a year in which a report is due regarding the recommendations and activities of the commission. The first such report shall be due on January 1, 2003.

Sec. 16. Section 15.103, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. The Iowa economic development board is created, consisting of fifteen voting members appointed by the governor and seven 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; and one president, or the president's designee, of a private college or university 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, one appointed by the speaker and one appointed by the minority leader of the house of representatives from their respective parties. Not more than eight of the voting members shall be from the same political party. Beginning with the first appointment to the board made after July 1, 2005, at least one voting member shall have been less than thirty years of age at the time of appointment. The governor shall appoint the voting members of the 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 of the various elements of the department's responsibilities.

Sec. 17. Section 15.421, subsection 2, paragraph b, Code Supplement 2007, is amended to read as follows:

b. Four members of the general assembly shall serve as nonvoting, ex officio members of the commission with two from the senate and two from the house of representatives and not

more than one member from each chamber being from the same political party. The two senators shall be designated one member each by the president of the senate after consultation with the majority leader of the senate, and by the minority ~~leaders~~ leader of the senate. The two representatives shall be designated one member each by the speaker of the house of representatives after consultation ~~with~~ the majority leader of the house of representatives, and by the minority ~~leaders~~ leader of the house of representatives.

Sec. 18. Section 15E.63, subsection 2, Code 2007, is amended to read as follows:

2. The board shall consist of five voting members and ~~two~~ four nonvoting advisory members who are members of the general assembly. 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~~ and one nonvoting member shall be appointed by 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 leader of the house of representatives and one nonvoting member shall be appointed by the minority ~~leaders~~ leader of the house of representatives. The nonvoting members shall ~~be appointed for two-year~~ serve terms ~~which shall expire upon the convening of a new general assembly~~ as provided in section 69.16B. 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.

Sec. 19. Section 17A.8, subsection 1, Code 2007, is amended to read as follows:

1. There is created the "Administrative Rules Review Committee." The committee shall be bipartisan and shall be composed of the following members:

a. ~~Five~~ Three senators appointed by the majority leader of the senate and two senators appointed by the minority leader of the senate.

b. ~~Five~~ Three representatives appointed by the speaker of the house of representatives and two representatives appointed by the minority leader of the house of representatives.

Sec. 20. Section 28.3, subsection 4, Code 2007, is amended to read as follows:

4. In addition to the voting members, the Iowa board shall include ~~six~~ four members of the general assembly with not more than ~~two members~~ one member from each chamber being from the same political party. The ~~three~~ two senators shall be appointed one each by the majority leader of the senate after consultation with the president of the senate, and by the minority leader of the senate. The ~~three~~ two representatives shall be appointed one each by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and by the minority ~~leaders~~ leader of the house of representatives. Legislative members shall serve in an ex officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10.

Sec. 21. Section 28B.1, subsections 1 and 2, Code 2007, are amended to read as follows:

1. ~~Five~~ Three members of the senate to be appointed by the majority leader of the senate and two members of the senate to be appointed by the minority leader of the senate.

2. ~~Five~~ Three members of the house of representatives to be appointed by the speaker of the house of representatives and two members of the house of representatives to be appointed by the minority leader of the house of representatives.

Sec. 22. NEW SECTION. 69.16B STATUTORY BOARDS, COMMISSIONS, COUNCILS, AND COMMITTEES — APPOINTMENTS BY MEMBERS OF GENERAL ASSEMBLY — TERMS — DISSOLUTION.

1. Unless otherwise specifically provided by law, all of the following shall apply to an appointment to a statutory board, commission, council, or committee made by a member or members of the general assembly pursuant to section 2.32A:

a. An appointment shall be at the pleasure of the appointing member.

b. Unless an appointee is replaced by the appointing member, the regular term of appointment shall be two years, beginning upon the convening of a general assembly and ending upon the convening of the following general assembly, or when the appointee's successor is appointed, whichever occurs later.

c. Unless otherwise provided, a vacancy exists if a member of the general assembly serving on a statutory board, commission, council, or committee ceases to be a member of the general assembly. A vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

2. Unless otherwise specifically provided by law, a board, commission, council, committee, task force, or other temporary body created by an uncodified statute that provides for issuance of a final report by the body is dissolved on or about the date the body's final report is issued.

Sec. 23. NEW SECTION. 69.16C MINORITY REPRESENTATION.

All appointive boards, commissions, committees, and councils of the state established by the Code if not otherwise provided by law should provide, to the extent practicable, for minority representation. All appointing authorities of boards, commissions, committees, and councils subject to this section should consider qualified minority persons for appointment to boards, commissions, committees, and councils. For purposes of this section, "minority" means a minority person as defined in section 15.102.

Sec. 24. Section 80B.6, unnumbered paragraph 2, Code 2007, is amended to read as follows:

One senator appointed by the president of the senate after consultation with the majority leader ~~and the minority leader~~ of the senate ~~and one representative~~, one senator appointed by the minority leader of the senate, one representative appointed by the speaker of the house of representatives, and one representative appointed by the minority leader of the house of representatives are also ex officio, nonvoting members of the council who shall serve terms as provided in section 69.16B.

Sec. 25. Section 84A.1A, subsection 1, Code 2007, is amended to read as follows:

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, one appointed by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and one appointed by the minority ~~leaders~~ leader of the house of representatives from their respective parties. The legislative members shall serve for terms as provided in section 69.16B. 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.

Sec. 26. Section 97D.4, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A public retirement systems committee is established. The committee ~~consists~~ shall consist of ~~five~~ three members of the senate appointed by the majority leader of the senate ~~in consultation with~~, two members of the senate appointed by the minority leader ~~and five~~ of the senate, three members of the house of representatives appointed by the speaker of the house ~~in consultation with~~ of representatives, and two members of the house of representatives appointed by the minority leader of the house of representatives. The committee shall elect a chairperson and vice chairperson. Meetings may be called by the chairperson or a majority of the members.

Sec. 27. Section 216A.53, Code 2007, is amended to read as follows:

216A.53 TERM OF OFFICE.

Four of the members appointed to the initial commission shall be designated by the governor to serve two-year terms, and five shall be designated by the governor to serve four-year terms. The legislative members of the commission shall be appointed to ~~four-year~~ terms of office~~, two of which shall expire every two years~~ as provided in section 69.16B, unless sooner terminated by a commission member ceasing to be a member of the general assembly. Succeeding appointments of voting members shall be for a term of four years. Vacancies in the membership shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 28. Section 216A.132, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The chief justice of the supreme court shall appoint two additional members currently serving as district judges. Two members of the senate and two members of the house of representatives shall be ex officio members and shall be appointed by the majority and minority leaders of the senate and the speaker and minority leader of the house of representatives pursuant to section 69.16 and shall serve terms as provided in section 69.16B. ~~Members~~ Nonlegislative members appointed pursuant to this paragraph shall serve for four-year terms beginning and ending as provided in section 69.19 unless the member ceases to serve as a district court judge ~~or as a member of the senate or of the house of representatives~~.

Sec. 29. Section 217.41A, subsection 2, Code 2007, is amended to read as follows:

2. The task force shall consist of no more than nine voting members, selected by the director of human services, who represent entities with expertise in developing or implementing electronic health records, including but not limited to the United States veterans administration facilities in the state, multifacility hospital systems in the state, Des Moines university, the university of Iowa hospitals and clinics, and the Iowa healthcare collaborative. In addition, two members of the senate, with one each appointed by the president of the senate after consultation with the majority leader, and by the minority leader of the senate, two members of the house of representatives, with one each appointed by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and by the mi-

nority leader of the house of representatives, and the commissioner of insurance shall serve as ex officio, nonvoting members of the task force. The legislator members shall serve terms as provided in section 69.16B.

Sec. 30. Section 225C.5, subsection 1, paragraph j, Code 2007, is amended to read as follows:

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 for a term as provided in section 69.16B in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10.

Sec. 31. Section 225C.48, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. An eleven-member comprehensive family support council is created in the department. The members of the council shall be appointed by the ~~following officials as follows:~~ governor~~, five members; majority leader of the senate, three members; and speaker of the house, three members~~. At least ~~three~~ five of the ~~governor's~~ appointments ~~and one of each legislative chamber's appointments~~ shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the ~~members~~ appointments shall be current or former service consumers or family members of such service consumers. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment.

Sec. 32. Section 231.11, Code 2007, is amended to read as follows:

231.11 COMMISSION ESTABLISHED.

The commission of elder affairs is established which shall consist of eleven members. ~~Two members~~ One member each shall be appointed by the president of the senate~~,~~ after consultation with the majority leader of the senate, and by the minority leader of the senate, from the members of the senate to serve as ex officio, nonvoting members ~~with no more than one member being appointed from the same political party~~. ~~Two members~~ One member each shall be appointed by the speaker of the house of representatives and by the minority leader of the house of representatives, from the members of the house of representatives to serve as ex officio, nonvoting members ~~with no more than one member being appointed from the same political party~~. Seven members shall be appointed by the governor subject to confirmation by the senate. Not more than a simple majority of the governor's appointees shall belong to the same political party. At least four of the seven members appointed by the governor shall be fifty-five years of age or older when appointed.

Sec. 33. Section 231.12, Code 2007, is amended to read as follows:

231.12 TERMS.

All members of the commission appointed by the governor shall be appointed for terms of four years, with staggered expiration dates. The terms of office of members appointed by the governor shall commence and end as provided by section 69.19. Legislative members of the commission shall serve terms of office as provided in section 69.16B. A vacancy on the commission shall be filled for the unexpired term of the vacancy in the same manner as the original appointment was made. If a legislative member ceases to be a member of the general assembly the legislative member may continue to serve until a successor is appointed.

Sec. 34. Section 231.58, subsection 2, Code 2007, is amended to read as follows:

2. The legislative members of the unit shall be appointed as follows: two members of the senate, with one each appointed by the majority leader of the senate~~,~~ after consultation with the president of the senate, and by the minority leader of the senate, and two members of the house of representatives with one each appointed by the speaker of the house of representa-

tives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives.

Sec. 35. Section 237A.21, subsection 3, paragraph m, Code 2007, is amended to read as follows:

m. ~~Two~~ Four legislators. Notwithstanding subsection 2, the legislators shall be appointed ~~in a manner so that both major political parties are represented~~ one each by 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 for terms as provided in section 69.16B.

Sec. 36. Section 249A.4B, subsection 2, paragraph g, Code 2007, is amended to read as follows:

g. The following members of the general assembly, each for a term of two years as provided in section 69.16B:

(1) Two members of the house of representatives, one appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives from their respective parties.

(2) ~~One member~~ Two members of the senate ~~from each of the two major political parties~~, 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.

Sec. 37. Section 249J.20, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The members of the council shall serve terms as provided in section 69.16B.

Sec. 38. Section 252B.18, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The legislative members of the committee shall be appointed as follows: one senator each by the majority leader of the senate~~,~~ after consultation with the president of the senate, and by the minority leader of the senate, and one member of the house of representatives each by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives. ~~Members~~ The legislative members shall serve for terms as provided in section 69.16B. Nonlegislative members shall serve staggered terms of two years. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointments.

Sec. 39. Section 256.32, subsections 2 and 4, Code 2007, are amended to read as follows:

2. The council may also include as ex officio members the following persons, as determined by the voting members of the council:

a. The state future farmers of America president.

b. The current state future farmers of America alumni association president.

c. The current postsecondary agriculture students president.

d. The current young farmers educational association president.

e. A state consultant in agricultural education.

f. The secretary of agriculture or the secretary's designee.

g. ~~A member~~ Two members of each house of the general assembly. This membership shall be bipartisan in composition and one member each shall be selected by the president of the senate~~,~~ after consultation with the majority leader of the senate, and by the minority leader of the senate, and one member each shall be selected by the speaker of the house of representatives and by the minority leader of the house of representatives.

4. The term of membership is three years. The terms shall be staggered so that three of the terms end each year, but no member serving on the initial council shall serve less than one year. The governor shall determine the length of the initial terms of office. However, the terms of office for members of the general assembly shall be as provided in section 69.16B.

Sec. 40. Section 261D.3, subsection 3, Code 2007, is amended to read as follows:

3. ~~The~~ Nonlegislative members shall serve two-year terms except as otherwise provided under the terms of the compact. Legislative members shall serve two-year terms as provided in section 69.19B.[1] Nonlegislative members shall serve without compensation, but shall receive their actual and necessary expenses and travel. Legislative members shall receive actual and necessary expenses pursuant to sections 2.10 and 2.12. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments. If a member ceases to be a member of the general assembly, the member shall no longer serve as a member of the commission.

Sec. 41. Section 272B.2, Code 2007, is amended to read as follows:

272B.2 EDUCATION COMMISSION OF THE STATES.

Article III, paragraph 1, of the compact notwithstanding, the members of the education commission of the states representing this state consist of the governor, two nonlegislative members appointed by the governor, two members of the senate with one member appointed by the majority leader of the senate and one member appointed by the minority leader of the senate, and two members of the house of representatives with one member appointed by the speaker of the house of representatives and one member appointed by the minority leader of the house of representatives. ~~The~~ Nonlegislative members shall serve four-year terms and legislative members shall serve terms as provided in section 69.16B. Nonlegislative members shall serve on the education commission of the states without compensation, but shall receive their actual and necessary expenses and travel. Legislative members shall receive per diem and actual and necessary expenses and travel pursuant to sections 2.10 and 2.12. Vacancies on the commission shall be filled for the unexpired portion of the term in the same manner as the original appointments. If a member ceases to be a member of the general assembly, the member shall no longer serve as a member of the education commission of the states.

Sec. 42. Section 280A.2, subsection 8, Code 2007, is amended to read as follows:

8. TERMS OF MEMBERS. The members shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19, except that the appointment and terms of legislators shall be as provided in section 69.16B. If a vacancy occurs, a successor shall be appointed to serve the unexpired term. A successor shall be appointed in the same manner and subject to the same qualifications as the original appointment to serve the unexpired term.

Sec. 43. Section 333A.2, subsection 1, paragraph d, Code 2007, is amended to read as follows:

d. An operations research analyst experienced in cost effectiveness analysis of county services appointed jointly by~~, and to serve at the pleasure of, the legislative council~~ the majority and minority leaders of the senate and the speaker and the minority leader of the house of representatives.

Sec. 44. Section 384.13, unnumbered paragraph 1, Code 2007, is amended to read as follows:

As used in this division, unless the context otherwise requires, "committee" means the city finance committee and "director" means the director of the department of management. ~~A nine-member~~ An eight-member city finance committee is created. Members of the committee are:

Sec. 45. Section 384.13, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 46. Section 423.9, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Four representatives are authorized to be members of the governing board established pur-

[1] According to enrolled Act; the phrase "section 69.16B" probably intended

suant to the agreement and to represent Iowa before that body as one vote. The legislator representatives shall serve terms as provided in section 69.16B. The representatives shall be appointed as follows:

Sec. 47. Section 455B.851, subsection 2, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The four nonvoting, ex officio members shall consist of four members of the general assembly, two from the senate and two from the house of representatives, with not more than one member from each chamber being from the same political party. The two senators shall be designated one member each by the majority leader of the senate after consultation with the president and by the minority leader of the senate. The two representatives shall be designated one member each by the speaker of the house of representatives after consultation with the majority leader of the house of representatives, and by the minority ~~leaders~~ leader of the house of representatives.

Sec. 48. Section 466A.3, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The board shall also include four members of the general assembly who shall serve as ex officio, nonvoting members. Not more than one member from each house shall be from the same political party. Two state senators shall be appointed, one by the majority leader of the senate and one by the minority leader of the senate. Two state representatives shall be appointed, one by the speaker of the house of representatives and one by the minority leader of the house of representatives. The legislator members shall serve terms as provided in section 69.16B. A legislator member may designate another person to attend a board meeting if the member is unavailable. Only the legislator member is eligible for per diem and expenses as provided in section 2.10.

Sec. 49. Section 473.11, subsection 3, unnumbered paragraph 1, Code 2007, 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, 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 with one each appointed by the president of the senate~~,~~ after consultation with the majority leader of the senate, and by the minority leader of the senate, and two members of the house of representatives with one each appointed by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives. 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 department of natural resources. The attorney general shall provide legal assistance to the council.

Sec. 50. Section 514E.2, subsection 2, paragraph f, Code 2007, is amended to read as follows:

f. ~~Two~~ Four members of the general assembly, one of whom shall be appointed by the speaker of the house ~~and~~ of representatives, one of whom shall be appointed by the minority leader of the house of representatives, one of whom shall be appointed by the president of the senate~~,~~ after consultation with the majority leader ~~and the minority leader of the senate~~, and one of whom shall be appointed by the minority leader of the senate, who shall be ex officio, nonvoting members.

Sec. 51. Section 514I.5, subsection 1, paragraph e, Code Supplement 2007, is amended to read as follows:

e. Two members of the senate and two members of the house of representatives, serving as ex officio, nonvoting members. The legislative members of the board shall be appointed one each by the majority leader of the senate, after consultation with the president of the senate, and by the minority leader of the senate, and by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives. Legislative members shall receive compensation pursuant to section 2.12.

Sec. 52. Section 907B.3, Code 2007, is amended to read as follows:

907B.3 STATE COUNCIL.

The state council established in section 907B.2 shall consist of five seven members plus the compact administrator. The council shall include at least one member from a minority group. The chief justice of the supreme court shall appoint one member to represent the judicial branch. The president of the senate and the minority leader of the senate shall each appoint one member to represent the senate. The speaker of the house of representatives and the minority leader of the house of representatives shall each appoint one member to represent the house of representatives. The governor shall appoint one member to represent the executive branch and one member to represent crime victim groups. The governor, in consultation with the legislative and judicial branches, shall also appoint the compact administrator.

Sec. 53. Sections 2.35, 2.36, 2D.1, 16A.1, 16A.3, 16A.4, 16A.5, 16A.6, 16A.7, 16A.8, 16A.9, 16A.10, 16A.11, 16A.12, 16A.13, 16A.14, 16A.15, 16A.16, 16A.17, 16A.18, 16A.19, 16A.20, 16A.21, 16A.22, and 602.1514, Code 2007, and section 16A.2, Code Supplement 2007, are repealed.

Sec. 54. 2005 Iowa Acts, chapter 88, and chapter 158, section 52, are repealed.

Sec. 55. 2006 Iowa Acts, chapter 1145, section 4, as amended by 2007 Iowa Acts, chapter 211, section 40, is repealed.

Sec. 56. 2006 Iowa Acts, chapter 1184, section 16, subsection 1, paragraph b, is amended to read as follows:

b. It is the intent of the general assembly that effective July 1, 2009, placements at the Iowa juvenile home will be limited to females and that placements of boys at the home will be diverted to other options. ~~The department shall utilize a study group to make recommendations on the options for diversion of placements of boys and the study group shall report on or before July 1, 2007, to the persons designated by this division of this Act to receive reports. Leadership for the study group shall be provided by the department of human services. The study group membership shall also include but is not limited to two departmental service area administrators or their designees, a representative of the division of the commission on the status of women of the department of human rights, a member of the council on human services, a departmental division administrator, two representatives of juvenile court services, a representative of the division of criminal and juvenile justice planning of the department of human rights, and two representatives of child welfare service provider agencies. In addition, the study group membership shall include four members of the general assembly so that the majority and minority parties of both chambers are represented. Legislative members are eligible for reimbursement of actual expenses paid under section 2.10.~~

Sec. 57. 2006 Iowa Acts, chapter 1185, section 43, is repealed.

Sec. 58. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. This Act, being deemed of immediate importance, takes effect upon enactment. This Act applies to appointees named

by a member or members of the general assembly before, on, or after the effective date of this Act.

Approved May 10, 2008

CHAPTER 1157

INCOME TAX REFUNDS AND CREDITS —
INFORMATION AND ASSISTANCE

S.F. 2418

AN ACT relating to notice provided to certain households about the availability of volunteer or free income tax assistance programs and the federal and state earned income tax credits.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 217.47 DISTRIBUTION OF EARNED INCOME TAX CREDIT INFORMATION.

1. The department shall ensure that educational materials relating to the federal and state earned income tax credits are provided in accordance with this section to each household receiving assistance or benefits under:

a. The hawk-i program under chapter 514I.

b. The family investment program under chapter 239B.

c. The medical assistance Act under chapter 249A.

d. The food programs defined in section 234.1 which are administered by the department.

e. Any other appropriate programs administered by, or under the oversight, of the department of human services.

2. The department shall, by mail or through the internet, provide a household described in subsection 1 with access to:

a. Internal revenue service publications relating to the federal earned income tax credit.

b. Department of revenue publications relating to the state earned income tax credit.

c. Information prepared by tax preparers who provide volunteer or free federal or state income tax preparation services to low-income and other eligible persons and who are located in close geographic proximity to the person.

3. In January of each year, the department or a representative of the department shall mail to each household described in subsection 1 information about the federal and state earned income tax credit that provides the household with referrals to the resources described in subsection 2.

4. The mailings required by the department under this section do not have to be made as a separate mailing but may be included in existing mailings being made to the appropriate households.

Sec. 2. Section 252B.5, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. a. In order to maximize the amount of any tax refund to which an obligor may be entitled and which may be applied to child support and medical support obligations, cooperate with any volunteer or free income tax assistance programs in the state in informing obligors of the availability of the programs.

b. The child support recovery unit shall publicize the services of the volunteer or free income tax assistance programs by distributing printed materials regarding the programs.

Approved May 10, 2008

CHAPTER 1158

TRANSPORTATION TAGS ON ANTLERED DEER

H.F. 2177

AN ACT relating to the placement of deer transportation tags on antlered deer that have been taken pursuant to a deer hunting license.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 483A.8, subsection 2, Code Supplement 2007, is amended to read as follows:

2. The deer hunting license shall be accompanied by a tag designed to be used only once. When a deer is taken, the deer shall be tagged and the tag shall be dated. For each antlered deer taken, the tag shall be affixed to the deer's antlers.

Approved May 10, 2008

CHAPTER 1159

TALLY OF ABSENTEE VOTES BY PRECINCT

H.F. 2367

AN ACT relating to the tally of absentee votes by precinct at certain elections.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 53.20, Code 2007, is amended to read as follows:

53.20 SPECIAL PRECINCT ESTABLISHED.

1. There is established in each county a special precinct to be known as the absentee ballot and special voters precinct. Its jurisdiction shall be conterminous with the borders of the county, for the purposes specified by sections 53.22 and 53.23, and the requirement that precincts not cross the boundaries of legislative districts shall not be applicable to it. The commissioner shall draw up an election board panel for the special precinct in the manner prescribed by section 49.15, having due regard for the nature and extent of the duties required of members of the election board and the election officers to be appointed from the panel.

2. Results from the special precinct shall be reported separately from the results of the ballots cast at the polls on election day. The commissioner shall for general elections also report

the results of the special precinct by the resident precincts of the voters who cast absentee and provisional ballots. For all other elections, the commissioner may report the results of the special precinct by the resident precincts of the voters who cast absentee and provisional ballots, or may report the absentee results as a single precinct. The separate residence precinct reports shall be provided in one of the following ways:

a. The commissioner may manually sort the absentee ballots by precinct upon receipt of completed ballots. Each group of ballots from an individual precinct shall be tallied together.

b. The commissioner may prepare a separate absentee ballot style for each precinct in the county and shall program the voting system to produce reports by the resident precincts of the voters.

Approved May 10, 2008

CHAPTER 1160

REGULATION OF BANKING, DEBT MANAGEMENT, DELAYED DEPOSIT SERVICES, MORTGAGE BANKING, AND INDUSTRIAL LOANS

H.F. 2556

AN ACT relating to the regulatory duties of the banking division of the department of commerce regarding banking, debt management, delayed deposit services, mortgage banking, and industrial loan companies, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 524.107, subsection 2, Code 2007, is amended to read as follows:

2. A person doing business in this state shall not use the words "bank" or "trust" or use any derivative, plural, or compound of the words "bank", "banking", "bankers", or "trust" in any manner which would tend to create the impression that the person is authorized to engage in the business of banking or to act in a fiduciary capacity, except a state bank authorized to do so by this chapter, a national bank to the extent permitted by the laws of the United States, a bank holding company as defined in section 524.1801, a savings and loan holding company as defined in 12 U.S.C. § 1467a, a state association pursuant to section 534.507, or a federal association to the extent permitted by the laws of the United States, or, insofar as the word "trust" is concerned, an individual permissibly serving as a fiduciary in this state, pursuant to section 633.63, or, insofar as the words "trust" and "bank" are concerned, a nonresident corporate fiduciary permissibly serving as a fiduciary in this state pursuant to section 633.64.

Sec. 2. Section 524.203, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

524.203 SUPERINTENDENT — VACANCY.

If the office of the superintendent of banking is vacant, the chief of the bank bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If the chief of the bank bureau is unable to serve, the chief of the finance bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent. If both the chief of the bank bureau and the chief of the finance bureau are unable to serve, the chief of the professional licensing and regulation bureau of the banking division shall be the acting superintendent until the governor appoints a new superintendent or acting superintendent.

Sec. 3. Section 524.211, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The superintendent, general counsel, examiners, and other employees assigned to the bank bureau of the banking division are prohibited from obtaining a loan of money or property from a state-chartered bank, a state savings and loan association, or any person or entity affiliated with a state-chartered bank or a state savings and loan association, unless they do not personally participate in the examination, oversight, or official review concerning the regulation of the bank or savings and loan association.

Sec. 4. Section 524.212, Code Supplement 2007, is amended to read as follows:

524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY INFORMATION.

1. The superintendent, members of the state banking council, general counsel, examiners, or other employees of the banking division shall not disclose, in any manner, to any person other than the person examined and those regulatory agencies referred to in section 524.217, subsection 2, any information relating specifically to the supervision and regulation of any state bank, persons subject to the provisions of chapter 533A, 533C, 536, or 536A, any affiliate of any state bank, or an affiliate of a person subject to the provisions of chapter 533A, 533C, 536, or 536A, except when ordered to do so by a court of competent jurisdiction and then only in those instances referred to in section 524.215, subsection 2, paragraphs "a", "b", "c", and "e".

2. The superintendent may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the conference of state bank supervisors and its affiliates or subsidiaries, the American association of mortgage regulators and its affiliates or subsidiaries, and the national association of consumer credit administrators and its affiliates or subsidiaries, and shall maintain as confidential and privileged any such document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

Sec. 5. Section 524.216, subsection 2, paragraph c, Code Supplement 2007, is amended to read as follows:

c. A statement of the receipts and disbursements of funds of the superintendent during the ~~calendar~~ fiscal year ending on the preceding ~~December 31~~ June 30 and of the funds on hand on such ~~December 31~~ June 30.

Sec. 6. NEW SECTION. 524.229 EMERGENCY POWERS OF SUPERINTENDENT.

Whenever the superintendent determines that an emergency affecting one or more state-chartered banks or bank offices exists, or is impending, in this state or in any part or parts of this state, the superintendent may temporarily suspend applicable rules or statutes to the extent necessary to allow the affected bank or banks to respond to the emergency.

Sec. 7. Section 524.312, subsection 2, Code 2007, is amended to read as follows:

2. A state bank may, with the prior written approval of the superintendent, change the location of its principal place of business to a new location within the state. ~~A change of location shall be limited to another location in the same municipal corporation, to a location in a municipal corporation in the same county, or to a location in a municipal corporation in a county that is contiguous to or touching or cornering on the county in which the state bank is located. If a state bank has its principal place of business in an unincorporated area, the superintendent may authorize a change of location of its principal place of business to a new location within the same unincorporated area as well as to any location referred to in this subsection.~~

Sec. 8. Section 524.1607, Code 2007, is amended to read as follows:

524.1607 FALSE STATEMENT FOR CREDIT.

1. For the purposes of this section, unless the context otherwise requires:

a. "Financial institution" means a financial institution as defined in 18 U.S.C. § 20.

b. "Mortgage banker" means a person who makes or originates mortgage loans on real property located in this state.

c. "Mortgage broker" means a person who arranges or negotiates, or attempts to arrange or negotiate, mortgage loans on real property located in this state.

2. Any person who knowingly makes or causes to be made, directly or indirectly, any false statement in writing, or who procures, knowing that a false statement in writing has been made concerning the financial condition or means or ability to pay of such person, or any other person in which such person is interested or for whom such person is acting, with the intent that such statement shall be relied upon by a ~~bank~~ financial institution, a mortgage banker, a mortgage broker, or any other entity licensed by the banking division for the purpose of procuring the delivery of property, the payment of cash or the receipt of credit in any form, for the benefit of such person or of any other person in which such person is interested or for whom such person is acting, shall be guilty of a fraudulent practice.

Sec. 9. Section 533A.2, subsections 1 and 2, Code Supplement 2007, are amended to read as follows:

1. A person shall not engage in the business of debt management in this state without a license as provided for in this chapter unless exempt under subsection 2. A person engages in the business of debt management in this state if the person solicits, on behalf of the person or another person, to provide, or enters into a contract with one or more debtors to provide debt management to a debtor who resides in this state.

2. The following persons, including employees of such persons, shall not be required to be licensed ~~when engaged in the regular course of their respective businesses and professions~~ or to otherwise comply with the provisions of this chapter:

a. ~~Attorneys at law~~ A licensed attorney admitted to practice in this state acting solely as an incident to the practice of law.

b. Banks, savings and loan associations, credit unions, mortgage bankers and mortgage brokers licensed or registered under chapter 535B, insurance companies and similar fiduciaries, regulated loan companies licensed under chapter 536, and industrial loan companies licensed under chapter 536A, authorized and admitted to transact business in this state and performing credit and financial adjusting in the regular course of their principal business, or while performing an escrow function.

c. Abstract companies, while performing an escrow function.

d. Employees of licensees under this chapter, while performing services for the employee's licensed employer.

e. Judicial officers or others acting under court orders.

f. Nonprofit religious, fraternal, or cooperative organizations offering to debtors gratuitous debt-management service.

g. Those persons whose principal business is the origination of first mortgage loans on real estate for their own portfolios or for sale to institutional investors.

Sec. 10. Section 533A.7, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

533A.7 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has been convicted of a felony or of an indictable misdemeanor for financial gain.

b. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has violated any of the provisions of this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

c. The licensee, or an owner, partner, member, shareholder, officer, director, or manager

of the licensee, has engaged in fraud or deceit in procuring the issuance of a license or renewal under this chapter.

d. The licensee, or an owner, partner, member, shareholder, officer, director, or manager of the licensee, has engaged in unfair conduct.

e. The licensee is insolvent, or has filed for bankruptcy, receivership, or assignment for the benefit of creditors.

f. The licensee fails to post the bond required by the provisions of this chapter or the superintendent receives notice that the required bond has been canceled.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent for a specified period of time.

c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a debtor.

Sec. 11. NEW SECTION. 533A.17 VIOLATIONS — INJUNCTIONS — CIVIL PENALTIES.

1. If the superintendent believes that a person has engaged in, or is about to engage in, an act or practice that constitutes or will constitute a violation of this chapter, the superintendent may apply to the district court for an order enjoining such act or practice. Upon a showing by the superintendent that such person has engaged, or is about to engage, in any such act or practice, the district court shall grant an injunction.

2. The superintendent may investigate or initiate complaints against persons who are not licensed under this chapter to determine whether the person is violating this chapter.

3. In addition to or as an alternative to applying to the district court for an injunction, the superintendent may issue an order to a person who is not licensed under this chapter to require compliance with this chapter, may impose a civil penalty against such person for any violation of this chapter in an amount up to five thousand dollars for each violation, and may order the person to pay restitution.

4. Before issuing an order under this section, the superintendent shall provide the person written notice and the opportunity to request a hearing. The hearing must be requested within thirty days after receipt of the notice and shall be conducted in the same manner as provided for in disciplinary proceedings involving a licensee under this chapter.

5. A person aggrieved by the imposition of a civil penalty under this section may seek judicial review pursuant to section 17A.19.

6. An action to enforce an order under this section may be joined with an action for an injunction.

Sec. 12. Section 533D.3, subsection 1, Code 2007, is amended to read as follows:

1. A person shall not operate a delayed deposit services business in this state unless the per-

son is physically located in this state and licensed by the superintendent as provided in this chapter.

Sec. 13. Section 533D.12, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

533D.12 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee or any of its officers, directors, shareholders, partners, or members has violated this chapter, any rule adopted by the superintendent, or any other state or federal law applicable to the conduct of its business.

b. The licensee has failed to pay a license fee required under this chapter or to maintain in effect the bond or bonds required under this chapter.

c. A fact or condition existing which, if it had existed at the time of the original application for the license, would have resulted in the denial of issuance of a license.

d. The licensee has abandoned its place of business for a period of sixty days or more.

e. The licensee fails to pay an administrative penalty or the cost of investigation as ordered by the superintendent.

f. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent or for a specified period of time.

c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a debtor.

Sec. 14. Section 535.8, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Lender" means a person who makes or originates a loan; a person who is identified as a lender on the loan documents; a person who arranges, negotiates, or brokers a loan; and a person who provides any goods or services as an incident to or as a condition required for the making or closing of the loan.

b. "Loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or a two-family dwelling occupied or to be occupied by the borrower. A loan includes the refinancing of a contract or sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

Sec. 15. Section 535B.2, Code 2007, is amended to read as follows:

535B.2 EXEMPTIONS.

This chapter, except for sections 535B.3, 535B.11, 535B.12, and 535B.13, does not apply to any of the following:

1. A bank, bank holding company, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States, or a subsidiary ~~or affiliate of~~ owned or controlled by such a bank, bank holding company, savings bank, savings and loan association, or credit union.

2. A loan company licensed under chapter 536 or 536A.

3. An insurance company or a subsidiary or affiliate of an insurance company organized under the laws of this state, another state, or the United States, and subject to regulation by the commissioner of insurance.

4. Mortgage lenders or mortgage bankers maintaining an office in this state whose principal business in this state is conducted with or through mortgage lenders or mortgage bankers otherwise exempt under this section and which maintain a place of business in this state.

~~5. An insurance producer licensed under chapter 522B.~~

~~6.~~ 5. An individual who is employed by a person otherwise exempt under this section, or who ~~is under an exclusive contract with~~, by contract, operates exclusively on behalf of a person otherwise exempt under this section to the extent that the individual is acting within the scope of the individual's employment or exclusive contract with the exempt person and is acting within the scope of the exempt person's charter, license, authority, approval, or certificate.

~~7.~~ 6. A real estate broker licensed under chapter 543B while engaged in practice as a real estate broker.

~~8.~~ 7. A nonprofit organization qualifying for tax-exempt status under the Internal Revenue Code as defined in section 422.3 which offers housing services to low and moderate income families.

Sec. 16. Section 535B.3, subsections 1 and 3, Code 2007, are amended to read as follows:

1. A person exempt under section 535B.2, subsection 4 or ~~8~~ 7, shall register with the administrator.

3. The registrant, except a nonprofit organization exempt under section 535B.2, subsection ~~8~~ 7, shall pay an annual registration fee of one hundred dollars.

Sec. 17. Section 535B.4, subsections 6 and 7, Code Supplement 2007, are amended to read as follows:

6. Licenses granted under this chapter expire on the next ~~June 30~~ December 31 after their issuance.

7. Applications for renewals of licenses and individual registrations under this chapter must be filed with the administrator before ~~June 1~~ December 1 of the year of expiration on forms prescribed by the administrator. A renewal application must be accompanied by a fee of two hundred dollars for a license to transact business solely as a mortgage broker, and four hundred dollars for a license to transact business as a mortgage banker. The fee to renew an individual registration shall be the fee determined pursuant to section 535B.4A. The administrator may assess a late fee of ten dollars per day for applications or registrations accepted for processing after ~~June~~ December 1.

Sec. 18. Section 535B.4, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. In addition to the application and renewal fees provided for in subsections 4 and 7, the administrator may assess application and renewal fees for each branch location of the licensee, sponsor fees, and change of sponsor fees.

Sec. 19. Section 535B.4A, Code 2007, is amended to read as follows:

535B.4A INDIVIDUAL REGISTRATION REQUIREMENTS — FEES.

1. A natural person who is a mortgage banker or mortgage broker and who is employed by,

under contract with, or is an agent of a licensee under section 535B.4 shall apply for an individual registration with the administrator and shall register annually with the administrator. The administrator shall collect registration fees necessary to cover the costs associated with the annual registrations ~~made pursuant to this section~~, including but not limited to sponsor fees and change of sponsor fees.

2. Beginning January 1, 2009, each applicant for an individual registration must meet the education and training requirements adopted by the administrator by rule. The education and training requirements may include a post-high school education requirement or a requirement that the applicant have successfully completed accredited courses covering specified subject matters. The administrator may incorporate any education and training criteria recommended by federal law, or by other financial regulators, self-regulatory organizations, or financial industry organizations.

3. Beginning January 1, 2009, each applicant for an individual registration must have passed an examination prescribed by the administrator within two years immediately prior to making the application to the administrator. An applicant who fails the examination once shall be allowed to take the examination up to two additional times, provided at least one month has elapsed since the applicant last took the examination. An applicant shall pay any fees associated with the examination.

~~2.~~ 4. An individual registrant who ~~registers~~ applies for an individual registration pursuant to this section ~~for the first time~~ shall submit to a national criminal history check through the federal bureau of investigation prior to being registered. The administrator may submit the registrant's fingerprints to the federal bureau of investigation by the department of public safety through the state criminal history repository for the purpose of a national criminal history check. The results of a criminal history check conducted pursuant to this subsection shall not be considered a public record under chapter 22. The administrator shall collect fees necessary to cover the costs associated with criminal history checks conducted pursuant to this section.

~~3.~~ 5. A person shall not be eligible for licensing pursuant to section 535B.4 unless all individual registrants employed by, under contract with, or who are agents of the person have successfully completed the registration and criminal background check required by this section.

~~4.~~ 6. The registration of an individual registrant pursuant to this section is not assignable.

~~5.~~ 7. The registration of an individual registrant pursuant to this section expires on ~~June 30~~ December 31 following the date of registration.

~~6.~~ 8. An individual registrant who fails to comply with the requirements of section 535B.9A shall not be ~~registered~~ renewed or the registration of the individual registrant may be suspended or revoked by the administrator.

Sec. 20. Section 535B.7, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Order the licensee or individual registrant to pay restitution.

Sec. 21. Section 535B.8, Code 2007, is amended to read as follows:

535B.8 OPERATING WITHOUT A LICENSE OR REGISTRATION.

A person, who without first obtaining a license or individual registration under this chapter, engages in the business or occupation of, or advertises or holds the person out as, or claims to be, or temporarily acts as, a mortgage banker or mortgage broker in this state is guilty of a class "D" felony and may be prosecuted by the attorney general or a county attorney.

Sec. 22. Section 535B.9, subsection 1, Code 2007, is amended to read as follows:

1. An applicant for a license shall file with the administrator a bond furnished by a surety company authorized to do business in this state, together with evidence of whether the applicant is seeking to transact business as a mortgage broker or as a mortgage banker. The bond shall be in the amount of ~~fifty thousand dollars~~ one hundred thousand dollars. The bond shall be continuous in nature until canceled by the surety with not less than thirty days' notice in

writing to the mortgage broker or mortgage banker and to the administrator indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

Sec. 23. Section 535B.10, subsection 2, Code 2007, is amended to read as follows:

2. For the purposes of discovering violations of this chapter or any related rules or for securing information lawfully required under this chapter, the administrator may at any time and as often as the administrator deems necessary, but in no event less frequently than once during each two-year period, investigate the business and examine the books, accounts, records, and files used by a licensee or individual registrant.

Sec. 24. Section 535B.10, subsection 6, paragraph b, Code 2007, is amended to read as follows:

b. The administrator may furnish information relating to the supervision of licensees and registrants to the federal agencies or federally related entities listed in subsection 3, the federal deposit insurance corporation, the federal reserve system, the office of the comptroller of the currency, the office of thrift supervision, the national credit union administration, the federal home loan bank, ~~and~~ a financial institution regulatory ~~authorities~~ authority of any other ~~states~~ state, a professional licensing authority of this state or any other state, or a law enforcement agency, or to any official or supervising examiner of such regulatory authorities.

Sec. 25. Section 536.3, Code 2007, is amended to read as follows:

536.3 BOND.

The applicant shall also at the same time file with the superintendent a bond to be approved by the superintendent in which the applicant shall be the obligor, with one or more sureties, in the sum of ~~one~~ twenty-five thousand dollars. The said bond shall run to the state for the use of the state and of any person or persons who may have a cause of action against the obligor of said bond under the provisions of this chapter. Such bond shall be conditioned that said obligor will faithfully conform to and abide by the provisions of this chapter and of all rules and regulations lawfully made by the superintendent hereunder, and will pay to the state and to any such person or persons any and all moneys that may become due or owing to the state or to such person or persons from said obligor under and by virtue of the provisions of this chapter.

Sec. 26. Section 536.6, unnumbered paragraph 1, Code 2007, is amended to read as follows:

If the superintendent shall find at any time that the bond is insecure or exhausted or otherwise of doubtful validity or collectibility, an additional bond to be approved by the superintendent, with one or more sureties and of the character specified in section 536.3, in the sum of not more than ~~one~~ twenty-five thousand dollars, shall be filed by the licensee within ten days after written demand upon the licensee by the superintendent.

Sec. 27. Section 536.9, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

536.9 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. The licensee has violated a provision of this chapter or a rule adopted under this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

b. A fact or condition exists which would have warranted the superintendent to refuse to originally issue the license.

c. The licensee has failed to pay the annual license fee or to maintain in effect the bond or bonds required under the provisions of this chapter.

d. The licensee is insolvent.

e. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent or for a specified period of time.

c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A revocation, suspension, or surrender of a license does not impair or affect the obligation of a preexisting lawful contract between the licensee and any person, including a borrower.

Sec. 28. Section 536.11, unnumbered paragraph 2, Code 2007, is amended to read as follows:

Each licensee shall annually on or before the fifteenth day of ~~March~~ April file a report with the superintendent giving such relevant information as the superintendent reasonably may require concerning the business and operations during the preceding calendar year of the licensed places of business conducted by such licensee within the state. Such report shall be made under oath and shall be in the form prescribed by the superintendent who shall make and publish annually an analysis and recapitulation of such reports.

Sec. 29. Section 536.12, Code 2007, is amended to read as follows:

536.12 RESTRICTIONS ON PRACTICES.

1. No licensee shall conduct the business of making loans under the provisions of this chapter within any office, room, suite or place of business in which any other business is solicited or engaged in, or in association or conjunction therewith, except as may be authorized in writing by the superintendent upon the superintendent's finding that the character of such other business is such that the granting of such authority would not facilitate evasions of this chapter or of the rules lawfully made by the superintendent hereunder.

2. No licensee shall make any loan provided for by this chapter under any other name or at any other place of business than that named in the license.

3. No licensee shall take any instrument in which blanks are left to be filled in after execution.

4. No licensee shall agree to obtain or arrange a residential mortgage for a potential borrower from a third person, unless the licensee also has a mortgage broker license and complies with all of the provisions of chapter 535B.

Sec. 30. Section 536.16, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Notwithstanding other provisions of this chapter to the contrary, a person who neither has an office physically located in this state nor engages in face-to-face solicitation in this state,

if authorized by another state to make loans in that state at a rate of finance charge in excess of the rate provided in chapter 535, shall not be subject to ~~the following provisions of this chapter:~~ section 536.10 to the extent it requires the superintendent to make an examination of the affairs, place of business, and records of the person on a periodic basis.

Sec. 31. Section 536.16, subsections 1 through 4, Code 2007, are amended by striking the subsections.

Sec. 32. NEW SECTION. 536A.7A BONDS.

1. An applicant for a license shall file with the superintendent a bond furnished by a surety company authorized to do business in this state. The bond shall be in the amount of twenty-five thousand dollars. The bond shall be continuous in nature until canceled by the surety with not less than thirty days notice in writing to the applicant and to the superintendent indicating the surety's intention to cancel the bond on a specific date. The bond shall be for the use of the state and any persons who may have causes of action against the applicant. The bond shall be conditioned upon the applicant's faithfully conforming to and abiding by this chapter and any rules adopted under this chapter and shall require that the surety pay to the state and to any persons all moneys that become due or owing to the state and to the persons from the applicant by virtue of this chapter.

2. In lieu of filing a bond, the applicant may pledge an alternative form of collateral acceptable to the superintendent, if the alternative collateral provides protection to the state and any aggrieved person that is equivalent to that provided by a bond.

Sec. 33. Section 536A.14, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Each licensee shall annually on or before the fifteenth day of ~~March~~ April file with the superintendent a report in writing showing the results of the operation of its industrial loan business for the previous calendar year, which reports shall contain:

Sec. 34. Section 536A.18, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

536A.18 DISCIPLINARY ACTION.

1. The superintendent may, after notice and hearing pursuant to chapter 17A, take disciplinary action against a licensee if the superintendent finds any of the following:

a. That the licensee has failed to pay the annual license fee required by this chapter or to maintain in effect the bond or bonds required under this chapter.

b. That the licensee has violated any of the provisions of this chapter or a rule adopted under this chapter or any other state or federal law, rule, or regulation applicable to the conduct of its business.

c. That the licensee has refused to submit to the examination required by this chapter.

d. That the licensee has neglected or refused for a period of more than thirty days to pay a final judgment rendered against it in the courts of this state.

e. That the licensee has become insolvent.

f. A fact or condition exists which would have warranted the superintendent to refuse to originally issue the license.

g. The licensee has violated an order of the superintendent.

2. The superintendent may impose one or more of the following disciplinary actions against a licensee:

a. Revoke a license.

b. Suspend a license until further order of the superintendent or for a specified period of time.

c. Impose a period of probation under specified conditions.

d. Impose civil penalties in an amount not to exceed five thousand dollars for each violation.

e. Issue a citation and warning respecting licensee behavior.

f. Order the licensee to pay restitution.

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A suspension, revocation, relinquishment, or expiration of a license shall not invalidate, impair, or affect the legality of obligations of any preexisting contracts, or prevent the enforcement or collection thereof.

7. Judicial review of the actions of the superintendent may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 35. Section 536A.23, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Obtain or arrange a residential mortgage loan for a potential borrower from a third person, unless the industrial loan company also has a mortgage broker license and complies with all provisions of chapter 535B.

Sec. 36. Section 558.70, subsection 4, Code Supplement 2007, is amended to read as follows:

4. This section applies to a contract seller who entered into four or more residential real estate 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 a person or organization listed in section 535B.2, subsections 1 through ~~7~~ 6.

Approved May 10, 2008

CHAPTER 1161

NATURAL RESOURCES REGULATION —
MISCELLANEOUS PROVISIONS

H.F. 2612

AN ACT relating to natural resources, including by providing for the powers and duties of the department's director and natural resource commission, and the regulation of public lands, waters, and outdoor recreation, providing for fees, providing for penalties and making penalties applicable and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
COUNTY RESOURCE ENHANCEMENT COMMITTEE

Section 1. Section 455A.20, subsection 1, paragraphs a and b, Code 2007, are amended to read as follows:

a. The chairpersons of the board of supervisors, county conservation board, commissioners

of the soil and water district, and board of directors of each school district in the county. A chairperson may appoint a ~~member of the chairperson's board or commission as the chairperson's~~ designee to serve on the committee. The chairperson or designee of a school district shall be a member of the county committee of the county in which a majority or the largest plurality of the district's students reside.

b. The mayor or the mayor's designee of each city in a county. ~~The mayor's designee shall be a member of the city council.~~ If a city is located in more than one county, the membership shall be on the county committee of the county in which the largest population of the city resides.

Sec. 2. Section 455A.20, subsection 1, paragraph e, Code 2007, is amended to read as follows:

e. (1) A representative of each of the following entities:

(a) A historic preservation commission or similar entity established by a county or city in the county.

(b) A private organization that provides recognition and protection for the historic buildings, structures, sites, and districts in a county or a city in the county.

(c) A historic museum or organization that maintains a collection of documents relating to the history of a county or a city in the county.

(2) A representative shall be appointed by the county's board of supervisors. If the board appoints a person representing an entity established by a city in the county, the board shall consult with the city authority that established the entity.

~~e.~~ f. If a question arises as to whether a recognized county organization exists under paragraph "c" or "d", the question shall be decided by a majority vote of the members selected under paragraphs "a" and "b", excluding the representative of the county conservation board. Sections 69.16 and 69.16A do not apply to appointments made pursuant to this subsection.

DIVISION II
OPERATION OF ALL-TERRAIN
VEHICLES AND
RIDING AREAS AND TRAILS FOR ALL-TERRAIN VEHICLES

Sec. 3. Section 321I.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The operation or maintenance of designated riding areas and designated riding trails.

Sec. 4. Section 321I.14, subsection 3, Code Supplement 2007, is amended to read as follows:

3. a. A person shall not operate an all-terrain vehicle with more persons on the vehicle than it was designed to carry.

b. Paragraph "a" does not apply to a person who operates an all-terrain vehicle as part of a farm operation as defined in section 352.2.

Sec. 5. NEW SECTION. 321I.15A CIVIL PENALTY AND RESTITUTION.

Upon conviction for a violation of section 321I.14, subsection 1, paragraph "e", "f", or "g", the defendant, in addition to any other penalty including the criminal penalty provided in section 321I.15, shall be subject to civil remedies as follows:

1. a. The court may assess the defendant a civil penalty of two hundred fifty dollars. The civil penalty shall be deposited in the special all-terrain vehicle fund created pursuant to section 321I.8.

b. The court may order the defendant to pay restitution to the titleholder of land for damages caused by the defendant's violation, to the extent that the titleholder consents to joining the action, and the titleholder's damages are established at trial. If the titleholder is the state, the amount of restitution ordered to be paid by the court shall be deposited in the special all-terrain

vehicle fund created pursuant to section 321I.8. If the titleholder is a governmental entity other than the state, the moneys shall be paid to the governmental entity for deposit in any fund or account from which moneys are used for the maintenance, repair, or improvement of the land where the damage occurred.

2. The attorney general or a county attorney who prosecutes the criminal violation shall execute the civil judgment, in cooperation with the commission, as any other civil judgment.

DIVISION III
CONSTRUCTION ON STATE-OWNED OR STATE-MANAGED LAND OR WATERS

Sec. 6. Section 461A.4, Code 2007, is amended to read as follows:

461A.4 CONSTRUCTION ~~PERMIT — RULES —~~ OF STRUCTURES AND OPERATION OF COMMERCIAL CONCESSIONS.

1. a. A person~~, association, or corporation~~ shall not ~~build or erect any~~ construct a structure including but not limited to a pier, wharf, sluice, piling, wall, fence, obstruction, erection, or building~~, or erection of any kind~~ upon or over any state-owned or state-managed land or water under the jurisdiction of the commission, without first obtaining from the commission a written permit. A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the environmental protection commission of the department. A person shall not construct or maintain ~~or erect any~~ a structure beyond the line of private ownership along or upon the shores of state-owned or state-managed waters in a manner to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

b. ~~It shall be the duty of the~~ The commission ~~to~~ shall adopt and enforce rules governing and regulating the ~~building or erection~~ construction of ~~any such pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind, and said~~ a structure as provided in this subsection. The commission may prohibit~~,~~ or restrict its construction, or order the ~~removal thereof~~ owner to remove the structure, when ~~in~~ the ~~judgment of said~~ commission determines that it ~~will be for~~ is in the best interest of the public. The commission shall comply with the provisions of chapter 17A when issuing an order under this section.

~~Any person, firm, association, or corporation violating any of the provisions of this section or any rule adopted by the commission under the authority of this section shall be guilty of a simple misdemeanor.~~

2. A person~~, association, or corporation~~ shall not operate a commercial concession in a park, forest, fish and wildlife area, or recreation area under the jurisdiction of the department without first entering into a written contract with the department. The contract shall state the consideration and other terms under which the concession may be operated. The department may cancel or, in an emergency, suspend a concession contract for the protection of the public health, safety, morals, or welfare.

Sec. 7. NEW SECTION. 461A.5A INJUNCTIVE RELIEF.

If it appears to the department that a person is violating or about to violate a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4, the department may refer the matter to the attorney general, who may bring an action in the district court in any county of the state for an injunction to restrain the person from committing the violation. Upon a proper showing, the court may order a permanent or temporary injunction. The state shall not be required to post a bond.

Sec. 8. NEW SECTION. 461A.5B PENALTIES.

1. Except as provided in subsection 2, a person who violates a provision of section 461A.4 or of a departmental rule or refuses to comply with an order issued by the commission pursuant to section 461A.4 is guilty of a simple misdemeanor.

2. The state may proceed against a person who violates a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4 by initiat-

ing an alternative civil enforcement action in lieu of a criminal prosecution. The amount of the civil penalty shall not exceed five thousand dollars. Each day of a violation shall be considered a separate offense. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A if the amount of the civil penalty is not more than ten thousand dollars or as a civil judicial proceeding by the attorney general upon referral by the department. In a contested case proceeding, the department may impose, assess, and collect the civil penalty.

Sec. 9. Section 461A.6, Code 2007, is amended to read as follows:

461A.6 COSTS — LIEN.

The cost of ~~such removal~~ removing a structure as provided in section 461A.4 shall be paid by ~~the~~ its owner ~~of said pier, wharf, sluice, piling, wall, fence, obstruction, erection or building~~, and the state shall have a lien upon the property ~~removed for such costs~~ for the cost of removal. ~~Said~~ The costs shall be payable at the time of removal and such lien may be enforced and foreclosed, as provided for the foreclosure of security interests in uniform commercial code, chapter 554, article 9, part 6.

Sec. 10. Section 461A.5, Code 2007, is repealed.

DIVISION IV
WATER SAFETY

Sec. 11. Section 462A.12, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. A person shall not operate a vessel on the waters of this state under the jurisdiction of the commission unless every person on board the vessel who is under thirteen years of age is wearing a type I, II, III, or V personal flotation device, including "float coats" that meet this definition, that is approved by the United States coast guard, while the vessel is under way. This subsection does not apply when the person under thirteen years of age is in an enclosed cabin or below deck, or is a passenger on a commercial vessel with a passenger capacity of twenty-five persons or more.

Sec. 12. WARNING CITATIONS — TWELVE-MONTH PERIOD. During the twelve-month period beginning on the effective date of section 462A.12, subsection 15, as enacted in this division of this Act, peace officers shall issue only warning citations for a violation of such subsection.

Sec. 13. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V
DRIVING OVER ICE

Sec. 14. Section 462A.33, Code 2007, is amended to read as follows:

462A.33 DRIVING OVER ICE.

1. A person operating a craft or vehicle ~~operating~~ propelled by sail or by machinery in whole or in part shall not operate the craft or vehicle on the surface of ice on the lakes and streams of this state including but not limited to boundary streams and lakes ~~and propelled by sail or by machinery in whole or in part, except~~ unless the commission issues the person a permit.

2. Subsection 1 does not apply to automobiles, motorcycles ~~and~~, or trucks registered under chapter 321; ~~or~~ snowmobiles registered under chapter 321G; or all-terrain vehicles, off-road motorcycles, or off-road utility vehicles registered under 321I,[1] when ~~they~~ any of those vehicles are used without endangering public safety~~, shall not be operated without a permit issued by the commission for the operation. A permit may be revoked by the commission if the craft or vehicle is operated in a careless manner which endangers others.~~

[1] According to enrolled Act; the phrase "chapter 321I," probably intended

3. Except when authorized by a permit for a special event, persons shall not operate automobiles, motorcycles, ~~and~~ trucks ~~when used~~, all-terrain vehicles, off-road motorcycles, or off-road utility vehicles on the ice of waters under the jurisdiction of the commission ~~shall not exceed fifteen miles per hour and shall be operated in a~~ at a rate of speed greater than is reasonable ~~and prudent manner~~ or proper under all existing circumstances.

4. A permit issued by the commission pursuant to this section may be suspended or revoked by the commission if a craft or vehicle is operated in a careless manner which endangers others.

DIVISION VI
REPORTING HUNTING INCIDENTS

Sec. 15. Section 481A.18, Code 2007, is amended to read as follows:

481A.18 HUNTING ~~ACCIDENTS~~ INCIDENTS — MANDATORY REPORTING.

~~A~~ This section applies to a person who is involved in a hunting ~~accident~~ incident with a firearm ~~and the accident~~ or a fall from a device that allows or assists a person to hunt from an elevated location, if the hunting incident results in an injury to a person, or property damage exceeding one hundred dollars~~,~~. The person shall report the ~~accident~~ hunting incident to the sheriff's office in the county where the ~~accident~~ hunting incident occurred or to the department within twelve hours after the ~~accident~~ hunting incident occurred. ~~If~~ However, if an injury ~~in~~ caused by the ~~accident~~ hunting incident prevents timely reporting, the person shall make the report ~~shall be made~~ as soon as practicable. ~~Failure~~ A person who fails to report the hunting incident as required in this section is guilty of a simple misdemeanor.

DIVISION VII
RECIPROCITY

Sec. 16. Section 481A.19, Code 2007, is amended to read as follows:

481A.19 RECIPROCITY OF STATES.

1. a. Any person licensed by the ~~authorities~~ authority of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, ~~and~~ or South Dakota to take fish, game, mussels, or fur-bearing animals from or in the waters forming the boundary between such ~~states~~ state and Iowa, may take ~~them~~ such fish, game, mussels, or fur-bearing animals from that portion of said waters lying within the territorial jurisdiction of this state, without having procured a license ~~therefor~~ for it from the director of this state, in the same manner that persons holding Iowa licenses may do, if the laws of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota, respectively, extend a similar privilege to persons so licensed under the laws of Iowa.

b. Any person licensed by the authority of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota to take fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of any of those states may take such fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of the commission when such land is wholly surrounded by that respective state, without having procured a license from the director of this state, in the same manner that persons holding Iowa licenses may do, if the laws of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota, respectively, extend a similar privilege to persons so licensed under the laws of Iowa.

2. Any privileges conferred by this section shall be subject to a reciprocal agreement as negotiated by the commission and the authority of a state provided in subsection 1 which confers upon a licensee of this state reciprocal rights, privileges, and immunities as provided in section 483A.31.

Sec. 17. Section 483A.31, Code 2007, is amended to read as follows:

483A.31 RECIPROCAL ~~FISHING~~ PRIVILEGES AUTHORIZED.

1. Reciprocal fishing, hunting, or trapping privileges are contingent upon a grant of similar privileges by another state to residents of this state.

2. The commission may negotiate fishing, hunting, or trapping reciprocity agreements with other states.

3. When another state confers upon fishing, hunting, or trapping licensees of this state reciprocal rights, privileges, and immunities, a fishing, hunting, or trapping license issued by that state entitles the licensee to all rights, privileges, and immunities in the public waters or public lands of this state enjoyed by the holders of equivalent licenses issued by this state, subject to duties, responsibilities, and liabilities imposed on its own licensees by the laws of this state.

DIVISION VIII
SPECIAL HUNTING AND FISHING LICENSES

Sec. 18. Section 483A.24, subsection 13, Code Supplement 2007, is amended to read as follows:

13. Upon payment of the fee of five dollars for a lifetime fishing license or lifetime hunting and fishing combined license, the department shall issue a lifetime fishing license or lifetime hunting and fishing combined license to a resident of Iowa who ~~is a veteran, as defined in section 35.1, or~~ has served in the armed forces of the United States ~~for a minimum aggregate of ninety days of~~ on active federal service and who was disabled or was a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a lifetime fishing license or lifetime hunting and fishing combined license under this subsection. The department of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "disabled" means entitled to ~~compensation~~ a service connected rating under the United States Code, Title 38, ch. 11.

DIVISION IX
HUNTER EDUCATION TRAINING

Sec. 19. Section 483A.27, subsections 1, 3, 6, and 11, Code Supplement 2007, are amended to read as follows:

1. A person born after January 1, 1972, shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course approved by the commission. A person who is eleven years of age or more may enroll in an approved hunter safety and ethics education course, but a person who is eleven years of age and who has successfully completed the course shall be issued a certificate of completion which becomes valid on the person's twelfth birthday. A certificate of completion from an approved hunter safety and ethics education course issued in this state ~~since 1960~~, or a certificate issued by another state, ~~or by a foreign nation,~~ country, or province that meets the standards adopted by the international hunter education association is valid for the requirements of this section.

3. The department shall provide a manual ~~on~~ regarding hunter safety and ethics education which shall be used by all instructors and persons receiving hunter safety and ethics education training in this state. The department may produce the manual in a print or electronic format accessible from a computer, including from a data storage device or the department's internet site.

6. A public or private school accredited pursuant to section 256.11 or an organization approved by the department may ~~co-operate~~ cooperate with the department in providing a course in hunter safety and ethics education or shooting sports activities as provided in this section.

11. ~~A hunter safety and ethics~~ An instructor certified by the department shall be allowed to conduct ~~an~~ a departmental approved hunter safety and ethics education course or shooting sports activities course on public school property with the approval of a majority of the board of directors of the school district. ~~The conduct of~~ Conducting an approved hunter safety and ethics education course or shooting sports activities course is not a violation of any public poli-

cy, rule, regulation, resolution, or ordinance which prohibits the possession, display, or use of a firearm, bow and arrow, or other hunting weapon on public school property or other public property in this state.

DIVISION X
USE OF LASER SIGHTS BY BLIND HUNTERS

Sec. 20. Section 481A.93, subsection 2, Code 2007, is amended to read as follows:

2. This section does not apply to ~~deer~~ any of the following:

a. Deer being taken by or under the control of a local governmental body within its corporate limits pursuant to an approved special deer population control plan.

b. A person who is totally blind using a laser sight on a bow or gun while hunting, if all of the following apply:

(1) The person's total blindness is supported by medical evidence produced by an eye care professional who is an ophthalmologist, optometrist, or medical doctor. The eye care professional must certify that the person has no vision or light perception in either eye. The certification must be carried on the person of the totally blind person and made available for inspection by the department.

(2) The totally blind person is accompanied and aided by a person who is at least eighteen years of age and whose vision is not seriously impaired. The accompanying person must have a hunting license and pay the wildlife habitat fee as provided in section 483A.1 if applicable. During the hunt, the accompanying adult must be within arm's reach of the totally blind person, and must be able to identify the target and the location of the laser sight beam on the target. A person other than the totally blind person shall not shoot the laser sight-equipped gun or bow.

DIVISION XI
TRESPASSING WHILE HUNTING

Sec. 21. Section 716.8, subsection 5, Code Supplement 2007, is amended to read as follows:

5. A person who commits a trespass ~~as defined in section 716.7, subsection 2, paragraph "a", and takes a~~ while hunting deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, commits a simple misdemeanor. The person shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131. A deer taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12.

DIVISION XII
CITATION IN LIEU OF ARREST

Sec. 22. Section 805.8B, subsection 5, Code Supplement 2007, is amended to read as follows:

5. AQUATIC INVASIVE SPECIES VIOLATIONS. For violations of section 456A.37, subsection 5, the scheduled fine is ~~one~~ five hundred dollars.

Approved May 10, 2008

CHAPTER 1162

LIMITED LIABILITY COMPANIES

H.F. 2633

AN ACT relating to business associations, by providing for limited liability companies and conversion involving corporations, providing fees and penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
UNIFORM ACT PROVISIONS
ARTICLE 1
GENERAL PROVISIONS

Section 1. NEW SECTION. 489.101 SHORT TITLE.
This chapter may be cited as the "Revised Uniform Limited Liability Company Act".

Sec. 2. NEW SECTION. 489.102 DEFINITIONS.
As used in this chapter:
1. "Certificate of organization" means the certificate required by section 489.201. The term includes the certificate as amended or restated.
2. "Contribution" means any benefit provided by a person to a limited liability company that is any of the following:
a. In order to become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company.
b. In order to become a member after formation of the company and in accordance with an agreement between the person and the company.
c. In the person's capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.
3. "Debtor in bankruptcy" means a person that is the subject of any of the following:
a. An order for relief under Title 11 of the United States Code or a successor statute of general application.
b. A comparable order under federal, state, or foreign law governing insolvency.
4. "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery in person, by mail, commercial delivery, and electronic transmission.
5. "Distribution", except as otherwise provided in section 489.405, subsection 6, means a transfer of money or other property from a limited liability company to another person on account of a transferable interest.
6. "Domestic cooperative" means an entity organized on a cooperative basis under chapter 497, 498, or 499 or a cooperative organized under chapter 501 or 501A.
7. "Effective", with respect to a record required or permitted to be delivered to the secretary of state for filing under this chapter, means effective under section 489.205, subsection 3.
8. "Electronic transmission" 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.
9. "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.
10. "Limited liability company", except in the phrase "foreign limited liability company", means an entity formed under this chapter.

11. "Manager" means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in section 489.407, subsection 3.

12. "Manager-managed limited liability company" means a limited liability company that qualifies under section 489.407, subsection 1.

13. "Member" means a person that has become a member of a limited liability company under section 489.401 and has not dissociated under section 489.602.

14. "Member-managed limited liability company" means a limited liability company that is not a manager-managed limited liability company.

15. "Operating agreement" means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in section 489.110, subsection 1. The term includes the agreement as amended or restated.

16. "Organizer" means a person that acts under section 489.201 to form a limited liability company.

17. "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

18. "Principal office" means the principal executive office of a limited liability company or foreign limited liability company, whether or not the office is located in this state.

19. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

20. "Registered office" means any of the following:

a. The office that a limited liability company is required to designate and maintain under section 489.113.

b. The principal office of a foreign limited liability company.

21. "Sign" means, with the present intent to authenticate or adopt a record to do any of the following:

a. Execute or adopt a tangible symbol.

b. Attach to or logically associate with the record an electronic symbol, sound, or process.

22. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

23. "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, or transfer by operation of law.

24. "Transferable interest" means the right, as originally associated with a person's capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right.

25. "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

Sec. 3. NEW SECTION. 489.103 KNOWLEDGE — NOTICE.

1. A person knows a fact when the person has or is any of the following:

a. Has actual knowledge of it.

b. Is deemed to know it under subsection 4, paragraph "a", or law other than this chapter.

2. A person has notice of a fact when the person has or is any of the following:

a. Has reason to know the fact from all of the facts known to the person at the time in question.

b. Is deemed to have notice of the fact under subsection 4, paragraph "b".

3. A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

4. A person that is not a member is deemed both of the following:

a. To know of a limitation on authority to transfer real property as provided in section 489.302, subsection 7.

b. To have notice of all of the following regarding a limited liability company's:

(1) Dissolution, ninety days after a statement of dissolution under section 489.702, subsection 2, paragraph "b", subparagraph (1), becomes effective.

(2) Termination, ninety days after a statement of termination under section 489.702, subsection 2, paragraph "b", subparagraph (6), becomes effective.

(3) Merger, conversion, or domestication, ninety days after articles of merger, conversion, or domestication under article 10 become effective.

Sec. 4. NEW SECTION. 489.104 NATURE, PURPOSE, AND DURATION OF LIMITED LIABILITY COMPANY.

1. A limited liability company is an entity distinct from its members.

2. A limited liability company may have any lawful purpose, regardless of whether for profit.

3. A limited liability company has perpetual duration.

Sec. 5. NEW SECTION. 489.105 POWERS.

1. Except as otherwise provided in subsection 2, a limited liability company has the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities.

2. Until a limited liability company has or has had at least one member, the company lacks the capacity to do any act or carry on any activity except all of the following:

a. Delivering to the secretary of state for filing a statement of change under section 489.114, an amendment to the certificate under section 489.202, a statement of correction under section 489.206, a biennial report under section 489.209, or a statement of termination under section 489.702, subsection 2, paragraph "b", subparagraph (6).

b. Admitting a member under section 489.401.

c. Dissolving under section 489.701.

3. A limited liability company that has or has had at least one member may ratify an act or activity that occurred when the company lacked capacity under subsection 2.

Sec. 6. NEW SECTION. 489.106 GOVERNING LAW.

The law of this state governs all of the following:

1. The internal affairs of a limited liability company.

2. The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

Sec. 7. NEW SECTION. 489.107 SUPPLEMENTAL PRINCIPLES OF LAW.

Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

Sec. 8. NEW SECTION. 489.108 NAME.

1. The name of a limited liability company must contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

2. Unless authorized by subsection 3, the name of a limited liability company must be distinguishable in the records of the secretary of state from all of the following:

a. The name of each person that is not an individual and that is incorporated, organized, or authorized to transact business in this state.

b. Each name reserved under section 489.109.

3. A limited liability company may apply to the secretary of state for authorization to use a name that does not comply with subsection 2. The secretary of state shall authorize use of the name applied for if, as to each of the following noncomplying names:

a. The present user, registrant, or owner of the noncomplying name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the noncomplying name to a name that complies with subsection 2 and is distinguishable in the records of the secretary of state from the name applied for.

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court establishing the applicant's right to use in this state the name applied for.

4. A limited liability company may use the name, including the fictitious name, of another entity that is used in this state if the other entity is formed under the law of this state or is authorized to transact business in this state and the proposed user limited liability company meets any of the following conditions:

a. Has merged with the other entity.

b. Has been formed by reorganization of the other entity.

c. Has acquired all or substantially all of the assets, including the name, of the other entity.

5. This article does not control the use of fictitious names. However, if a limited liability company uses a fictitious name in this state, it shall deliver to the secretary of state for filing a certified copy of the resolution of its members if it is member-managed or its managers if it is manager-managed, adopting the fictitious name.

6. Subject to section 489.805, this section applies to a foreign limited liability company transacting business in this state which has a certificate of authority to transact business in this state or which has applied for a certificate of authority.

Sec. 9. NEW SECTION. 489.109 RESERVATION OF NAME.

1. A person may reserve the exclusive use of the name of a limited liability company, including a fictitious or assumed name for a foreign limited liability company whose name is not available, by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the name applied for is available, it must be reserved for the applicant's exclusive use for a one-hundred-twenty-day period.

2. The owner of a name reserved for a limited liability company may transfer the reservation to another person by delivering to the secretary of state for filing a signed notice of the transfer which states the name and address of the transferee.

Sec. 10. NEW SECTION. 489.110 OPERATING AGREEMENT — SCOPE, FUNCTION, AND LIMITATIONS.

1. Except as otherwise provided in subsections 2 and 3, the operating agreement governs all of the following:

a. Relations among the members as members and between the members and the limited liability company.

b. The rights and duties under this chapter of a person in the capacity of manager.

c. The activities of the company and the conduct of those activities.

d. The means and conditions for amending the operating agreement.

2. To the extent the operating agreement does not otherwise provide for a matter described in subsection 1, this chapter governs the matter.

3. An operating agreement shall not do any of the following:

a. Vary a limited liability company's capacity under section 489.105 to sue and be sued in its own name.

b. Vary the law applicable under section 489.106.

c. Vary the power of the court under section 489.204.

d. Subject to subsections 4 through 7, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty.

e. Subject to subsections 4 through 7, eliminate the contractual obligation of good faith and fair dealing under section 489.409, subsection 4.

f. Unreasonably restrict the duties and rights stated in section 489.410.

g. Vary the power of a court to decree dissolution in the circumstances specified in section 489.701, subsection 1, paragraphs "d" and "e".

h. Vary the requirement to wind up a limited liability company's business as specified in section 489.702, subsection 1, and subsection 2, paragraph "a".

i. Unreasonably restrict the right of a member to maintain an action under article 9.

j. Restrict the right to approve a merger, conversion, or domestication under section 489.1014 to a member that will have personal liability with respect to a surviving, converted, or domesticated organization.

k. Except as otherwise provided in section 489.112, subsection 2, restrict the rights under this chapter of a person other than a member or manager.

4. If not manifestly unreasonable, the operating agreement may do any of the following:

a. Restrict or eliminate the duty to do any of the following:

(1) As required in section 489.409, subsection 2, paragraph "a", and subsection 8, to account to the limited liability company and to hold as trustee for it any property, profit, or benefit derived by the member in the conduct or winding up of the company's business, from a use by the member of the company's property, or from the appropriation of a limited liability company opportunity.

(2) As required in section 489.409, subsection 2, paragraph "b", and subsection 8, to refrain from dealing with the company in the conduct or winding up of the company's business as or on behalf of a party having an interest adverse to the company.

(3) As required by section 489.409, subsection 2, paragraph "c", and subsection 8, to refrain from competing with the company in the conduct of the company's business before the dissolution of the company.

b. Identify specific types or categories of activities that do not violate the duty of loyalty.

c. Alter the duty of care, except to authorize intentional misconduct or knowing violation of law.

d. Alter any other fiduciary duty, including eliminating particular aspects of that duty.

e. Prescribe the standards by which to measure the performance of the contractual obligation of good faith and fair dealing under section 489.409, subsection 4.

5. The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

6. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

7. The operating agreement may alter or eliminate the indemnification for a member or manager provided by section 489.408, subsection 1, and may eliminate or limit a member's or manager's liability to the limited liability company and members for money damages, except for any of the following:

a. A breach of the duty of loyalty.

b. A financial benefit received by the member or manager to which the member or manager is not entitled.

c. A breach of a duty under section 489.406.

d. Intentional infliction of harm on the company or a member.

e. An intentional violation of criminal law.

8. The court shall decide any claim under subsection 4 that a term of an operating agreement is manifestly unreasonable. All of the following apply:

a. The court shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time.

b. The court may invalidate the term only if, in light of the purposes and activities of the limited liability company, it is readily apparent that any of the following applies:

(1) The objective of the term is unreasonable.
(2) The term is an unreasonable means to achieve the provision's objective.

Sec. 11. NEW SECTION. 489.111 OPERATING AGREEMENT — EFFECT ON LIMITED LIABILITY COMPANY AND PERSONS BECOMING MEMBERS — PREFORMATION AGREEMENT.

1. A limited liability company is bound by and may enforce the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

2. A person that becomes a member of a limited liability company is deemed to assent to the operating agreement.

3. Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that upon the formation of the company the terms will become the operating agreement.

4. An operating agreement in a signed record that excludes modification or recision except by a signed record cannot be otherwise modified or rescinded.

Sec. 12. NEW SECTION. 489.112 OPERATING AGREEMENT — EFFECT ON THIRD PARTIES AND RELATIONSHIP TO RECORDS EFFECTIVE ON BEHALF OF LIMITED LIABILITY COMPANY.

1. An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

2. The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member are governed by the operating agreement. Subject only to any court order issued under section 489.503, subsection 2, paragraph "b", to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member is effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member.

3. If a record that has been delivered by a limited liability company to the secretary of state for filing and has become effective under this chapter contains a provision that would be ineffective under section 489.110, subsection 3, if contained in the operating agreement, the provision is likewise ineffective in the record.

4. Subject to subsection 3, if a record that has been delivered by a limited liability company to the secretary of state for filing and has become effective under this chapter conflicts with a provision of the operating agreement, the following rules apply:

a. The operating agreement prevails as to members, dissociated members, transferees, and managers.

b. The record prevails as to other persons to the extent they reasonably rely on the record.

Sec. 13. NEW SECTION. 489.113 REGISTERED OFFICE AND REGISTERED AGENT FOR SERVICE OF PROCESS.

1. A limited liability company shall designate and continuously maintain in this state all of the following:

a. A registered office, which need not be a place of its activity in this state.

b. A registered agent for service of process.

2. A foreign limited liability company that has a certificate of authority under section 489.802 shall designate and continuously maintain in this state a registered agent for service of process.

3. A registered agent for service of process of a limited liability company or foreign limited liability company must be an individual who is a resident of this state or other person with authority to transact business in this state.

Sec. 14. NEW SECTION. 489.114 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT FOR SERVICE OF PROCESS.

1. A limited liability company or foreign limited liability company may change its registered office, its registered agent for service of process, or the address of its registered agent for service of process by delivering to the secretary of state for filing a statement of change containing all of the following:

a. The name of the company.

b. The street and mailing addresses of its current registered office.

c. If the current registered office is to be changed, the street and mailing addresses of the new registered office.

d. The name and street and mailing addresses of its current registered agent for service of process.

e. If the current registered agent for service of process or an address of the registered agent is to be changed, the new information.

2. Subject to section 489.205, subsection 3, a statement of change is effective when filed by the secretary of state.

Sec. 15. NEW SECTION. 489.115 RESIGNATION OF REGISTERED AGENT FOR SERVICE OF PROCESS.

1. To resign as a registered agent for service of process of a limited liability company or foreign limited liability company, the registered agent must deliver to the secretary of state for filing a statement of resignation containing the company name and stating that the registered agent is resigning.

2. The secretary of state shall file a statement of resignation delivered under subsection 1 and mail or otherwise provide or deliver a copy to the registered office of the limited liability company or foreign limited liability company and another copy to the principal office of the company if the mailing address of the principal office appears in the records of the secretary of state and is different from the mailing address of the registered office.

3. An agency for service of process terminates on the earlier of the following:

a. The thirty-first day after the secretary of state files the statement of resignation.

b. When a record designating a new registered agent for service of process is delivered to the secretary of state for filing on behalf of the limited liability company and becomes effective.

Sec. 16. NEW SECTION. 489.116 SERVICE OF PROCESS.

1. A registered agent for service of process appointed by a limited liability company or foreign limited liability company is an agent of the company for service of any process, notice, or demand required or permitted by law to be served on the company.

2. If a limited liability company has no registered agent, or the agent cannot with reasonable diligence be served, the limited liability company may be served by registered or certified mail, return receipt requested, addressed to the limited liability company at its principal office.

3. Service is effected under subsection 2 at the earliest of any of the following:

a. The date the limited liability company or foreign limited liability company receives the process, notice, or demand.

b. The date shown on the return receipt, if signed on behalf of the company.

c. Five days after the process, notice, or demand is deposited with the United States postal service, if correctly addressed and with sufficient postage.

4. This section does not affect the right to serve process, notice, or demand in any other manner provided by law.

Sec. 17. NEW SECTION. 489.117 FEES.

1. The secretary of state shall collect the following fees when documents described in this subsection are delivered to the secretary's office for filing:

a. Certificate of organization ..... $ 50

b. Application for use of indistinguishable name ..... $ 10

c. Application for reserved name ..... $ 10

d. Notice of transfer of reserved name ..... $ 10
e. Application for registered name per month or part thereof ..... No fee
f. Application for renewal of registered name ..... No fee
g. Statement of change of registered agent or registered office or both ..... No fee
h. Registered agent's statement of change of registered office for each affected limited liability company ..... No fee
i. Registered agent's statement of resignation ..... No fee
j. Amendment to certificate of organization ..... $ 50
k. Restatement of certificate of organization with amendment of certificate ..... $ 50
l. Articles of merger ..... $ 50
m. Statement of dissolution ..... $ 5
n. Declaration of administrative dissolution ..... No fee
o. Application for reinstatement following administrative dissolution ..... $ 5
p. Certificate of reinstatement ..... No fee
q. Application for certificate of authority ..... $ 100
r. Application for amended certificate of authority ..... $ 100
s. Statement of cancellation ..... $ 10
t. Certificate of revocation of authority to transact business ..... No fee
u. Statement of correction ..... $ 5
v. Application for certificate of existence or authorization ..... $ 5
w. Any other document required or permitted to be filed by this chapter ..... $ 5

2. The secretary of state shall collect a fee of five dollars each time process is served on the secretary under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

3. The secretary of state shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign limited liability company:

a. One dollar a page for copying.

b. Five dollars for the certificate.

ARTICLE 2
FORMATION — CERTIFICATE OF ORGANIZATION AND OTHER FILINGS

Sec. 18. NEW SECTION. 489.201 FORMATION OF LIMITED LIABILITY COMPANY — CERTIFICATE OF ORGANIZATION.

1. One or more persons may act as organizers to form a limited liability company by signing and delivering to the secretary of state for filing a certificate of organization.

2. A certificate of organization must state all of the following:

a. The name of the limited liability company, which must comply with section 489.108.

b. The street and mailing addresses of the initial registered office and the name and street and mailing addresses of the initial registered agent for service of process of the company.

3. Subject to section 489.112, subsection 3, a certificate of organization may also contain statements as to matters other than those required by subsection 2. However, a statement in a certificate of organization is not effective as a statement of authority.

4. A limited liability company is formed when the secretary of state has filed the certificate of organization, unless the certificate states a delayed effective date pursuant to section 489.205, subsection 3. If the certificate states a delayed effective date, a limited liability company is not formed if, before the certificate takes effect, a statement of cancellation is signed and delivered to the secretary of state for filing and the secretary of state files the certificate.

5. Subject to any delayed effective date and except in a proceeding by this state to dissolve a limited liability company, the filing of the certificate of organization by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

Sec. 19. NEW SECTION. 489.202 AMENDMENT OR RESTATEMENT OF CERTIFICATE OF ORGANIZATION.

1. A certificate of organization may be amended or restated at any time.

2. To amend its certificate of organization, a limited liability company must deliver to the secretary of state for filing an amendment stating all of the following:

a. The name of the company.

b. The date of filing of its certificate of organization.

c. The changes the amendment makes to the certificate as most recently amended or restated.

3. To restate its certificate of organization, a limited liability company must deliver to the secretary of state for filing a restatement, designated as such in its heading, stating all of the following:

a. In the heading or an introductory paragraph, the company's present name and the date of the filing of the company's initial certificate of organization.

b. If the company's name has been changed at any time since the company's formation, each of the company's former names.

c. The changes the restatement makes to the certificate as most recently amended or restated.

4. Subject to section 489.112, subsection 3, and section 489.205, subsection 3, an amendment to or restatement of a certificate of organization is effective when filed by the secretary of state.

5. If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly do any of the following:

a. Cause the certificate to be amended.

b. If appropriate, deliver to the secretary of state for filing a statement of change under section 489.114 or a statement of correction under section 489.206.

Sec. 20. NEW SECTION. 489.203 SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO SECRETARY OF STATE.

1. A record delivered to the secretary of state for filing pursuant to this chapter must be signed as follows:

a. Except as otherwise provided in paragraphs "b" and "c", a record signed on behalf of a limited liability company must be signed by a person authorized by the company.

b. A limited liability company's initial certificate of organization must be signed by at least one person acting as an organizer.

c. A record filed on behalf of a limited liability company that does not have or has not had at least one member must be signed by an organizer.

d. A record filed on behalf of a dissolved limited liability company that has no members must be signed by the person winding up the company's activities under section 489.702, subsection 3, or a person appointed under section 489.702, subsection 4, to wind up those activities.

e. A statement of cancellation under section 489.201, subsection 4, must be signed by each organizer that signed the initial certificate of organization, but a personal representative of a deceased or incompetent organizer may sign in the place of the decedent or incompetent.

f. A statement of denial by a person under section 489.303 must be signed by that person.

g. Any other record must be signed by the person on whose behalf the record is delivered to the secretary of state.

2. Any record filed under this chapter may be signed by an agent.

Sec. 21. NEW SECTION. 489.204 SIGNING AND FILING PURSUANT TO JUDICIAL ORDER.

1. If a person required by this chapter to sign a record or deliver a record to the secretary

of state for filing under this chapter does not do so, any other person that is aggrieved may petition the district court to order one or more of the following:

a. The person to sign the record.

b. The person to deliver the record to the secretary of state for filing.

c. The secretary of state to file the record unsigned.

2. If a petitioner under subsection 1 is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

3. If a district court orders an unsigned record to be delivered to the secretary of state, the secretary of state shall file the record and the court order upon receipt.

Sec. 22. NEW SECTION. 489.205 DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF STATE — EFFECTIVE TIME AND DATE.

1. A record authorized or required to be delivered to the secretary of state for filing under this chapter must be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees have been paid, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state shall file the record and any of the following applies:

a. For a statement of denial under section 489.303, send a copy of the filed statement and a receipt for the fees to the person on whose behalf the statement was delivered for filing and to the limited liability company.

b. For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

2. Upon request and payment of the requisite fee, the secretary of state shall send to the requester a certified copy of a requested record.

3. Except as otherwise provided in sections 489.115 and 489.206, and except for a certificate of organization that contains a statement as provided in section 489.201, subsection 4, a record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date. Subject to section 489.115, section 489.201, subsection 4, and section 489.206, a record filed by the secretary of state is effective as follows:

a. If the record does not specify either an effective time or a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record.

b. If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record.

c. If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of any of the following:

(1) The specified date.

(2) The ninetieth day after the record is filed.

d. If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of any of the following:

(1) The specified date.

(2) The ninetieth day after the record is filed.

e. A delayed effective date for a record shall not be later than the ninetieth day after the date on which it is filed.

Sec. 23. NEW SECTION. 489.206 CORRECTING FILED RECORD.

1. A limited liability company or foreign limited liability company may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the company to the secretary of state and filed by the secretary of state, if at the time of filing the record contained inaccurate information or was defectively signed.

2. A statement of correction under subsection 1 shall not have a delayed effective date and must do all of the following:

a. Describe the record to be corrected, including its filing date, or attach a copy of the record as filed.

b. Specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective.

c. Correct the defective signature or inaccurate information.

3. When filed by the secretary of state, a statement of correction under subsection 1 is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed as to all of the following:

a. For the purposes of section 489.103, subsection 4.

b. As to persons that previously relied on the uncorrected record and would be adversely affected by the retroactive effect.

Sec. 24. NEW SECTION. 489.207 PENALTY FOR SIGNING FALSE RECORD.

1. A person commits an offense if that person signs a record the person knows is false in any material respect with intent that the record be delivered to the secretary of state for filing.

2. An offense under this section is a serious misdemeanor punishable by a fine not to exceed one thousand dollars.

Sec. 25. NEW SECTION. 489.208 CERTIFICATE OF EXISTENCE OR AUTHORIZATION.

1. The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of existence for a limited liability company if the records filed in the office of the secretary of state show that the company has been formed under section 489.201 and the secretary of state has not filed a statement of termination pertaining to the company. A certificate of existence must state all of the following:

a. The company's name.

b. That the company was duly formed under the laws of this state and the date of formation.

c. Whether all fees, taxes, and penalties due under this chapter or other law to the secretary of state have been paid.

d. Whether the company's most recent biennial report required by section 489.209 has been filed by the secretary of state.

e. Whether the secretary of state has administratively dissolved the company.

f. Whether the company has delivered to the secretary of state for filing a statement of dissolution.

g. That a statement of termination has not been filed by the secretary of state.

h. Other facts of record in the office of the secretary of state which are specified by the person requesting the certificate.

2. The secretary of state, upon request and payment of the requisite fee, shall furnish to any person a certificate of authorization for a foreign limited liability company if the records filed in the office of the secretary of state show that the secretary of state has filed a certificate of authority, has not revoked the certificate of authority, and has not filed a notice of cancellation. A certificate of authorization must state all of the following:

a. The company's name and any alternate name adopted under section 489.805, subsection 1, for use in this state.

b. That the company is authorized to transact business in this state.

c. Whether all fees, taxes, and penalties due under this chapter or other law to the secretary of state have been paid.

d. Whether the company's most recent biennial report required by section 489.209 has been filed by the secretary of state.

e. That the secretary of state has not revoked the company's certificate of authority and has not filed a notice of cancellation.

f. Other facts of record in the office of the secretary of state which are specified by the person requesting the certificate.

3. Subject to any qualification stated in the certificate, a certificate of existence or certificate of authorization issued by the secretary of state is conclusive evidence that the limited liability

company is in existence or the foreign limited liability company is authorized to transact business in this state.

Sec. 26. NEW SECTION. 489.209 BIENNIAL REPORT FOR SECRETARY OF STATE.

1. A limited liability company or a foreign limited liability company authorized to transact business in this state shall deliver to the secretary of state for filing a biennial report that states all of the following:

a. The name of the company.

b. The street and mailing addresses of the company's registered office and the name and street and mailing addresses of its registered agent for service of process in this state.

c. The street and mailing addresses of its principal office.

d. In the case of a foreign limited liability company, the state or other jurisdiction under whose law the company is formed and any alternate name adopted under section 489.805, subsection 1.

2. Information in a biennial report under this section must be current as of the date the report is delivered to the secretary of state for filing.

3. The first biennial report under this section must be delivered to the secretary of state between January 1 and April 1 of the first odd-numbered year following the calendar year in which a limited liability company was formed or a foreign limited liability company was authorized to transact business. A subsequent biennial report must be delivered to the secretary of state between January 1 and April 1 of each following odd-numbered calendar year.

4. If a biennial report under this section does not contain the information required in subsection 1, the secretary of state shall promptly notify the reporting limited liability company or foreign limited liability company and return the report to it for correction. If the report is corrected to contain the information required in subsection 1 and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely delivered.

5. If a biennial report under this section contains an address of a registered office or the name or address of a registered agent for service of process which differs from the information shown in the records of the secretary of state immediately before the biennial report becomes effective, the differing information in the biennial report is considered a statement of change under section 489.114.

ARTICLE 3
RELATIONS OF MEMBERS AND MANAGERS
TO PERSONS DEALING WITH LIMITED LIABILITY COMPANY

Sec. 27. NEW SECTION. 489.301 NO AGENCY POWER OF MEMBER AS MEMBER.

1. A member is not an agent of a limited liability company solely by reason of being a member.

2. A person's status as a member does not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person's conduct.

Sec. 28. NEW SECTION. 489.302 STATEMENT OF AUTHORITY.

1. A limited liability company may deliver to the secretary of state for filing a statement of authority. All of the following apply to the statement:

a. It must include the name of the company and the street and mailing addresses of its registered office.

b. With respect to any position that exists in or with respect to the company, it may state the authority, or limitations on the authority, of all persons holding the position to do any of the following:

(1) Execute an instrument transferring real property held in the name of the company.

(2) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

c. It may state the authority, or limitations on the authority, of a specific person to do any of the following:

(1) Execute an instrument transferring real property held in the name of the company.

(2) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

2. To amend or cancel a statement of authority filed by the secretary of state under section 489.205, subsection 1, a limited liability company must deliver to the secretary of state for filing an amendment or cancellation stating all of the following:

a. The name of the company.

b. The street and mailing addresses of the company's registered office.

c. The caption of the statement being amended or canceled and the date the statement being affected became effective.

d. The contents of the amendment or a declaration that the statement being affected is canceled.

3. A statement of authority affects only the power of a person to bind a limited liability company to persons that are not members.

4. Subject to subsection 3 and section 489.103, subsection 4, and except as otherwise provided in subsections 6, 7, and 8, a limitation on the authority of a person or a position contained in an effective statement of authority is not by itself evidence of knowledge or notice of the limitation by any person.

5. Subject to subsection 3, a grant of authority not pertaining to a transfer of real property and contained in an effective statement of authority is conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value and any of the following applies:

a. The person has knowledge to the contrary.

b. The statement has been canceled or restrictively amended under subsection 2.

c. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

6. Subject to subsection 3, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is recorded by certified copy in the office for recording transfers of the real property is conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value and any of the following applies:

a. The statement has been canceled or restrictively amended under subsection 2 and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property.

b. A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

7. Subject to subsection 3, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons are deemed to know of the limitation.

8. Subject to subsection 9, an effective statement of dissolution or statement of termination is a cancellation of any filed statement of authority for the purposes of subsection 6 and is a limitation on authority for the purposes of subsection 7.

9. After a statement of dissolution becomes effective, a limited liability company may deliver to the secretary of state for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of authority. The statement operates as provided in subsections 6 and 7.

10. Unless earlier canceled, an effective statement of authority is canceled by operation of law five years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation operates without need for any recording under subsection 6 or 7.

11. An effective statement of denial operates as a restrictive amendment under this section and may be recorded by certified copy for the purposes of subsection 6, paragraph "a".

Sec. 29. NEW SECTION. 489.303 STATEMENT OF DENIAL.

A person named in a filed statement of authority granting that person authority may deliver to the secretary of state for filing a statement of denial that does all of the following:

1. Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains.
2. Denies the grant of authority.

Sec. 30. NEW SECTION. 489.304 LIABILITY OF MEMBERS AND MANAGERS.
1. For debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise all of the following apply:
a. They are solely the debts, obligations, or other liabilities of the company.
b. They do not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager.
2. The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities is not a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.

ARTICLE 4
RELATIONS OF MEMBERS TO EACH OTHER AND
TO LIMITED LIABILITY COMPANY

Sec. 31. NEW SECTION. 489.401 BECOMING MEMBER.
1. If a limited liability company is to have only one member upon formation, a person becomes the member as agreed by that person and the organizer of the company or a majority of organizers if more than one. That person and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial member.
2. If a limited liability company is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the company. The organizer acts on behalf of the persons in forming the company and may be, but need not be, one of the persons.
3. If a limited liability company has no members upon formation, a person becomes a member of the limited liability company with the consent of the organizer or a majority of the organizers if more than one. The organizers may consent to more than one person simultaneously becoming the company's initial members.
4. After formation of a limited liability company, a person becomes a member upon any of the following:
a. As provided in the operating agreement.
b. As the result of a transaction effective under article 10.
c. With the consent of all the members.
d. If, within ninety consecutive days after the company ceases to have any members and all of the following occur:
(1) The last person to have been a member, or the legal representative of that person, designates a person to become a member.
(2) The designated person consents to become a member.
5. A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

Sec. 32. NEW SECTION. 489.402 FORM OF CONTRIBUTION.
A contribution may consist of tangible or intangible property or other benefit to a limited liability company, including money, services performed, promissory notes, other agreements to contribute money or property, and contracts for services to be performed.

Sec. 33. NEW SECTION. 489.403 LIABILITY FOR CONTRIBUTIONS.
1. A person's obligation to make a contribution to a limited liability company is not excused by the person's death, disability, or other inability to perform personally. If a person does not make a required contribution, the person or the person's estate is obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.

2. A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection 1 may enforce the obligation.

3. An operating agreement may provide that the interest of any member who fails to make a contribution that the member is obligated to make is subject to specified penalties for, or specified consequences of, such failure. The penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's interest to that of a nondefaulting member, a forced sale of the member's interest, forfeiture of the member's interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's interest by appraisal or by formula and redemption, or sale of the member's interest at such value or other penalty or consequence.

Sec. 34. NEW SECTION. 489.404 SHARING OF AND RIGHT TO DISTRIBUTIONS BEFORE DISSOLUTION.

1. Any distributions made by a limited liability company before its dissolution and winding up must be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 489.502 and any charging order in effect under section 489.503.

2. A person has a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

3. A person does not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in section 489.708, subsection 3, a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

4. If a member or transferee becomes entitled to receive a distribution, the member or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution.

Sec. 35. NEW SECTION. 489.405 LIMITATIONS ON DISTRIBUTION.

1. A limited liability company shall not make a distribution if after the distribution any of the following applies:

a. The company would not be able to pay its debts as they become due in the ordinary course of the company's activities.

b. The company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

2. A limited liability company may base a determination that a distribution is not prohibited under subsection 1 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

3. Except as otherwise provided in subsection 5, the effect of a distribution under subsection 1 is measured as follows:

a. In the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the company, as of the date money or other property is transferred or debt incurred by the company.

b. In all other cases, as follows:

(1) The date that distribution is authorized, if the payment occurs within one hundred twenty days after that date.

(2) The date that payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.

4. A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors.

5. A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection 1 if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section. If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

6. In subsection 1, "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

Sec. 36. NEW SECTION. 489.406 LIABILITY FOR IMPROPER DISTRIBUTIONS.

1. Except as otherwise provided in subsection 2, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of section 489.405 and in consenting to the distribution fails to comply with section 489.409, the member or manager is personally liable to the company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 489.405.

2. To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection 1 applies to the other members and not the member that the operating agreement relieves of authority and responsibility.

3. A person that receives a distribution knowing that the distribution to that person was made in violation of section 489.405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 489.405.

4. A person against which an action is commenced because the person is liable under subsection 1 may do all of the following:

a. Implead any other person that is subject to liability under subsection 1 and seek to compel contribution from the person.

b. Implead any person that received a distribution in violation of subsection 3 and seek to compel contribution from the person in the amount the person received in violation of subsection 3.

5. An action under this section is barred if not commenced within two years after the distribution.

Sec. 37. NEW SECTION. 489.407 MANAGEMENT OF LIMITED LIABILITY COMPANY.

1. A limited liability company is a member-managed limited liability company unless the operating agreement does any of the following:

a. Expressly provides that any of the following apply:

(1) The company is or will be "manager-managed".

(2) The company is or will be "managed by managers".

(3) Management of the company is or will be "vested in managers".

b. Includes words of similar import.

2. In a member-managed limited liability company, all of the following rules apply:

a. The management and conduct of the company are vested in the members.

b. Each member has equal rights in the management and conduct of the company's activities.

c. A difference arising among members as to a matter in the ordinary course of the activities of the company may be decided by a majority of the members.

d. An act outside the ordinary course of the activities of the company, including selling, leas-

ing, exchanging, or otherwise disposing of all, or substantially all, of the company's property, with or without the goodwill, may be undertaken only with the consent of all members.

e. The operating agreement may be amended only with the consent of all members.

f. Approve a merger, conversion, or domestication under article 10.

3. In a manager-managed limited liability company, all of the following rules apply:

a. Except as otherwise expressly provided in this chapter, any matter relating to the activities of the company is decided exclusively by the managers.

b. Each manager has equal rights in the management and conduct of the activities of the company.

c. A difference arising among managers as to a matter in the ordinary course of the activities of the company may be decided by a majority of the managers.

d. The consent of all members is required to do any of the following:

(1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the goodwill, outside the ordinary course of the company's activities.

(2) Approve a merger, conversion, or domestication under article 10.

(3) Undertake any other act outside the ordinary course of the company's activities.

(4) Amend the operating agreement.

e. A manager may be chosen at any time by the consent of a majority of the members and remains a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

f. A person need not be a member to be a manager, but the dissociation of a member that is also a manager removes the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation does not by itself dissociate the person as a member.

g. A person's ceasing to be a manager does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

4. An action requiring the consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

5. The dissolution of a limited liability company does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

6. This chapter does not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities of the company.

Sec. 38. NEW SECTION. 489.408 INDEMNIFICATION AND INSURANCE.

1. A limited liability company shall reimburse for any payment made and indemnify for any debt, obligation, or other liability incurred by a member of a member-managed company or the manager of a manager-managed company in the course of the member's or manager's activities on behalf of the company, if, in making the payment or incurring the debt, obligation, or other liability, the member or manager complied with the duties stated in sections 489.405 and 489.409.

2. A limited liability company may purchase and maintain insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under section 489.110, subsection 7, the operating agreement could not eliminate or limit the person's liability to the company for the conduct giving rise to the liability.

Sec. 39. NEW SECTION. 489.409 STANDARDS OF CONDUCT FOR MEMBERS AND MANAGERS.

1. A member of a member-managed limited liability company owes to the company and,

subject to section 489.901, subsection 2, the other members the fiduciary duties of loyalty and care stated in subsections 2 and 3.

2. The duty of loyalty of a member in a member-managed limited liability company includes all of the following duties:

a. To account to the company and to hold as trustee for it any property, profit, or benefit derived by the member regarding any of the following:

(1) In the conduct or winding up of the company's activities.

(2) From a use by the member of the company's property.

(3) From the appropriation of a limited liability company opportunity.

b. To refrain from dealing with the company in the conduct or winding up of the company's activities as or on behalf of a person having an interest adverse to the company.

c. To refrain from competing with the company in the conduct of the company's activities before the dissolution of the company.

3. Subject to the business judgment rule as stated in subsection 7, the duty of care of a member of a member-managed limited liability company in the conduct and winding up of the company's activities is to act with the care that a person in a like position would reasonably exercise under similar circumstances and in a manner the member reasonably believes to be in the best interests of the company. In discharging this duty, a member may rely in good faith upon opinions, reports, statements, or other information provided by another person that the member reasonably believes is a competent and reliable source for the information.

4. A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

5. It is a defense to a claim under subsection 2, paragraph "b", and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

6. All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

7. a. A member satisfies the duty of care in subsection 3 if all of the following apply:

(1) The member is not interested in the subject matter of the business judgment.

(2) The member is informed with respect to the subject of the business judgment to the extent the member reasonably believes to be appropriate in the circumstances.

(3) The member has a rational basis for believing that the business judgment is in the best interests of the limited liability company.

b. A person challenging the business judgment of a member has the burden of proving a breach of the duty of care, and in a damage action, the burden of proving that the breach was the legal cause of damage suffered by the limited liability company.

8. In a manager-managed limited liability company, all of the following rules apply:

a. Subsections 1, 2, 3, 5, and 7 apply to the manager or managers and not the members.

b. The duty stated under subsection 2, paragraph "c", continues until winding up is completed.

c. Subsection 4 applies to the members and managers.

d. Subsection 6 applies only to the members.

e. A member does not have any fiduciary duty to the company or to any other member solely by reason of being a member.

Sec. 40. NEW SECTION. 489.410 RIGHT OF MEMBERS, MANAGERS, AND DISSOCIATED MEMBERS TO INFORMATION.

1. In a member-managed limited liability company, all of the following rules apply:

a. On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities, financial condition, and other circumstances, to the extent

the information is material to the member's rights and duties under the operating agreement or this chapter.

b. The company shall furnish to each member all of the following:

(1) Without demand, any information concerning the company's activities, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information.

(2) On demand, any other information concerning the company's activities, financial condition, and other circumstances, except to the extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

c. The duty to furnish information under paragraph "b" also applies to each member to the extent the member knows any of the information described in paragraph "b".

2. In a manager-managed limited liability company, all of the following rules apply:

a. The informational rights stated in subsection 1 and the duty stated in subsection 1, paragraph "c", apply to the managers and not the members.

b. During regular business hours and at a reasonable location specified by the company, a member may obtain from the company and inspect and copy full information regarding the activities, financial condition, and other circumstances of the company as is just and reasonable if all of the following apply:

(1) The member seeks the information for a purpose material to the member's interest as a member.

(2) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information.

(3) The information sought is directly connected to the member's purpose.

c. Within ten days after receiving a demand pursuant to paragraph "b", subparagraph (2), the company shall in a record inform the member that made the demand all of the following:

(1) Of the information that the company will provide in response to the demand and when and where the company will provide the information.

(2) If the company declines to provide any demanded information, the company's reasons for declining.

d. Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

3. On ten days' demand made in a record received by a limited liability company, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection 2, paragraph "b". The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection 2, paragraph "c".

4. A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

5. A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agreement or under subsection 7 applies both to the agent or legal representative and the member or dissociated member.

6. The rights under this section do not extend to a person as transferee.

7. In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company has the burden of proving reasonableness.

ARTICLE 5
TRANSFERABLE INTERESTS AND
RIGHTS OF TRANSFEREES AND CREDITORS

Sec. 41. NEW SECTION. 489.501 NATURE OF TRANSFERABLE INTEREST.
A transferable interest is personal property.

Sec. 42. NEW SECTION. 489.502 TRANSFER OF TRANSFERABLE INTEREST.
1. For a transfer, in whole or in part, all of the following applies to a transferable interest:
a. It is permissible.
b. It does not by itself cause a member's dissociation or a dissolution and winding up of the limited liability company's activities.
c. Subject to section 489.504, it does not entitle the transferee to do any of the following:
(1) Participate in the management or conduct of the company's activities.
(2) Except as otherwise provided in subsection 3, have access to records or other information concerning the company's activities.
2. A transferee has the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.
3. In a dissolution and winding up of a limited liability company, a transferee is entitled to an account of the company's transactions only from the date of dissolution.
4. A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.
5. A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.
6. A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement or another agreement to which the transferor is a party is ineffective as to a person having notice of the restriction at the time of transfer.
7. Except as otherwise provided in section 489.602, subsection 4, paragraph "b", when a member transfers a transferable interest, the transferor retains the rights of a member other than the interest in distributions transferred and retains all duties and obligations of a member.
8. When a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee is liable for the member's obligations under section 489.403 and section 489.406, subsection 3, known to the transferee when the transferee becomes a member.

Sec. 43. NEW SECTION. 489.503 CHARGING ORDER.
1. On application by a judgment creditor of a member or transferee, a court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.
2. To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection 1, the court may do all of the following:
a. Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made.
b. Make all other orders necessary to give effect to the charging order.
3. Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale only obtains the transferable interest, does not thereby become a member, and is subject to section 489.502.

4. At any time before foreclosure under subsection 3, the member or transferee whose transferable interest is subject to a charging order under subsection 1 may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

5. At any time before foreclosure under subsection 3, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

6. This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

7. This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

Sec. 44. NEW SECTION. 489.504 POWER OF PERSONAL REPRESENTATIVE OF DECEASED MEMBER.

If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in section 489.502, subsection 3, and, for the purposes of settling the estate, the rights of a current member under section 489.410.

ARTICLE 6
MEMBER'S DISSOCIATION

Sec. 45. NEW SECTION. 489.601 MEMBER'S POWER TO DISSOCIATE — WRONGFUL DISSOCIATION.

1. A person has the power to dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under section 489.602, subsection 1.

2. A person's dissociation from a limited liability company is wrongful only if any of the following applies to the dissociation:

a. It is in breach of an express provision of the operating agreement.

b. It occurs before the termination of the company and any of the following applies:

(1) The person withdraws as a member by express will.

(2) The person is expelled as a member by judicial order under section 489.602, subsection 5.

(3) The person is dissociated under section 489.602, subsection 7, paragraph "a", by becoming a debtor in bankruptcy.

(4) In the case of a person that is not a trust other than a business trust, an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

3. A person that wrongfully dissociates as a member is liable to the limited liability company and, subject to section 489.901, to the other members for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or other liability of the member to the company or the other members.

Sec. 46. NEW SECTION. 489.602 EVENTS CAUSING DISSOCIATION.

A person is dissociated as a member from a limited liability company when any of the following applies:

1. The company has notice of the person's express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date.

2. An event stated in the operating agreement as causing the person's dissociation occurs.

3. The person is expelled as a member pursuant to the operating agreement.

4. The person is expelled as a member by the unanimous consent of the other members if any of the following applies:

a. It is unlawful to carry on the company's activities with the person as a member.

b. There has been a transfer of all of the person's transferable interest in the company, other than any of the following:

(1) A transfer for security purposes.

(2) A charging order in effect under section 489.503 which has not been foreclosed.

c. The person is a corporation and, within ninety days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated.

d. The person is a limited liability company or partnership that has been dissolved and whose business is being wound up.

5. On application by the company, the person is expelled as a member by judicial order because the person has done any of the following:

a. Has engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company's activities.

b. Has willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person's duties or obligations under section 489.409.

c. Has engaged in, or is engaging in, conduct relating to the company's activities which makes it not reasonably practicable to carry on the activities with the person as a member.

6. In the case of a person who is an individual, any of the following applies:

a. The person dies.

b. In a member-managed limited liability company any of the following applies:

(1) A guardian or general conservator for the person is appointed.

(2) There is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement.

7. In a member-managed limited liability company, the person does any of the following:

a. Becomes a debtor in bankruptcy.

b. Executes an assignment for the benefit of creditors.

c. Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property.

8. In the case of a person that is a trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed.

9. In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed.

10. In the case of a member that is not an individual, partnership, limited liability company, corporation, trust, or estate, the termination of the member.

11. The company participates in a merger under article 10, if any of the following applies:

a. The company is not the surviving entity.

b. Otherwise as a result of the merger, the person ceases to be a member.

12. The company participates in a conversion under article 10.

13. The company participates in a domestication under article 10, if, as a result of the domestication, the person ceases to be a member.

14. The company terminates.

Sec. 47. NEW SECTION. 489.603 EFFECT OF PERSON'S DISSOCIATION AS MEMBER.

1. When a person is dissociated as a member of a limited liability company, all of the following apply:

a. The person's right to participate as a member in the management and conduct of the company's activities terminates.

b. If the company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation.

c. Subject to section 489.504 and article 10, any transferable interest owned by the person

immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

2. A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

Sec. 48. NEW SECTION. 489.604 MEMBER'S POWER TO DISSOCIATE UNDER CERTAIN CIRCUMSTANCES.

1. If the certificate of organization or an operating agreement does not specify the time or the events upon the happening of which a member may dissociate, a member may dissociate from the limited liability company in the event any amendment to the certificate of organization or operating agreement that is adopted over the member's written dissent adversely affects the rights or preferences of the dissenting member's transferable interest in any of the ways described in paragraphs "a" through "f". A dissociation in the event of such dissent and adverse effect is deemed to have occurred as of the effective date of the amendment, if the member gives notice to the limited liability company not more than sixty days after the date of the amendment. In valuing the member's distribution pursuant to this subsection, any depreciation in anticipation of the amendment shall be excluded. An amendment that does any of the following is subject to this section:

a. Alters or abolishes a member's right to receive a distribution.

b. Alters or abolishes a member's right to voluntarily dissociate.

c. Alters or abolishes a member's right to vote on any matter, except as the rights may be altered or abolished through the acceptance of contributions or the making of contribution agreements.

d. Alters or abolishes a member's preemptive right to make contributions.

e. Establishes or changes the conditions for or consequences of expulsion.

f. Waives the application of this section to the limited liability company.

2. A member dissociating under this section is not liable for damages for the breach of any agreement not to withdraw.

3. This section applies to a limited liability company whose original articles of organization or certificate of organization is filed with the secretary of state on or after July 1, 1997.

4. This section applies to a limited liability company whose original articles of organization are filed with the secretary of state and effective on or prior to June 30, 1997, if such company's operating agreement provides that it is subject to this section.

5. The operating agreement of a limited liability company may waive the applicability of this section to the company and its members.

ARTICLE 7
DISSOLUTION AND WINDING UP

Sec. 49. NEW SECTION. 489.701 EVENTS CAUSING DISSOLUTION.

1. A limited liability company is dissolved, and its activities must be wound up, upon the occurrence of any of the following:

a. An event or circumstance that the operating agreement states causes dissolution.

b. The consent of all the members.

c. Once the company has at least one member, the passage of ninety consecutive days during which the company has no members.

d. On application by a member, the entry by a district court of an order dissolving the company on the grounds that any of the following applies:

(1) The conduct of all or substantially all of the company's activities is unlawful.

(2) It is not reasonably practicable to carry on the company's activities in conformity with the certificate of organization and the operating agreement.

e. On application by a member or transferee, the entry by a district court of an order dissolving the company on the grounds that the managers or those members in control of the company have done any of the following:

(1) Have acted, are acting, or will act in a manner that is illegal or fraudulent.

(2) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

2. In a proceeding brought under subsection 1, paragraph "e", the court may order a remedy other than dissolution.

Sec. 50. NEW SECTION. 489.702 WINDING UP.

1. A dissolved limited liability company shall wind up its activities, and the company continues after dissolution only for the purpose of winding up.

2. In winding up its activities, all of the following apply to a limited liability company:

a. It shall discharge the company's debts, obligations, or other liabilities, settle and close the company's activities, and marshal and distribute the assets of the company.

b. It may do all of the following:

(1) Deliver to the secretary of state for filing a statement of dissolution stating the name of the company and that the company is dissolved.

(2) Preserve the company activities and property as a going concern for a reasonable time.

(3) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative.

(4) Transfer the company's property.

(5) Settle disputes by mediation or arbitration.

(6) Deliver to the secretary of state for filing a statement of termination stating the name of the company and that the company is terminated.

(7) Perform other acts necessary or appropriate to the winding up.

3. If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities of the company. If the person does so, the person has the powers of a sole manager under section 489.407, subsection 3, and is deemed to be a manager for the purposes of section 489.304, subsection 1, paragraph "b".

4. If the legal representative under subsection 3 declines or fails to wind up the company's activities, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. All of the following apply to a person appointed under this subsection:

a. The person has the powers of a sole manager under section 489.407, subsection 3, and is deemed to be a manager for the purposes of section 489.304, subsection 1, paragraph "b".

b. The person shall promptly deliver to the secretary of state for filing an amendment to the company's certificate of organization to do all of the following:

(1) State that the company has no members.

(2) State that the person has been appointed pursuant to this subsection to wind up the company.

(3) Provide the street and mailing addresses of the person.

5. The district court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities pursuant to any of the following:

a. On application of a member, if the applicant establishes good cause.

b. On the application of a transferee, if all of the following apply:

(1) The company does not have any members.

(2) The legal representative of the last person to have been a member declines or fails to wind up the company's activities.

(3) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection 3.[1]

c. In connection with a proceeding under section 489.701, subsection 1, paragraph "d" or "e".

Sec. 51. NEW SECTION. 489.703 KNOWN CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

1. Except as otherwise provided in subsection 4, a dissolved limited liability company may

[1] According to enrolled Act; the phrase "subsection 4" probably intended

give notice of a known claim under subsection 2, which has the effect as provided in subsection 3.

2. A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice must do all of the following:

a. Specify the information required to be included in a claim.

b. Provide a mailing address to which the claim is to be sent.

c. State the deadline for receipt of the claim, which may not be less than one hundred twenty days after the date the notice is received by the claimant.

d. State that the claim will be barred if not received by the deadline.

3. A claim against a dissolved limited liability company is barred if the requirements of subsection 2 are met and any of the following applies:

a. The claim is not received by the specified deadline.

b. If the claim is timely received but rejected by the company, all of the following apply:

(1) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within ninety days after the claimant receives the notice.

(2) The claimant does not commence the required action within the ninety days.

4. This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

Sec. 52. NEW SECTION. 489.704 OTHER CLAIMS AGAINST DISSOLVED LIMITED LIABILITY COMPANY.

1. A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

2. The notice authorized by subsection 1 must do all of the following:

a. Be published at least once in a newspaper of general circulation in the county in this state in which the dissolved limited liability company's principal office is located or, if it has none in this state, in the county in which the company's registered office is or was last located.

b. Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent.

c. State that a claim against the company is barred unless an action to enforce the claim is commenced within five years after publication of the notice.

3. If a dissolved limited liability company publishes a notice in accordance with subsection 2, unless the claimant commences an action to enforce the claim against the company within five years after the publication date of the notice, the claim of each of the following claimants is barred:

a. A claimant that did not receive notice in a record under section 489.703.

b. A claimant whose claim was timely sent to the company but not acted on.

c. A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

4. A claim not barred under this section may be enforced as follows:

a. Against a dissolved limited liability company, to the extent of its undistributed assets.

b. If assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph does not exceed the total amount of assets distributed to the person after dissolution.

Sec. 53. NEW SECTION. 489.705 ADMINISTRATIVE DISSOLUTION.

1. The secretary of state may dissolve a limited liability company administratively if the company does not do any of the following:

a. Pay, within sixty days after the due date, any fee, tax, or penalty due to the secretary of state under this chapter or law other than this chapter.

b. Deliver, within sixty days after the due date, its biennial report to the secretary of state.

2. If the secretary of state determines that a ground exists for administratively dissolving a limited liability company, the secretary of state shall file a record of the determination and serve the company with a copy of the filed record.

3. If within sixty days after service of the copy pursuant to subsection 2 a limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, the secretary of state shall dissolve the company administratively by preparing, signing, and filing a declaration of dissolution that states the grounds for dissolution. The secretary of state shall serve the company with a copy of the filed declaration.

4. A limited liability company that has been administratively dissolved continues in existence but, subject to section 489.706, may carry on only activities necessary to wind up its activities and liquidate its assets under sections 489.702 and 489.708 and to notify claimants under sections 489.703 and 489.704.

5. The administrative dissolution of a limited liability company does not terminate the authority of its registered agent for service of process.

Sec. 54. NEW SECTION. 489.706 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A limited liability company administratively dissolved under section 489.705 may apply to the secretary of state for reinstatement at any time after the effective date of dissolution. The application must be delivered to the secretary of state and meet all of the following requirements:

a. Recite the name of the limited liability company at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution as provided in section 489.705 have been eliminated.

c. If the application is received more than five years after the effective date of the administrative dissolution, state a name that satisfies the requirements of section 489.108.

d. State the federal tax identification number of the limited liability company.

2. The secretary of state shall refer the federal tax identification number contained in the application for reinstatement to the department of revenue. The department of revenue shall report to the secretary of state the tax status of the limited liability company. If the department reports to the secretary of state that a filing delinquency or liability exists against the limited liability company, the secretary of state shall not cancel the declaration of dissolution until the filing delinquency or liability is satisfied.

3. If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to subsection 2 has been satisfied, and that the information is correct, the secretary of state shall cancel the declaration of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the limited liability company under section 489.116. If the limited liability company's name in subsection 1, paragraph "c", is different than the name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the limited liability company's certificate of organization insofar as it pertains to its name. A limited liability company shall not relinquish the right to retain its name as provided in section 489.108, if the reinstatement is effective within five years of the effective date of the limited liability company's dissolution.

4. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 55. NEW SECTION. 489.707 APPEAL FROM REJECTION OF REINSTATEMENT.

1. If the secretary of state rejects a limited liability company's application for reinstatement following administrative dissolution, the secretary of state shall prepare, sign, and file a notice that explains the reason for rejection and serve the company with a copy of the notice.

2. Within thirty days after service of a notice of rejection of reinstatement under subsection 1, a limited liability company may appeal from the rejection by petitioning the district court to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's declaration of dissolution, the company's application for reinstatement, and the secretary of state's notice of rejection.

3. The court may order the secretary of state to reinstate a dissolved limited liability company or take other action the court considers appropriate.

Sec. 56. NEW SECTION. 489.708 DISTRIBUTION OF ASSETS IN WINDING UP LIMITED LIABILITY COMPANY'S ACTIVITIES.

1. In winding up its activities, a limited liability company must apply its assets to discharge its obligations to creditors, including members that are creditors.

2. After a limited liability company complies with subsection 1, any surplus must be distributed in the following order, subject to any charging order in effect under section 489.503:

a. To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions.

b. In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under section 489.502.

3. If a limited liability company does not have sufficient surplus to comply with subsection 2, paragraph "a", any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

4. All distributions made under subsections 2 and 3 must be paid in money.

ARTICLE 8
FOREIGN LIMITED LIABILITY COMPANIES

Sec. 57. NEW SECTION. 489.801 GOVERNING LAW.

1. The law of the state or other jurisdiction under which a foreign limited liability company is formed governs all of the following:

a. The internal affairs of the company.

b. The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of the company.

2. A foreign limited liability company shall not be denied a certificate of authority by reason of any difference between the law of the jurisdiction under which the company is formed and the law of this state.

3. A certificate of authority does not authorize a foreign limited liability company to engage in any business or exercise any power that a limited liability company shall not engage in or exercise in this state.

Sec. 58. NEW SECTION. 489.802 APPLICATION FOR CERTIFICATE OF AUTHORITY.

1. A foreign limited liability company may apply for a certificate of authority to transact business in this state by delivering an application to the secretary of state for filing. The application must state all of the following:

a. The name of the company and, if the name does not comply with section 489.108, an alternate name adopted pursuant to section 489.805, subsection 1.

b. The name of the state or other jurisdiction under whose law the company is formed.

c. The street and mailing addresses of the company's principal office and, if the law of the jurisdiction under which the company is formed require[2] the company to maintain an office in that jurisdiction, the street and mailing addresses of the required office.

d. The name and street and mailing addresses of the company's initial registered agent for service of process in this state.

2. A foreign limited liability company shall deliver with a completed application under subsection 1 a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the company's publicly filed records in the state or other jurisdiction under whose law the company is formed.

[2] According to enrolled Act; the word "requires" probably intended

Sec. 59. NEW SECTION. 489.803 ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS.

1. Activities of a foreign limited liability company which do not constitute transacting business in this state within the meaning of this article include all of the following:

a. Maintaining, defending, or settling an action or proceeding.

b. Carrying on any activity concerning its internal affairs, including holding meetings of its members or managers.

c. Maintaining accounts in financial institutions.

d. Maintaining offices or agencies for the transfer, exchange, and registration of the company's own securities or maintaining trustees or depositories with respect to those securities.

e. Selling through independent contractors.

f. Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts.

g. Creating or acquiring indebtedness, mortgages, or security interests in real or personal property.

h. Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired.

i. Conducting an isolated transaction that is completed within thirty days and is not in the course of similar transactions.

j. Transacting business in interstate commerce.

2. For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection 1, constitutes transacting business in this state.

3. This section does not apply in determining the contacts or activities that may subject a foreign limited liability company to service of process, taxation, or regulation under law of this state other than this chapter.

Sec. 60. NEW SECTION. 489.804 FILING OF CERTIFICATE OF AUTHORITY.

Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this chapter, the secretary of state, upon payment of all filing fees, shall file the application of a foreign limited liability company, prepare, sign, and file a certificate of authority to transact business in this state, and send a copy of the filed certificate, together with a receipt for the fees, to the company or its representative.

Sec. 61. NEW SECTION. 489.805 NONCOMPLYING NAME OF FOREIGN LIMITED LIABILITY COMPANY.

1. A foreign limited liability company whose name does not comply with section 489.108 shall not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with section 489.108. After obtaining a certificate of authority with an alternate name, a foreign limited liability company shall transact business in this state under the alternate name.

2. If a foreign limited liability company authorized to transact business in this state changes its name to one that does not comply with section 489.108, it may not thereafter transact business in this state until it complies with subsection 1 and obtains an amended certificate of authority.

Sec. 62. NEW SECTION. 489.806 REVOCATION OF CERTIFICATE OF AUTHORITY.

1. A certificate of authority of a foreign limited liability company to transact business in this state may be revoked by the secretary of state in the manner provided in subsections 2 and 3 if the company does not do any of the following:

a. Pay, within sixty days after the due date, any fee, tax, or penalty due the secretary of state under this chapter or law other than this chapter.

b. Deliver, within sixty days after the due date, its biennial report required under section 489.209.

c. Appoint and maintain a registered agent for service of process as required by section 489.113, subsection 2.

d. Deliver for filing a statement of a change under section 489.114 within thirty days after a change has occurred in the name or address of the registered agent.

2. To revoke a certificate of authority of a foreign limited liability company, the secretary of state must prepare, sign, and file a notice of revocation and send a copy to the company's registered agent for service of process in this state, or if the company does not appoint and maintain a proper registered agent in this state, to the company's registered office. The notice must state all of the following:

a. The revocation's effective date, which must be at least sixty days after the date the secretary of state sends the copy.

b. The grounds for revocation under subsection 1.

3. The authority of a foreign limited liability company to transact business in this state ceases on the effective date in the notice of revocation unless before that date the company cures each ground for revocation stated in the notice filed under subsection 2. If the company cures each ground, the secretary of state shall file a record so stating.

Sec. 63. NEW SECTION. 489.807 CANCELLATION OF CERTIFICATE OF AUTHORITY.

1. To cancel its certificate of authority to transact business in this state, a foreign limited liability company must deliver to the secretary of state for filing a notice of cancellation stating all of the following:

a. The name of the foreign limited liability company and that the company desires to cancel its certificate of authority.

b. That the foreign limited liability company revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state.

c. A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under paragraph "b".

d. A commitment to notify the secretary of state in the future of any change in the mailing address of the foreign limited liability company.

2. The certificate is canceled when the notice becomes effective.

Sec. 64. NEW SECTION. 489.808 EFFECT OF FAILURE TO HAVE CERTIFICATE OF AUTHORITY.

1. A foreign limited liability company transacting business in this state shall not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.

2. The failure of a foreign limited liability company to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the company or prevent the company from defending an action or proceeding in this state.

3. The successor to a foreign limited liability company that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this state until the foreign limited liability company or its successor obtains a certificate of authority.

4. A district court may stay a proceeding commenced by a foreign limited liability company, its successor, or assignee until it determines whether the foreign limited liability company or its successor or assignee requires a certificate of authority. If it so determines, the district court may further stay the proceeding until the foreign limited liability company or its successor or assignee obtains the certificate.

5. A foreign limited liability company is liable for a civil penalty not to exceed a total of one thousand dollars if it transacts business in this state without a certificate of authority. The attorney general may collect penalties due under this subsection.

6. A member or manager of a foreign limited liability company is not liable for the debts,

obligations, or other liabilities of the company solely because the company transacted business in this state without a certificate of authority.

7. If a foreign limited liability company transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the secretary of state as its registered agent for service of process for rights of action arising out of the transaction of business in this state.

Sec. 65. NEW SECTION. 489.809 ACTION BY ATTORNEY GENERAL.

The attorney general may maintain an action to enjoin a foreign limited liability company from transacting business in this state in violation of this article.

ARTICLE 9
ACTIONS BY MEMBERS

Sec. 66. NEW SECTION. 489.901 DIRECT ACTION BY MEMBER.

1. Subject to subsection 2, a member may maintain a direct action against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

2. A member maintaining a direct action under this section must plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

Sec. 67. NEW SECTION. 489.902 DERIVATIVE ACTION.

A member may maintain a derivative action to enforce a right of a limited liability company as follows:

1. The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within ninety days from the date the demand was made unless the member has earlier been notified that the demand has been rejected by the company or unless irreparable injury to the company would result by waiting for the expiration of the ninety-day period.

2. A demand under subsection 1 would be futile.

Sec. 68. NEW SECTION. 489.903 PROPER PLAINTIFF.

1. Except as otherwise provided in subsection 2, a derivative action under section 489.902 may be maintained only by a person that is a member at the time the action is commenced and remains a member while the action continues.

2. If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member of the limited liability company to be substituted as plaintiff.

Sec. 69. NEW SECTION. 489.904 PLEADING.

In a derivative action under section 489.902, the complaint must state with particularity any of the following:

1. The date and content of the plaintiff's demand and the response to the demand by the managers or other members.

2. If a demand has not been made, the reasons a demand under section 489.902, subsection 1, would be futile.

Sec. 70. NEW SECTION. 489.906 PROCEEDS AND EXPENSES.

1. Except as otherwise provided in subsection 2, all of the following apply:

a. Any proceeds or other benefits of a derivative action under section 489.902, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff.

b. If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

2. If a derivative action under section 489.902 is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney fees and costs, from the recovery of the limited liability company.

ARTICLE 10
MERGER, CONVERSION, AND DOMESTICATION

Sec. 71. NEW SECTION. 489.1001 DEFINITIONS.

As used in this article:

1. "Constituent limited liability company" means a constituent organization that is a limited liability company.

2. "Constituent organization" means an organization that is party to a merger.

3. "Converted organization" means the organization into which a converting organization converts pursuant to sections 489.1006 through 489.1009.

4. "Converting limited liability company" means a converting organization that is a limited liability company.

5. "Converting organization" means an organization that converts into another organization pursuant to section 489.1006.

6. "Domesticated company" means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to sections 489.1010 through 489.1013.

7. "Domesticating company" means the company that effects a domestication pursuant to sections 489.1010 through 489.1013.

8. "Governing statute" means the statute that governs an organization's internal affairs.

9. "Organization" means a general partnership, including a limited liability partnership, limited partnership, including a limited liability limited partnership, limited liability company, business trust, corporation, or any other person having a governing statute. The term includes a domestic or foreign organization regardless of whether organized for profit.

10. "Organizational documents" means all of the following:

a. For a domestic or foreign general partnership, its partnership agreement.

b. For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement.

c. For a domestic or foreign limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute.

d. For a business trust, its agreement of trust and declaration of trust.

e. For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute.

f. For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

11. "Personal liability" means liability for a debt, obligation, or other liability of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization by any of the following:

a. The governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization.

b. The organization's organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

12. "Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

Sec. 72. NEW SECTION. 489.1002 MERGER.

1. A limited liability company may merge with one or more other constituent organizations pursuant to this section, sections 489.1003 through 489.1005, and a plan of merger, if all of the following apply:

a. The governing statute of each of the other organizations authorizes the merger.

b. The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes.

c. Each of the other organizations complies with its governing statute in effecting the merger.

2. A plan of merger must be in a record and must include all of the following:

a. The name and form of each constituent organization.

b. The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect.

c. The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration.

d. If the surviving organization is to be created by the merger, the surviving organization's organizational documents that are proposed to be in a record.

e. If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents that are, or are proposed to be, in a record.

Sec. 73. NEW SECTION. 489.1003 ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY.

1. Subject to section 489.1014, a plan of merger must be consented to by all the members of a constituent limited liability company.

2. Subject to section 489.1014 and any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the secretary of state for filing under section 489.1004, a constituent limited liability company may amend the plan or abandon the merger as follows:

a. As provided in the plan.

b. Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

Sec. 74. NEW SECTION. 489.1004 FILINGS REQUIRED FOR MERGER — EFFECTIVE DATE.

1. After each constituent organization has approved a merger, articles of merger must be signed on behalf of all of the following:

a. Each constituent limited liability company, as provided in section 489.203, subsection 1.

b. Each other constituent organization, as provided in its governing statute.

2. Articles of merger under this section must include all of the following:

a. The name and form of each constituent organization and the jurisdiction of its governing statute.

b. The name and form of the surviving organization, the jurisdiction of its governing statute, and, if the surviving organization is created by the merger, a statement to that effect.

c. The date the merger is effective under the governing statute of the surviving organization.

d. If the surviving organization is to be created by the merger as follows:

(1) If it will be a limited liability company, the company's certificate of organization.

(2) If it will be an organization other than a limited liability company, the organizational document that creates the organization that is in a public record.

e. If the surviving organization preexists the merger, any amendments provided for in the plan of merger for the organizational document that created the organization that are in a public record.

f. A statement as to each constituent organization that the merger was approved as required by the organization's governing statute.

g. If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office that the secretary of state may use for the purposes of section 489.1005, subsection 2.

h. Any additional information required by the governing statute of any constituent organization.

3. Each constituent limited liability company shall deliver the articles of merger for filing in the office of the secretary of state.

4. A merger becomes effective under this article as follows:

a. If the surviving organization is a limited liability company, upon the later of any of the following:

(1) Compliance with subsection 3.

(2) Subject to section 489.205, subsection 3, as specified in the articles of merger.

b. If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

Sec. 75. NEW SECTION. 489.1005 EFFECT OF MERGER.

1. When a merger becomes effective all of the following apply:

a. The surviving organization continues or comes into existence.

b. Each constituent organization that merges into the surviving organization ceases to exist as a separate entity.

c. All property owned by each constituent organization that ceases to exist vests in the surviving organization.

d. All debts, obligations, or other liabilities of each constituent organization that ceases to exist continue as debts, obligations, or other liabilities of the surviving organization.

e. An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred.

f. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization.

g. Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect.

h. Except as otherwise agreed, if a constituent limited liability company ceases to exist, the merger does not dissolve the limited liability company for the purposes of article 7.

i. If the surviving organization is created by the merger, any of the following applies:

(1) If it is a limited liability company, the certificate of organization becomes effective.

(2) If it is an organization other than a limited liability company, the organizational document that creates the organization becomes effective.

j. If the surviving organization preexisted the merger, any amendments provided for in the articles of merger for the organizational document that created the organization become effective.

2. A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the debt, obligation, or other liability. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its registered agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in section 489.116, subsections 3 and 4.

Sec. 76. NEW SECTION. 489.1006 CONVERSION.

1. An organization other than a limited liability company or a foreign limited liability company may convert to a limited liability company, and a limited liability company may convert to an organization other than a foreign limited liability company pursuant to this section, sections 489.1007 through 489.1009, and a plan of conversion, if all of the following apply:

a. The other organization's governing statute authorizes the conversion.

b. The conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute.

c. The other organization complies with its governing statute in effecting the conversion.

2. A plan of conversion must be in a record and must include all of the following:

a. The name and form of the organization before conversion.

b. The name and form of the organization after conversion.

c. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of money, interests in the converted organization, and other consideration.

d. The organizational documents of the converted organization that are, or are proposed to be, in a record.

Sec. 77. NEW SECTION. 489.1007 ACTION ON PLAN OF CONVERSION BY CONVERTING LIMITED LIABILITY COMPANY.

1. Subject to section 489.1014, a plan of conversion must be consented to by all the members of a converting limited liability company.

2. Subject to section 489.1014 and any contractual rights, after a conversion is approved, and at any time before articles of conversion are delivered to the secretary of state for filing under section 489.1008, a converting limited liability company may amend the plan or abandon the conversion as follows:

a. As provided in the plan.

b. Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

Sec. 78. NEW SECTION. 489.1008 FILINGS REQUIRED FOR CONVERSION — EFFECTIVE DATE.

1. After a plan of conversion is approved, all of the following apply:

a. A converting limited liability company shall deliver to the secretary of state for filing articles of conversion, which must be signed as provided in section 489.203, subsection 1, and must include all of the following:

(1) A statement that the limited liability company has been converted into another organization.

(2) The name and form of the organization and the jurisdiction of its governing statute.

(3) The date the conversion is effective under the governing statute of the converted organization.

(4) A statement that the conversion was approved as required by this chapter.

(5) A statement that the conversion was approved as required by the governing statute of the converted organization.

(6) All documents required to be filed with the secretary of state in accordance with the governing statute of the converted organization to effectuate the conversion.

(7) If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing addresses of an office which the secretary of state may use for the purposes of section 489.1009, subsection 3.

b. If the converting organization is not a converting limited liability company, the converting organization shall deliver to the secretary of state for filing a certificate of organization, which must include, in addition to the information required by section 489.201, subsection 2, all of the following:

(1) A statement that the converted organization was converted from another organization.

(2) The name and form of that converting organization and the jurisdiction of its governing statute.

(3) A statement that the conversion was approved in a manner that complied with the converting organization's governing statute.

2. A conversion becomes effective as follows:

a. If the converted organization is a limited liability company, when the certificate of organization takes effect.

b. If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

Sec. 79. NEW SECTION. 489.1009 EFFECT OF CONVERSION.

1. An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

2. When a conversion takes effect all of the following apply:

a. All property owned by the converting organization remains vested in the converted organization.

b. All debts, obligations, or other liabilities of the converting organization continue as debts, obligations, or other liabilities of the converted organization.

c. An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred.

d. Except as prohibited by law other than this chapter, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization.

e. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.

f. Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article 7.

3. A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability for which the converting limited liability company is liable if, before the conversion, the converting limited liability company was subject to suit in this state on the debt, obligation, or other liability. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its registered agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in section 489.116, subsections 3 and 4.

Sec. 80. NEW SECTION. 489.1010 DOMESTICATION.

1. A foreign limited liability company may become a limited liability company pursuant to this section, sections 489.1011 through 489.1013, and a plan of domestication, if all of the following apply:

a. The foreign limited liability company's governing statute authorizes the domestication.

b. The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute.

c. The foreign limited liability company complies with its governing statute in effecting the domestication.

2. A limited liability company may become a foreign limited liability company pursuant to this section, sections 489.1011 through 489.1013, and a plan of domestication, if all of the following apply:

a. The foreign limited liability company's governing statute authorizes the domestication.

b. The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute.

c. The foreign limited liability company complies with its governing statute in effecting the domestication.

3. A plan of domestication must be in a record and must include all of the following:

a. The name of the domesticating company before domestication and the jurisdiction of its governing statute.

b. The name of the domesticated company after domestication and the jurisdiction of its governing statute.

c. The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration.

d. The organizational documents of the domesticated company that are, or are proposed to be, in a record.

Sec. 81. NEW SECTION. 489.1011 ACTION ON PLAN OF DOMESTICATION BY DOMESTICATING LIMITED LIABILITY COMPANY.

1. A plan of domestication must be consented to as follows:

a. By all the members, subject to section 489.1014, if the domesticating company is a limited liability company.

b. As provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

2. Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the secretary of state for filing under section 489.1012, a domesticating limited liability company may amend the plan or abandon the domestication as follows:

a. As provided in the plan.

b. Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

Sec. 82. NEW SECTION. 489.1012 FILINGS REQUIRED FOR DOMESTICATION — EFFECTIVE DATE.

1. After a plan of domestication is approved, a domesticating company shall deliver to the secretary of state for filing articles of domestication, which must include all of the following:

a. A statement, as the case may be, that the company has been domesticated from or into another jurisdiction.

b. The name of the domesticating company and the jurisdiction of its governing statute.

c. The name of the domesticated company and the jurisdiction of its governing statute.

d. The date the domestication is effective under the governing statute of the domesticated company.

e. If the domesticating company was a limited liability company, a statement that the domestication was approved as required by this chapter.

f. If the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction.

g. If the domesticated company was a foreign limited liability company not authorized to transact business in this state, the street and mailing addresses of an office that the secretary of state may use for the purposes of section 489.1013, subsection 2.

2. A domestication becomes effective as follows:

a. When the certificate of organization takes effect, if the domesticated company is a limited liability company.

b. According to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

Sec. 83. NEW SECTION. 489.1013 EFFECT OF DOMESTICATION.

1. When a domestication takes effect, all of the following apply:

a. The domesticated company is for all purposes the company that existed before the domestication.

b. All property owned by the domesticating company remains vested in the domesticated company.

c. All debts, obligations, or other liabilities of the domesticating company continue as debts, obligations, or other liabilities of the domesticated company.

d. An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred.

e. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company remain vested in the domesticated company.

f. Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect.

g. Except as otherwise agreed, the domestication does not dissolve a domesticating limited liability company for the purposes of article 7.

2. A domesticated company that is a foreign limited liability company consents to the jurisdiction of the courts of this state to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in this state on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to transact business in this state appoints the secretary of state as its registered agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the secretary of state under this subsection must be made in the same manner and has the same consequences as in section 489.116, subsections 3 and 4.

3. If a limited liability company has adopted and approved a plan of domestication under section 489.1010 providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization must be delivered to the secretary of state for filing setting forth all of the following:

a. The name of the company.

b. A statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction.

c. A statement the[3] domestication was approved as required by this chapter.

d. The jurisdiction of formation of the domesticated foreign limited liability company.

Sec. 84. NEW SECTION. 489.1014 RESTRICTIONS ON APPROVAL OF MERGERS, CONVERSIONS, AND DOMESTICATIONS.

1. If a member of a constituent, converting, or domesticating limited liability company will have personal liability with respect to a surviving, converted, or domesticated organization, approval or amendment of a plan of merger, conversion, or domestication is ineffective without the consent of the member, unless all of the following apply:

a. The company's operating agreement provides for approval of a merger, conversion, or domestication with the consent of fewer than all the members.

b. The member has consented to the provision of the operating agreement.

2. A member does not give the consent required by subsection 1 merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

Sec. 85. NEW SECTION. 489.1015 MERGER OF DOMESTIC COOPERATIVE INTO A DOMESTIC LIMITED LIABILITY COMPANY.

1. A limited liability company may merge with a domestic cooperative only as provided by this section. A limited liability company may merge with one or more domestic cooperatives if all of the following apply:

a. Only one limited liability company and one or more domestic cooperatives are parties to the merger.

b. When the merger becomes effective, the separate existence of each domestic cooperative ceases and the limited liability company is the surviving entity per organization.

c. As to each domestic cooperative, the plan of merger is initiated and adopted, and the merger is effectuated, as provided in section 501A.1101.

d. As to the limited liability company, the plan of merger complies with section 489.1002, the plan of merger is approved as provided in section 489.1003, and the articles of merger are prepared, signed, and filed as provided in section 489.1004.

e. Notwithstanding section 489.1002 or 489.1005, the surviving organization must be the limited liability company.

[3] According to enrolled Act; the phrase "statement that the" probably intended

2. Section 501A.1103 governs the abandonment by a domestic cooperative of a merger authorized by this section. Section 489.1003, subsection 2, governs the abandonment by a limited liability company of a merger authorized by this section.

Sec. 86. NEW SECTION. 489.1016 ARTICLE NOT EXCLUSIVE.

This article does not preclude an entity from being merged, converted, or domesticated under law other than this chapter.

ARTICLE 11
PROFESSIONAL LIMITED LIABILITY COMPANIES

Sec. 87. NEW SECTION. 489.1101 DEFINITIONS.

As used in this article, unless the context otherwise requires:

1. "Employee" or "agent" does not include a clerk, stenographer, secretary, bookkeeper, technician, or other person who is not usually and ordinarily considered by custom and practice to be practicing a profession nor any other person who performs all that person's duties for the professional limited liability company under the direct supervision and control of one or more managers, employees, or agents of the professional limited liability company who are duly licensed in this state to practice a profession which the limited liability company is authorized to practice in this state. This article does not require any such persons to be licensed to practice a profession if they are not required to be licensed under any other law of this state.

2. "Foreign professional limited liability company" means a limited liability company organized under laws other than the laws of this state for a purpose for which a professional limited liability company may be organized under this article.

3. "Licensed" includes registered, certified, admitted to practice, or otherwise legally authorized under the laws of this state.

4. "Profession" means the profession of certified public accountancy, architecture, chiropractic, dentistry, physical therapy, psychology, professional engineering, land surveying, landscape architecture, law, medicine and surgery, optometry, osteopathy, osteopathic medicine and surgery, accounting practitioner, podiatry, real estate brokerage, speech pathology, audiology, veterinary medicine, pharmacy, nursing, or marriage[4] and family therapy, provided that the marriage[5] and family therapist is licensed under chapters 147 and 154D.

5. "Professional limited liability company" means a limited liability company subject to this article, except a foreign professional limited liability company.

6. "Regulating board" means any board, commission, court, or governmental authority which, under the laws of this state, is charged with the licensing, registration, certification, admission to practice, or other legal authorization of the practitioners of any profession.

7. a. "Voluntary transfer" includes a sale, voluntary assignment, gift, pledge, or encumbrance; a voluntary change of legal or equitable ownership or beneficial interest; or a voluntary change of persons having voting rights with respect to any transferable interest, except as proxies.

b. "Voluntary transfer" does not include a transfer of an individual's interest in a limited liability company or other property to a guardian or conservator appointed for that individual or the individual's property.

Sec. 88. NEW SECTION. 489.1102 PURPOSES AND POWERS.

A professional limited liability company shall be organized only for the purpose of engaging in the practice of one specific profession, or two or more specific professions which could lawfully be practiced in combination by a licensed individual or a partnership of licensed individuals, and for the additional purpose of doing all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions. The certificate of organization of a professional limited liability company shall state in substance that the purposes for which the professional limited liability company is organized are to engage in the general practice of a specified profession or professions, or one or more specified

[4] According to enrolled Act; the word "marital" probably intended
[5] According to enrolled Act; the word "marital" probably intended

branches or divisions thereof, and to do all lawful things which may be incidental to or necessary or convenient in connection with the practice of the profession or professions.

Sec. 89. NEW SECTION. 489.1103 NAME.

The name of a professional limited liability company, the name of a foreign professional limited liability company or its name as modified for use in this state, and any fictitious name or trade name adopted by a professional limited liability company or foreign professional limited liability company shall contain the words "professional limited liability company" or the abbreviation "P.L.L.C." or "PLLC", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the professional limited liability company is authorized to practice. Each regulating board may by rule adopt additional requirements as to the corporate names and fictitious or trade names of professional limited liability companies and foreign professional limited liability companies which are authorized to practice a profession which is within the jurisdiction of the regulating board.

Sec. 90. NEW SECTION. 489.1104 WHO MAY ORGANIZE.

One or more individuals having capacity to contract and licensed to practice a profession in this state in which the professional limited liability company is to be authorized to practice, may organize a professional limited liability company.

Sec. 91. NEW SECTION. 489.1105 PRACTICE BY PROFESSIONAL LIMITED LIABILITY COMPANY.

Notwithstanding any other statute or rule of law, a professional limited liability company may practice a profession, but may do so in this state only through a member, manager, employee, or agent, who is licensed to practice the same profession in this state. In its practice of a profession, a professional limited liability company shall not do any act which could not lawfully be done by an individual licensed to practice the profession which the professional limited liability company is authorized to practice.

Sec. 92. NEW SECTION. 489.1106 PROFESSIONAL REGULATION.

A professional limited liability company shall not be required to register with or to obtain any license, registration, certificate, or other legal authorization from a regulating board in order to practice a profession. Except as provided in this section, this article does not restrict or limit in any manner the authority or duties of any regulating board with respect to individuals practicing a profession which is within the jurisdiction of the regulating board, even if the individual is a member, manager, employee, or agent of a professional limited liability company or foreign professional limited liability company and practices the individual's profession through such professional limited liability company.

Sec. 93. NEW SECTION. 489.1107 RELATIONSHIP AND LIABILITY TO PERSONS SERVED.

This article does not modify any law applicable to the relationship between an individual practicing a profession and a person receiving professional services, including but not limited to any liability arising out of such practice or any law respecting privileged communications. This article does not modify or affect the ethical standards or standards of conduct of any profession, including but not limited to any standards prohibiting or limiting the practice of the profession by a limited liability company or prohibiting or limiting the practice of two or more professions in combination. All such standards shall apply to the members, managers, employees, and agents through whom a professional limited liability company practices any profession in this state, to the same extent that the standards apply to an individual practitioner.

Sec. 94. NEW SECTION. 489.1108 ISSUANCE OF INTERESTS.

An interest of a professional limited liability company shall be issued only to an individual who is licensed to practice in any state a profession which the professional limited liability

company is authorized to practice. Interests of a professional limited liability company shall not at any time be issued in, transferred into, or held in joint tenancy, tenancy in common, or any other form of joint ownership or co-ownership. Chapter 502 shall not be applicable to nor govern any transaction relating to any interests of a professional limited liability company.

Sec. 95. NEW SECTION. 489.1109 ASSIGNMENT OF INTERESTS.

A member or other person shall not make a voluntary assignment of an interest in a professional limited liability company to any person, except to the professional limited liability company or to an individual who is licensed to practice in this state a profession which the limited liability company is authorized to practice. The certificate of organization or operating agreement of the professional limited liability company may contain any additional provisions restricting the assignment of interests. Unless the certificate of organization or an operating agreement otherwise provides, a voluntary assignment requires the unanimous consent of the members.

Sec. 96. NEW SECTION. 489.1110 CONVERTIBLE INTERESTS — RIGHTS AND OPTIONS.

A professional limited liability company shall not create or issue any interest convertible into an interest of the professional limited liability company. The provisions of this article with respect to the issuance and transfer of interests apply to the creation, issuance, and transfer of any right or option entitling the holder to purchase from a professional limited liability company any interest of the professional limited liability company. A right or option shall not be transferable, whether voluntarily, involuntarily, by operation of law, or in any other manner. Upon the death of the holder, or when the holder ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the right or option shall expire.

Sec. 97. NEW SECTION. 489.1111 VOTING TRUST — PROXY.

A member of a professional limited liability company shall not create or enter into a voting trust or any other agreement conferring upon any other person the right to vote or otherwise represent any interests of a professional limited liability company, and no such voting trust or agreement is valid or effective. Any proxy of a member of a professional limited liability company shall be an individual licensed to practice a profession in this state which the professional limited liability company is authorized to practice. Any provision in any proxy instrument denying the right of the member to revoke the proxy at any time or for any period of time is not valid or effective. This section does not otherwise limit the right of a member to vote by proxy, but the certificate of organization or operating agreement of the professional limited liability company may further limit or deny the right to vote by proxy.

Sec. 98. NEW SECTION. 489.1112 REQUIRED PURCHASE BY PROFESSIONAL LIMITED LIABILITY COMPANY OF ITS OWN INTERESTS.

1. Notwithstanding any other statute or rule of law, a professional limited liability company shall purchase its own interests as provided in this section; and a member of a professional limited liability company and the member's executor, administrator, legal representative, and successors in interest, shall sell and transfer the interests held by them as provided in this section.

2. Upon the death of a member, the professional limited liability company shall immediately purchase all interests held by the deceased member.

3. In order to remain a member of a professional limited liability company, the member shall at all times be licensed to practice in this state a profession which the professional limited liability company is authorized to practice. When a member does not have or ceases to have this qualification, the professional limited liability company shall immediately purchase all interests held by that member.

4. When a person other than a member of record becomes entitled to have interests of a pro-

fessional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to interests of the professional limited liability company, the professional limited liability company shall immediately purchase the interests. Without limiting the generality of the foregoing, this section shall be applicable whether the event occurs as a result of appointment of a guardian or conservator for a member or the member's property, transfer of interests by operation of law, involuntary transfer of interests, judicial proceeding, execution, levy, bankruptcy proceeding, receivership proceeding, foreclosure or enforcement of a pledge or encumbrance, or any other situation or occurrence. However, this section does not apply to any voluntary transfer of interests as defined in this article.

5. Interests purchased by a professional limited liability company under this section shall be transferred to the professional limited liability company as of the close of business on the date of the death or other event which requires purchase. The member and the member's executors, administrators, legal representatives, or successors in interest, shall promptly do all things which may be necessary or convenient to cause transfer to be made as of the transfer date. However, the interests shall promptly be transferred on the books and records of the professional limited liability company as of the transfer date, notwithstanding any delay in transferring or surrendering the interests or certificates representing the interests, and the transfer shall be valid and effective for all purposes as of the close of business on the transfer date. The purchase price for such interests shall be paid as provided in this article, but the transfer of interests to the professional limited liability company as provided in this section shall not be delayed or affected by any delay or default in making payment.

6. Notwithstanding subsections 1 through 5, purchase by the professional limited liability company is not required upon the occurrence of any event other than death of a member, if the professional limited liability company is dissolved within sixty days after the occurrence of the event. The certificate of organization or operating agreement of the professional limited liability company may provide that purchase is not required upon the death of a member, if the professional limited liability company is dissolved within sixty days after the date of the member's death.

7. Unless otherwise provided in the certificate of organization or an operating agreement of the professional limited liability company or in an agreement among all members of the professional limited liability company, all of the following apply:

a. The purchase price for interests shall be its book value as of the end of the month immediately preceding the death or other event which requires purchase. Book value shall be determined from the books and records of the professional limited liability company in accordance with the regular method of accounting used by the professional limited liability company, uniformly and consistently applied. Adjustments to book value shall be made, if necessary, to take into account work in process and accounts receivable. A final determination of book value made in good faith by an independent certified public accountant or firm of certified public accountants employed by the professional limited liability company for the purpose shall be conclusive on all persons.

b. The purchase price shall be paid in cash as follows:

(1) Upon the death of a member, thirty percent of the purchase price shall be paid within ninety days after death, and the balance shall be paid in three equal annual installments on the first three anniversaries of the death.

(2) Upon the happening of any other event referred to in this section, one-tenth of the purchase price shall be paid within ninety days after the date of the event, and the balance shall be paid in three equal annual installments on the first three anniversaries of the date of the event.

c. Interest from the date of death or other event shall be payable annually on principal payment dates, at the rate of six percent per annum on the unpaid balance of the purchase price.

d. All persons who are members of the professional limited liability company on the date of death or other event, and their executors, administrators, and legal representatives, shall, to the extent the professional limited liability company fails to meet its obligations under this section, be jointly liable for the payment of the purchase price and interest in proportion to

their percentage of ownership of the professional limited liability company's interests, disregarding interests of the deceased or withdrawing member.

e. The part of the purchase price remaining unpaid after the initial payment shall be evidenced by a negotiable promissory note, which shall be executed by the professional limited liability company and all members liable for payment. Any person liable on the note shall have the right to prepay the note in full or in part at any time.

f. If the person making any payment is not reasonably able to determine which of two or more persons is entitled to receive a payment, or if the payment is payable to a person who is unknown, or who is under disability and there is no person legally competent to receive the payment, or who cannot be found after the exercise of reasonable diligence by the person making the payment, it shall be deposited with the treasurer of state and shall be subject to the provisions of section 490.1440 with respect to funds deposited with the treasurer of state upon the voluntary or involuntary dissolution of a business corporation.

8. Notwithstanding the other provisions of this section, no part of the purchase price shall be required to be paid until the certificates, if any, representing the interests have been surrendered to the professional limited liability company.

9. Notwithstanding the other provisions of this section, payment of any part of the purchase price for interests of a deceased member shall not be required until the executor or administrator of the deceased member provides any indemnity, release, or other document from any taxing authority, which is reasonably necessary to protect the professional limited liability company against liability for estate, inheritance, and death taxes.

10. The certificate of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for a different purchase price, a different method of determining the purchase price, a different interest rate or no interest, and other terms, conditions, and schedules of payment.

11. The certificate of organization or an operating agreement of the professional limited liability company or an agreement among all members of a professional limited liability company may provide for the optional or mandatory purchase of its own interests by the professional limited liability company in other situations, subject to any applicable law regarding such a purchase.

Sec. 99. NEW SECTION. 489.1113 CERTIFICATES REPRESENTING INTERESTS.

Each certificate representing an interest of a professional limited liability company shall state in substance that the certificate represents an interest in a professional limited liability company and is not transferable except as expressly provided in this article and in the certificate of organization or an operating agreement of the professional limited liability company.

Sec. 100. NEW SECTION. 489.1114 MANAGEMENT.

All managers of a professional limited liability company shall at all times be individuals who are licensed to practice a profession in this state which the limited liability company is authorized to practice. A person who is not licensed shall have no authority or duties in the management or control of the professional limited liability company. If a manager ceases to have this qualification, the manager shall immediately and automatically cease to hold such management position.

Sec. 101. NEW SECTION. 489.1115 MERGER.

A professional limited liability company shall not merge with any entity except another professional limited liability company subject to this article or a professional corporation subject to chapter 496C. Merger is not permitted unless the surviving or new professional limited liability company is a professional limited liability company which complies with all requirements of this article.

Sec. 102. NEW SECTION. 489.1116 DISSOLUTION OR LIQUIDATION.

A violation of any provision of this article by a professional limited liability company or any

of its members or managers shall be cause for its involuntary dissolution, or liquidation of its assets and business by the district court. Upon the death of the last remaining member of a professional limited liability company, or when the last remaining member is not licensed or ceases to be licensed to practice a profession in this state which the professional limited liability company is authorized to practice, or when any person other than the member of record becomes entitled to have all interests of the last remaining member of the professional limited liability company transferred into that person's name or to exercise voting rights, except as a proxy, with respect to such interests, the professional limited liability company shall not practice any profession and it shall be promptly dissolved. However, if prior to dissolution all outstanding interests of the professional limited liability company are acquired by two or more persons licensed to practice a profession in this state which the professional limited liability company is authorized to practice, the professional limited liability company need not be dissolved and may practice the profession as provided in this article.

Sec. 103. NEW SECTION. 489.1117 FOREIGN PROFESSIONAL LIMITED LIABILITY COMPANY.

1. A foreign professional limited liability company may practice a profession in this state if it complies with the provisions of this article. The secretary of state may prescribe forms for this purpose. A foreign professional limited liability company may practice a profession in this state only through members, managers, employees, and agents who are licensed to practice the profession in this state. The provisions of this article with respect to the practice of a profession by a professional limited liability company apply to a foreign professional limited liability company.

2. This article does not prohibit the practice of a profession in this state by an individual who is a member, manager, employee, or agent of a foreign professional limited liability company, if the individual could lawfully practice the profession in this state in the absence of any relationship to a foreign professional limited liability company. This subsection applies regardless of whether or not the foreign professional limited liability company is authorized to practice a profession in this state.

Sec. 104. NEW SECTION. 489.1118 LIMITED LIABILITY COMPANIES ORGANIZED UNDER THE OTHER LAWS.

This article does not apply to or interfere with the practice of any profession by or through any professional limited liability company organized after July 1, 1992, under any other law of this state or any other state or country, if the practice is lawful under any other statute or rule of law of this state. Any such professional limited liability company may voluntarily elect to adopt this article and become subject to its provisions, by amending its certificate of organization to be consistent with all provisions of this article and by stating in its amended certificate of organization that the limited liability company has voluntarily elected to adopt this article. Any limited liability company organized under any law of any other state or country may become subject to the provisions of this article by complying with all provisions of this article with respect to foreign professional limited liability companies.

Sec. 105. NEW SECTION. 489.1119 CONFLICTS WITH OTHER PROVISIONS OF THIS CHAPTER.

The provisions of this article shall prevail over any inconsistent provisions of this chapter.

ARTICLE 12
SERIES LIMITED LIABILITY COMPANIES

Sec. 106. NEW SECTION. 489.1201 SERIES OF TRANSFERABLE INTERESTS.

1. An operating agreement may establish or provide for the establishment of a designated series of transferable interests having separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and, to the extent provided in the operating agreement, any such series may have a separate business purpose or investment objective. The name of

each series must contain the name of the limited liability company and be distinguishable from the name of any other series set forth in the certificate of organization.

2. Notwithstanding contrary provisions of this chapter, the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of that series only, and not against the assets of the limited liability company generally, if all of the following apply:

a. The operating agreement creates one or more series.

b. Separate and distinct records are maintained for that series and separate and distinct records account for the assets associated with that series. The assets associated with a series must be accounted for separately from the other assets of the limited liability company, including another series.

c. The operating agreement provides for such limitation on liabilities.

d. Notice of the establishment of the series and of the limitation on liabilities of the series is set forth in the certificate of organization of the limited liability company. The filing of the certificate of organization containing a notice of the limitation on liabilities of a series in the office of the secretary of state constitutes notice of the limitation on liabilities of such series.

3. A series meeting all of the conditions of subsection 2, shall be treated as a separate entity to the extent set forth in the certificate of organization.

4. Notwithstanding section 489.304, or a contrary provision in an operating agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations, or liabilities of one or more series.

5. An operating agreement may provide for classes or groups of members or managers associated with a series having such relative rights, powers, and duties as the operating agreement may provide. The operating agreement may provide for the future creation of additional classes or groups of members or managers associated with the series having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members or managers associated with the series. An operating agreement may provide for the taking of an action, including the amendment of the operating agreement, without the vote or approval of any member or manager or class or group of members or managers, including all action to create under the provisions of the operating agreement a class or group of the series of membership interests that was not previously outstanding. An operating agreement may provide that any member or class or group of members associated with a series does not have voting rights.

6. An operating agreement may grant to all or certain identified members or managers or a specified class or group of the members or managers associated with a series the right to vote on any matter separately or with all or any class or group of the members or managers associated with the series. Voting by members or managers associated with a series may be on a per capita, number, financial interest, class, group, or other basis.

7. Except to the extent modified by this article, the provisions of this chapter which are generally applicable to a limited liability company, and its managers, members and transferees, shall be applicable to each series with respect to the operations of such series.

Sec. 107. NEW SECTION. 489.1202 MANAGEMENT OF A SERIES.

1. A series is member-managed unless the operating agreement does any of the following:

a. Expressly provides any of the following:

(1) The series is or will be "manager-managed".

(2) The series is or will be "managed by managers".

(3) Management of the series is or will be "vested in managers".

b. Includes words of similar import.

2. In a member-managed series, unless modified pursuant to section 489.1201, subsections 5 and 6, all of the following rules apply:

a. The management and conduct of the series are vested in the members of the series.

b. Each series member has equal rights in the management and conduct of the series' activities.

c. A difference arising among series members as to a matter in the ordinary course of the activities of the series may be decided by a majority of the series members.

d. An act outside the ordinary course of the activities of the series may be undertaken only with the consent of all members of the series.

e. The operating agreement may be amended only with the consent of all members of the series.

3. In a manager-managed series, all of the following rules apply:

a. Except as otherwise expressly provided in this chapter, any matter relating to the activities of the series is decided exclusively by the managers of the series.

b. Each series manager has equal rights in the management and conduct of the activities of the series.

c. A difference arising among managers of a series as to a matter in the ordinary course of the activities of the series may be decided by a majority of the managers of the series.

d. Unless modified pursuant to section 489.1201, subsections 5 and 6, the consent of all members of the series is required to do any of the following:

(1) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the series' property, with or without the goodwill, outside the ordinary course of the series' activities.

(2) Approve a merger, conversion, or domestication under article 10.

(3) Undertake any other act outside the ordinary course of the series' activities.

(4) Amend the operating agreement as it pertains to the series.

e. A manager of the series may be chosen at any time by the consent of a majority of the members of the series and remains a manager of the series until a successor has been chosen, unless the series manager at an earlier time resigns, is removed, or dies, or, in the case of a series manager that is not an individual, terminates. A series manager may be removed at any time by the consent of a majority of the members without notice or cause.

f. A person need not be a series member to be a manager of a series, but the dissociation of a series member that is also a series manager removes the person as a manager of the series. If a person that is both a series manager and a series member ceases to be a manager of the series, that cessation does not by itself dissociate the person as a member of the series.

g. A person's ceasing to be a series manager does not discharge any debt, obligation, or other liability to the series or members of the series which the person incurred while a manager of the series.

4. An action requiring the consent of members of a series under this chapter may be taken without a meeting, and a member of a series may appoint a proxy or other agent to consent or otherwise act for the series member by signing an appointing record, personally or by the series member's agent.

5. The dissolution of a series does not affect the applicability of this section. However, a person that wrongfully causes dissolution of the series loses the right to participate in management as a series member and a series manager.

6. This chapter does not entitle a series member of a series to remuneration for services performed for a member-managed series, except for reasonable compensation for services rendered in winding up the activities of the series.

Sec. 108. NEW SECTION. 489.1203 SERIES DISTRIBUTIONS.

1. Any distribution made by a series before its dissolution and winding up must be in equal shares among the series members and dissociated series members, except to the extent necessary to comply with any transfer effective under section 489.502 and any charging order in effect under section 489.503.

2. A person has a right to a distribution before the dissolution and winding up of a series only if the series decides to make an interim distribution. A person's dissociation does not entitle the person to a distribution.

3. A person does not have a right to demand or receive a distribution from a series in any form other than money. Except as otherwise provided in section 489.708, subsection 3, a series may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

4. If a series member or transferee becomes entitled to receive a distribution, the series member or transferee has the status of, and is entitled to all remedies available to, a creditor of the series with respect to the distribution.

5. a. A series shall not make a distribution if after the distribution any of the following occurs:

(1) The series would not be able to pay its debts as they become due in the ordinary course of the series' activities.

(2) The series' total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the series were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members whose preferential rights are superior to those of persons receiving the distribution.

b. As used in paragraph "a", "distribution" does not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business under a bona fide retirement plan or other benefits program.

6. A series may base a determination that a distribution is not prohibited under subsection 1 on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

7. Except as otherwise provided in subsection 9, the effect of a distribution under subsection 1 is measured as follows:

a. In the case of a distribution by purchase, redemption, or other acquisition of a transferable interest in the series, as of the date money or other property is transferred or debt incurred by the series.

b. In all other cases, as of the date when one of the following occurs:

(1) The distribution is authorized, if the payment occurs within one hundred twenty days after that date.

(2) The payment is made, if the payment occurs more than one hundred twenty days after the distribution is authorized.

8. A series' indebtedness to a series member incurred by reason of a distribution made in accordance with this section is at parity with the series' indebtedness to its general, unsecured creditors.

9. A series' indebtedness, including indebtedness issued in connection with or as part of a distribution, is not a liability for purposes of subsection 5 if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members of the series under this section. If such indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

10. a. Except as otherwise provided in paragraph "b", if a member of a member-managed series or manager of a manager-managed series consents to a distribution made in violation of this section and in consenting to the distribution fails to comply with section 489.409, the member or manager is personally liable to the series for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 489.405.

b. To the extent the operating agreement of a member-managed series expressly relieves a series member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members of the series, the liability stated in paragraph "a" applies to the other members of the series and not the member of the series that the operating agreement relieves of authority and responsibility.

11. A person that receives a distribution knowing that the distribution to that person was made in violation of section 489.405 is personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under section 489.405.

12. A person against which an action is commenced because the person is liable under subsection 10 may do any of the following:

a. Implead any other person that is subject to liability under subsection 10 and seek to compel contribution from the person.

b. Implead any person that received a distribution in violation of subsection 11 and seek to compel contribution from the person in the amount the person received in violation of that subsection.

13. An action under this section is barred if not commenced within two years after the distribution.

Sec. 109. NEW SECTION. 489.1204 DISSOCIATION FROM A SERIES.

Unless otherwise provided in the operating agreement, a member shall cease to be associated with a series and to have the power to exercise any rights or powers of a member with respect to such series upon the assignment of all of the member's transferable interest with respect to such series. Except as otherwise provided in an operating agreement, an event under this chapter or identified in an operating agreement that causes a member to cease to be associated with a series, by itself, shall not cause such member to cease to be associated with any other series or terminate the continued membership of a member in the limited liability company.

Sec. 110. NEW SECTION. 489.1205 TERMINATION OF A SERIES.

1. Except to the extent otherwise provided in the operating agreement, a series may be terminated and its affairs wound up without causing the dissolution of the limited liability company. The termination of a series established pursuant to section 489.1201, subsection 1, shall not affect the limitation on a liability of such series provided by section 489.1201, subsection 2. A series is not terminated and its affairs shall continue despite the dissolution of the limited liability company under article 7 but the series shall be terminated and its affairs shall be wound up upon the first to occur of any of the events described in section 489.701, subsection 1, paragraphs "a" through "e", as applied to the series.

2. Notwithstanding section 489.702, unless otherwise provided in the operating agreement, any of the following persons may wind up the affairs of a series:

a. A manager associated with a series who has not wrongfully terminated the series.

b. If there is no manager of a series, the members associated with the series or a person approved by the members associated with the series.

c. If there is more than one class or group of members associated with the series, then by each class or group of members associated with the series, in either case, by members who own more than fifty percent of the transferable interests of the series owned by all of the members associated with the series or by the members of each class or group associated with the series.

3. The persons winding up the affairs of a series, in the name of the series and for and on behalf of the series, may take all actions with respect to the series as are permitted under section 489.702 for a limited liability company. The persons winding up the affairs of a series shall provide for the claims and obligations of the series as provided in section 489.708 for a limited liability company and distribute the assets of the series as provided in section 489.708 for a limited liability company. An action taken pursuant to this subsection shall not affect the liability of a member and shall not impose liability on a liquidating trustee.

Sec. 111. NEW SECTION. 489.1206 FOREIGN SERIES.

A foreign limited liability company that is authorized to do business in this state under article 8 which is governed by an operating agreement that establishes or provides for the establishment of designated series of transferable interests having separate rights, powers, or duties with respect to specified property or obligations of the foreign limited liability company, or profits and losses associated with the specified property or obligations, shall indicate that fact on the application for a certificate of authority as a foreign limited liability company. In addition, the foreign limited liability company shall state on the application whether the debts, liabilities, and obligations incurred, contracted for, or otherwise existing with respect to a particular series, if any, are enforceable against the assets of such series only, and not against the assets of the foreign limited liability company generally.

ARTICLE 13
MISCELLANEOUS PROVISIONS

Sec. 112. NEW SECTION. 489.1301 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 113. NEW SECTION. 489.1302 RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede section 101(c) of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that Act, 15 U.S.C. § 7003(b).

Sec. 114. NEW SECTION. 489.1303 SAVINGS CLAUSE.

This chapter does not affect an action commenced, proceeding brought, or right accrued before this chapter takes effect.

Sec. 115. NEW SECTION. 489.1304 APPLICATION TO EXISTING RELATIONSHIPS.

1. Before January 1, 2011, this chapter governs all of the following:

a. A limited liability company formed on or after January 1, 2009.

b. Except as otherwise provided in subsection 3, a limited liability company formed before January 1, 2009, which elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

2. Except as otherwise provided in subsection 3, on and after January 1, 2011, this chapter governs all limited liability companies.

3. For the purposes of applying this chapter to a limited liability company formed before January 1, 2009, all of the following apply:

a. The limited liability company's articles of organization are deemed to be the company's certificate of organization.

b. For the purposes of applying section 489.102, subsection 12, and subject to section 489.112, subsection 4, language in the limited liability company's articles of organization designating the limited liability company's management structure operates as if that language were in the operating agreement.

DIVISION II
CONVERSION FOR CORPORATIONS AND OTHER ENTITIES

Sec. 116. Section 490.122, subsection 1, paragraph l, Code Supplement 2007, is amended to read as follows:

l. Articles of merger, ~~or~~ share exchange, or conversion ..... $ 50

Sec. 117. Section 490.1101, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Converted entity" means a corporation or other entity into which a converting entity converts pursuant to sections 490.1111 through 490.1114.

NEW SUBSECTION. 0B. "Converting entity" means a corporation or other entity that converts into an other entity or corporation pursuant to section 490.1101.[6]

NEW SUBSECTION. 0C. "Governing statute" of a corporation or other entity means the statute that governs the corporation or other entity's internal affairs.

Sec. 118. NEW SECTION. 490.1111 CONVERSION.

1. An other entity may convert to a domestic corporation, and a domestic corporation may convert to an other entity pursuant to this section and sections 490.1112 through 490.1114 and a plan of conversion, if all of the following apply:

[6] According to enrolled Act; the phrase "section 490.1111" probably intended

a. The other entity's governing statute authorizes the conversion.

b. The conversion is not prohibited by the law of the jurisdiction that enacted the governing statute.

c. The other entity complies with its governing statute in effecting the conversion.

2. A plan of conversion must be in a record and must include all of the following:

a. The name and form of the converting entity before conversion.

b. The name and form of the converted entity after conversion.

c. The terms and conditions of the conversion, including the manner and basis for converting interests in the converting entity into any combination of money, interests in the converted entity, and other consideration.

d. The organizational documents or articles of incorporation and bylaws of the converted entity.

Sec. 119. NEW SECTION. 490.1112 ACTION ON PLAN OF CONVERSION BY CONVERTING DOMESTIC CORPORATION.

1. In the case of a domestic corporation that is being converted into an other entity all of the following apply:

a. The plan of conversion must be adopted by the domestic corporation's board of directors.

b. After adopting the plan of conversion, the domestic corporation's board of directors must submit the plan to the domestic corporation's 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.

c. The domestic corporation must notify each shareholder of the domestic corporation, 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 of conversion and must contain or be accompanied by a copy or summary of the plan of conversion. The notice shall include or be accompanied by a copy of the organic documents as they will be in effect immediately after the conversion.

d. The domestic corporation's board of directors may condition its submission of the plan of conversion to the domestic corporation's shareholders on any basis.

e. Unless the articles of incorporation, bylaws, or the board of directors of the domestic corporation require a greater vote or a greater number of votes to be present, the approval of the plan of conversion shall require the approval of the domestic corporation's 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 classes or series of shares is entitled to vote as a separate group on the plan of conversion, 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 conversion by that voting group is present.

f. If any provision of the articles of incorporation, bylaws or an agreement of the domestic corporation to which any of the directors or shareholders of the domestic corporation are parties, adopted or entered into before the effective date of this section, applies to a merger of the corporation and the document does not refer to a conversion of the corporation, the provision shall be deemed to apply to a conversion of the corporation until such provision is subsequently amended.

g. If as a result of the conversion as provided in this subsection, one or more shareholders of the domestic corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, approval of the plan of conversion shall require the execution, by each such shareholder of the domestic corporation, of a separate written consent to become so subject to such owner liability.

2. After a conversion is approved as provided in subsection 1, and at any time before a filing is made under section 490.1113, a domestic corporation that is being converted may amend its plan of conversion or abandon the planned conversion as follows:

a. As provided in the plan of conversion.

b. Except as prohibited by the plan of conversion, by the same consent as was required to approve the plan of conversion.

Sec. 120. NEW SECTION. 490.1113 FILINGS REQUIRED FOR CONVERSION — EFFECTIVE DATE.

1. After a plan of conversion is approved, all of the following apply:

a. A domestic corporation that is being converted into an other entity shall deliver to the secretary of state for filing articles of conversion, which must include all of the following:

(1) A statement that the domestic corporation has been converted into an other entity.

(2) The name and form of the other entity and the jurisdiction of its governing statute.

(3) The date the conversion is effective under the governing statute of the converted entity.

(4) A statement that the conversion was approved as required by this chapter.

(5) A statement that the conversion was approved as required by the governing statute of the converted entity.

(6) If the converted entity is a foreign other entity not authorized to transact business in this state, the street and mailing address of an office which the secretary of state may use for the purposes of section 490.1114, subsection 3.

b. If the converting entity is not a converting domestic corporation, the converting entity shall deliver to the secretary of state for filing articles of incorporation, which must include, in addition to the information required by section 490.202, all of the following:

(1) A statement that the domestic corporation was converted from an other entity.

(2) The name and form of the other entity and the jurisdiction of its governing statute.

(3) A statement that the conversion was approved in a manner that complied with the other entity's governing statute.

2. A conversion becomes effective according to the following:

a. If the converted entity is a domestic corporation, when the articles of incorporation are filed.

b. If the converted entity is not a domestic corporation, as provided by the governing statute of the converted other entity.

Sec. 121. NEW SECTION. 490.1114 EFFECT OF CONVERSION.

1. A domestic corporation or other entity that has been converted pursuant to this article is for all purposes the same domestic corporation or other entity that existed before the conversion.

2. When a conversion takes effect, all of the following apply:

a. All property owned by the converting entity remains vested in the converted entity.

b. All debts, liabilities, and other obligations of the converting entity continue as obligations of the converted entity.

c. An action or proceeding pending by or against the converting entity may be continued as if the conversion had not occurred.

d. The shares or interests of the converting entity are reclassified into shares, interests, other securities, obligations, rights to acquire shares, interests or other securities, or into cash or other property in accordance with the plan of conversion; and the shareholders or interest holders of the converting entity are entitled only to the rights provided to them under the terms of the conversion and to any appraisal rights they may have under the organic law of the converting entity.

e. Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting entity remain vested in the converted entity.

f. Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect.

g. Except as otherwise agreed, the conversion does not dissolve a converting domestic corporation for the purposes of division XIV.

3. A converted entity that is a foreign other entity consents to the jurisdiction of the courts

of this state to enforce any obligation owed by the converting corporation, if before the conversion the converting corporation was subject to suit in this state on the obligation. A converted other entity that is a foreign other entity and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 490.504.

Sec. 122. Section 490.1302, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Consummation of a conversion of the corporation to an other entity pursuant to sections 490.1111 through 490.1114.

DIVISION III
CONFORMING AMENDMENTS

Sec. 123. Section 9H.1, subsection 16, Code 2007, is amended to read as follows:

16. "Limited liability company" means a limited liability company as defined in section 489.102 or 490A.102.

Sec. 124. Section 9H.4, subsection 8, Code 2007, is amended to read as follows:

8. A corporation or its subsidiary organized under chapter 490 or a limited liability company organized under chapter 489 or 490A and to which section 312.8 is applicable.

Sec. 125. Section 10.1, subsection 9, Code 2007, is amended to read as follows:

9. "Farmers cooperative limited liability company" means a limited liability company organized under chapter 489 or 490A, if cooperative associations hold one hundred percent of all membership interests in the limited liability company. Farmers cooperative associations must hold at least seventy percent of all membership interests in the limited liability company. If more than one type of membership interest is established, including any series as provided in section 489.1201 or 490A.305 or any class or group as provided in section 489.1201 or 490A.307, farmers cooperative associations must hold at least seventy percent of all membership interests of that type.

Sec. 126. Section 10.1, subsection 17, Code 2007, is amended to read as follows:

17. "Networking farmers limited liability company" means a limited liability company, other than a family farm limited liability company as defined in section 9H.1, organized under chapter 489 or 490A if all of the following conditions are satisfied:

a. Qualified farmers must hold at least fifty-one percent of all membership interests in the limited liability company. If more than one type of membership interest is established, including any series as provided in section 489.1201 or 490A.305 or any class or group as provided in section 489.1201 or 490A.307, qualified farmers must hold at least fifty-one percent of all membership interests of that type.

b. Qualified persons must hold at least seventy percent of all membership interests in the limited liability company. If more than one type of membership interest is established, including any series as provided in section 489.1201 or 490A.305 or any class or group as provided in section 489.1201 or 490A.307, qualified persons must hold at least seventy percent of all membership interests of that type.

Sec. 127. Section 10.10, subsection 1, paragraph c, Code 2007, is amended to read as follows:

c. Less than fifty percent of the interest in the farmers cooperative limited liability company is held by members which are parties to intra-company loan agreements. If more than one type of membership interest is established, including any series as provided in section 489.1201 or 490A.305 or any class or group as provided in section 489.1201 or 490A.307, less than fifty percent of the interest in each type of membership shall be held by members which are parties to intra-company loan agreements.

Sec. 128. Section 10B.1, subsection 7, Code 2007, is amended to read as follows:

7. "Limited liability company" means a foreign or domestic limited liability company, including a limited liability company as defined in section 489.102 or 490A.102.

Sec. 129. Section 10B.4, subsection 1, Code 2007, is amended to read as follows:

1. A biennial report shall be filed by a reporting entity with the secretary of state on or before March 31 of each odd-numbered year as required by rules adopted by the secretary of state pursuant to chapter 17A. However, a reporting entity required to file a biennial report pursuant to chapter 489 or 490A, 490, ~~490A,~~ 496C, 497, 498, 499, 501, 501A, or 504 shall file the report required by this section in the same year as required by that chapter. The reporting entity may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this subsection. The reports shall be filed on forms prepared and supplied by the secretary of state. The secretary of state may provide for combining its reporting forms with other biennial reporting forms required to be used by the reporting entities.

Sec. 130. Section 10B.7, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

Lessees of agricultural land under section 9H.4, subsection 2, paragraph "c", for research or experimental purposes, shall file a biennial report with the secretary of state on or before March 31 of each odd-numbered year on forms adopted pursuant to chapter 17A and supplied by the secretary of state. However, a lessee required to file a biennial report pursuant to chapter 489 or 490A, 490, ~~490A,~~ 496C, 497, 498, 499, 501, 501A, or 504 shall file the report required by this section in the same year as required by that chapter. The lessee may file the report required by this section together with the biennial report required to be filed by one of the other chapters referred to in this paragraph. The report shall contain the following information for the reporting period:

Sec. 131. Section 10C.1, subsection 11, Code 2007, is amended to read as follows:

11. "Limited liability company" means a limited liability company as defined in section 489.102 or 490A.102.

Sec. 132. Section 10D.1, subsection 3, Code 2007, is amended to read as follows:

3. "Qualified enterprise" or "enterprise" means a limited liability company as defined in section 489.102 or 490A.102, a domestic or foreign corporation subject to chapter 490, a nonprofit corporation organized under chapter 504, ~~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 9I.1.

Sec. 133. Section 203.1, subsection 10, paragraph j, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

A limited liability company as defined in section 489.102 or 490A.102 that meets all of the following requirements:

Sec. 134. Section 421.26, Code Supplement 2007, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 423A, 423B, or 423E, or section 423.31 or 423.33, or a retailer or purchaser under section 423.32, a user under section 423.34, or a permit holder or licensee under section 453A.13, 453A.16, or 453A.44 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding ~~sections~~ section 489.304 or sections 490A.601 and 490A.602, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the

payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 135. Section 422.16, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12, shall be deemed to be held in trust for the state of Iowa. Notwithstanding ~~sections~~ section 489.304 or sections 490A.601 and 490A.602, this subsection applies to a member or manager of a limited liability company.

Sec. 136. Section 476C.1, subsection 6, paragraph b, subparagraph (6), Code 2007, is amended to read as follows:

(6) A cooperative corporation organized pursuant to chapter 497 or a limited liability ~~corporation~~ company organized pursuant to chapter 489 or 490A whose shares and membership are held by an entity that is not prohibited from owning agricultural land under chapter 9H.

Sec. 137. Section 488.108, subsection 4, paragraph b, subparagraph (4), Code 2007, is amended to read as follows:

(4) For a limited liability company~~,~~ under chapter 489, section 489.108, 489.109, or 489.706 and for a limited liability company under chapter 490A, section 490A.401, 490A.402, or 490A.1322.

Sec. 138. Section 490.401, subsection 2, paragraph b, subparagraph (4), Code 2007, is amended to read as follows:

(4) For a limited liability company~~,~~ under chapter 489, section 489.108, 489.109, or 489.706 and for a limited liability company under chapter 490A, section 490A.401, 490A.402, or 490A.1322.

Sec. 139. Section 501A.102, subsections 9 and 13, Code 2007, are amended to read as follows:

9. "Domestic business entity" means a business entity organized under the laws of this state, including but not limited to a limited liability company as defined in section 489.102 or 490A.102; a corporation organized pursuant to chapter 490; a nonprofit corporation organized under chapter 504; ~~a limited liability company as defined in section 490A.102;~~ a partnership, limited partnership, limited liability partnership, or limited liability limited partnership as provided in chapter 486A or 488; or a cooperative association or other cooperative organized under this chapter or chapter 497, 498, 499, or 501.

13. "Iowa limited liability company" means a limited liability company governed by chapter 489 or 490A.

Sec. 140. Section 501A.1101, subsection 1, Code Supplement 2007, is amended to read as follows:

1. AUTHORIZATION. Unless otherwise prohibited, cooperatives organized under the laws of this state, including cooperatives organized under this chapter or traditional cooperatives, may merge or consolidate with each other, an Iowa limited liability company under the provisions of section 489.1015 or 490A.1207, or other business entities organized under the laws of another state by complying with the provisions of this section and the law of the state where the surviving or new business entity will exist. A cooperative shall not merge or consolidate with a business entity organized under the laws of this state, other than a traditional cooperative, unless the law governing the business entity expressly authorizes merger or consolidation with a cooperative. This subsection does not authorize a foreign business entity to do any act not authorized by the law governing the foreign business entity.

Sec. 141. Section 501A.1101, subsection 2, paragraphs a through c, Code Supplement 2007, are amended to read as follows:

a. The names of the constituent domestic cooperative, the name of any Iowa limited liability company that is a party to the merger, to the extent authorized under section 489.1015 or 490A.1207, and any foreign business entities.

b. The name of the surviving or new domestic cooperative, Iowa limited liability company as required by section 489.1015 or 490A.1207, or other foreign business entity.

c. The manner and basis of converting membership or ownership interests of the constituent domestic cooperative, the Iowa limited liability company that is a party as provided in section 489.1015 or 490A.1207, or foreign business entity into membership or ownership interests in the surviving or new domestic cooperative, the surviving Iowa limited liability company as authorized in section 489.1015 or 490A.1207, or foreign business entity.

Sec. 142. Section 501A.1101, subsection 5, paragraph c, Code Supplement 2007, is amended to read as follows:

c. If a merger involves an Iowa limited liability company, this subsection is subject to the provisions of section 489.1015 or 490A.1207.

Sec. 143. Section 501A.1102, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

An Iowa limited liability company may only participate in a merger under this section to the extent authorized under section 489.1015 or 490A.1207. A parent domestic cooperative or a subsidiary that is a domestic cooperative may complete the merger of a subsidiary as provided in this section. However, if either the parent cooperative or the subsidiary is a business entity organized under the laws of this state, the merger of the subsidiary is not authorized under this section unless the law governing the business entity expressly authorizes merger with a cooperative.

Sec. 144. Section 501A.1103, subsection 2, paragraph a, subparagraphs (3) and (6), Code 2007, are amended to read as follows:

(3) The abandonment is approved in such manner as may be required by section 489.1015 or 490A.1207 for the involvement of an Iowa limited liability company, or for a foreign business entity by the laws of the state under which the foreign business entity is organized.

(6) The plan is abandoned before the effective date of the plan by a resolution of the board of any constituent domestic cooperative abandoning the plan of merger approved by the affirmative vote of a majority of the directors present, subject to the contract rights of any other person under the plan. If a plan of merger is with a domestic business entity or foreign business entity, the plan of merger may be abandoned before the effective date of the plan by a resolution of the foreign business entity adopted according to the laws of the state under which the foreign business entity is organized, subject to the contract rights of any other person under the plan. If the plan of merger is with an Iowa limited liability company, the plan of merger may be abandoned by the Iowa limited liability company as provided in section 489.1015 or 490A.1207, subject to the contractual rights of any other person under the plan.

Sec. 145. Section 504.401, subsection 2, paragraph b, subparagraph (4), Code 2007, is amended to read as follows:

(4) For a limited liability company~~,~~ under chapter 489, section 489.108, 489.109, or 489.706 and for a limited liability company under chapter 490A, section 490A.401, 490A.402, or 490A.1322.

Sec. 146. Section 504.403, subsection 1, paragraph b, subparagraph (4), Code 2007, is amended to read as follows:

(4) For a limited liability company~~,~~ under chapter 489, section 489.108, 489.109, or 489.706 and for a limited liability company under chapter 490A, section 490A.401, 490A.402, or 490A.1322.

Sec. 147. Section 524.303, subsection 2, Code 2007, is amended to read as follows:

2. Applicable fees, payable to the secretary of state as specified in section 489.117 or 490A.124 or section 490.122 ~~or 490A.124~~, for the filing and recording of the articles of incorporation.

Sec. 148. Section 524.315, subsection 1, Code 2007, is amended to read as follows:

1. A state bank organized as a limited liability company under this chapter shall also be subject to chapter 489, the revised uniform limited liability company Act or chapter 490A, the Iowa limited liability company Act. If a provision of chapter 489, the revised uniform limited liability company Act, or chapter 490A, the Iowa limited liability company Act conflicts with a provision of this chapter or any rule of the superintendent adopted pursuant to this chapter, the provisions of this chapter or rule of the superintendent shall control.

Sec. 149. Section 524.1309, unnumbered paragraph 1, Code 2007, is amended to read as follows:

In lieu of the dissolution procedure prescribed in sections 524.1303 to 524.1306, a state bank may cease to carry on the business of banking and, after compliance with this section, continue as a corporation subject to chapter 490; or if the state bank is organized as a limited liability company under this chapter, continue as a limited liability company subject to chapter 489 or 490A.

Sec. 150. Section 524.1309, subsections 1, 3, 5, 6, 7, 8, and 9, Code 2007, are amended to read as follows:

1. A state bank that has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 489 or 490A, upon the affirmative vote of the holders of at least a majority of the shares entitled to vote on such proposal, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank, national bank, or other financial institution insured by the federal deposit insurance corporation, and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 489 or 490A, the state bank shall deliver to the superintendent a plan to cease the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 489 or 490A, which shall be signed by two of its duly authorized officers and shall contain the name of the state bank, the post office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under chapter 490, or by the limited liability company subject to chapter 489 or 490A, and the general nature of the assets to be held by the corporation or company.

5. The board of directors has full power to complete the settlement of the affairs of the state bank. Within thirty days after approval by the superintendent of the plan to cease the business of banking and become a corporation subject to chapter 490, or a limited liability company subject to chapter 489 or 490A, the state bank shall give notice of its intent to persons identified in section 524.1305, subsection 3, in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank, the state bank shall also follow the procedure prescribed in section 524.1305, subsections 4, 5, and 6.

6. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter 490 or 489 or 490A, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with this section, that it has ceased to carry on the business of banking, and the information re-

quired by section 490.202 relative to the contents of articles of incorporation under chapter 490, or articles of organization under chapter 489 or 490A. If the superintendent finds that the state bank has complied with this section and that the articles of intent to be subject to chapter 490 or 489 or 490A satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and the superintendent shall file and record them in the office of the county recorder.

7. Upon the filing of the articles of intent to be subject to chapter 490 or 489 or 490A, the state bank shall cease to be a state bank subject to this chapter, and shall cease to have the powers of a state bank subject to this chapter and shall become a corporation subject to chapter 490 or a limited liability company subject to chapter 489 or 490A. The secretary of state shall issue a certificate as to the filing of the articles of intent to be subject to chapter 490 or 489 or 490A and send the certificate to the corporation or limited liability company or its representative. The articles of intent to be subject to chapter 490 or 489 or 490A shall be the articles of incorporation of the corporation or a limited liability company. The provisions of chapter 490 or 489 or 490A becoming applicable to a corporation or limited liability company formerly doing business as a state bank shall not affect any right accrued or established, or liability or penalty incurred under this chapter prior to the filing with the secretary of state of the articles of intent to be subject to chapter 490 or 489 or 490A.

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, or a limited liability company subject to chapter 489 or 490A, is entitled to appraisal rights provided for in chapter 490, division XIII, or in chapter 489, section 489.604 or 490A, subchapter VII.

9. A state bank, at any time prior to the approval of the articles of intent to become subject to chapter 490 or 489 or 490A, may revoke the proceedings in the manner prescribed by section 524.1306.

Sec. 151. Section 524.2001, Code 2007, is amended to read as follows:

524.2001 APPLICABILITY OF OTHER CHAPTERS.

Chapters 489, 490, 490A, 491, 492, and 493 do not apply to banks except as provided by this chapter.

Sec. 152. Section 547.1, Code 2007, is amended to read as follows:

547.1 USE OF TRADE NAME — VERIFIED STATEMENT REQUIRED.

A person shall not engage in or conduct a business under a trade name, or an assumed name of a character other than the true surname of each person owning or having an interest in the business, unless the person first records with the county recorder of the county in which the business is to be conducted a verified statement showing the name, post office address, and residence address of each person owning or having an interest in the business, and the address where the business is to be conducted. However, this provision does not apply to any person organized or incorporated in this state as a domestic entity or authorized to do business in this state as a foreign entity, if the person is a limited partnership under chapter 488; a corporation under chapter 490; a limited liability company under chapter 489 or 490A; a professional corporation under chapter 496C; a cooperative or cooperative association under chapter 497, 498, 499, 501, or 501A; or a nonprofit corporation under chapter 504.

DIVISION IV
REPEALS
SUBCHAPTER XVII
REPEAL

Sec. 153. NEW SECTION. 490A.1701 REPEAL.

This chapter is repealed on December 31, 2010.

Sec. 154. FUTURE ELIMINATION OF NONCONFORMING REFERENCES. The following sections, as amended by this Act, or as amended by a subsequent Act, are amended as follows:

1. Sections 9H.1, 10B.1, 10C.1, 10D.1, 203.1, and 501A.102, by striking from the sections the word and figure "or 490A.102".

2. Sections 9H.4, 10.1, 10B.4, 10B.7, 476C.1, 501A.102, 524.1309, and 547.1, by striking from the sections the word and figure "or 490A".

3. Sections 10.1 and 10.10, by striking from the sections the word and figure "or 490A.305".

4. Sections 10.1 and 10.10, by striking from the sections the word and figure "or 490A.307".

5. Sections 421.26 and 422.16, by striking from the sections the words and figures "or sections 490A.601 and 490A.602".

6. Sections 488.108, 490.401, 504.401, and 504.403, by striking from the sections the words and figures "and for a limited liability company under chapter 490A, section 490A.401, 490A.402, or 490A.1322".

7. Sections 501A.1101, 501A.1102, and 501A.1103, by striking from the sections the word and figure "or 490A.1207".

8. Section 524.303, by striking from the section the word and figure "or 490A.124".

9. Section 524.315, by striking from the section the words and figure "or chapter 490A, the Iowa limited liability company Act".

10. Section 524.1309, by striking from the section the words and figures "or 490A, subchapter VII".

11. Section 524.2001, by striking from the section the figure "490A,".

DIVISION V
EFFECTIVE DATES

Sec. 155. EFFECTIVE DATES.

1. Except as provided in subsection 2, this Act takes effect on January 1, 2009.

2. The section of division IV of this Act that provides for the future elimination of nonconforming references takes effect on December 31, 2010.

Approved May 10, 2008

CHAPTER 1163

WATER USE — PERMIT FEES AND FUNDING

H.F. 2672

AN ACT relating to water use permit fees, creating a new water use permit fund, and making appropriations.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 423.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 93. Water use permit fees paid pursuant to section 455B.265.

Sec. 2. Section 455B.265, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The department may charge a fee to a person who has been grant-

ed a permit pursuant to this section or is required to have a permit pursuant to section 455B.268. The commission shall adopt by rule the fee amounts.

a. The amount of a fee shall be based on the department's reasonable cost of reviewing applications, issuing permits, ensuring compliance with the terms of the permits, and resolving water interference complaints. The commission shall calculate the fees to produce total revenues of not more than five hundred thousand dollars for each fiscal year, commencing with the fiscal year beginning July 1, 2009, and ending June 30, 2010.

b. Fees collected pursuant to this subsection shall be credited to the water use permit fund created in section 455B.265A.

c. The commission shall annually review the amount of moneys generated by the fees, the balance in the water use permit fund, and the anticipated expenses for the succeeding fiscal year.

d. Fees paid pursuant to this section shall not be subject to sales or services taxes.

e. The department shall not require an applicant to pay both an annual fee and an application fee when submitting an application for a water use permit.

Sec. 3. NEW SECTION. 455B.265A WATER USE PERMIT FUND — APPROPRIATION.

1. A water use permit fund is created in the state treasury. The fund shall be separate from the general fund of the state and shall be under the control of the department.

2. Moneys credited to the fund from the fees assessed pursuant to section 455B.265, subsection 6, are appropriated to the department and shall be used for all of the following purposes:

a. Reviewing applications for permits under section 455B.265, issuing permits, and providing technical assistance to permit applicants.

b. Ensuring compliance with the terms of the permits.

c. Implementing and enforcing the provisions of sections 455B.261 through 455B.281 pertaining to water allocation, use, diversion, storage, and withdrawal, and completing investigations needed to issue new or modified permits or to resolve water interference complaints.

3. Notwithstanding section 8.33, any unexpended balance in the fund at the end of a fiscal year shall be retained in the fund.

4. Notwithstanding section 12C.7, subsection 2, interest, earnings on investments, or time deposits of the moneys in the fund shall be retained in the fund.

Sec. 4. EMERGENCY RULES. The department of natural resources may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to rescind any existing water use permit fees to facilitate implementation of 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.

Approved May 10, 2008

CHAPTER 1164

INHERITANCE TAXES ON QUALIFIED TUITION PLANS

H.F. 2673

AN ACT relating to the inheritance tax on any interest in a qualified tuition plan.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 12D.9, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. State inheritance tax treatment of interests in Iowa educational savings plans shall be as provided in section 450.4, subsection 10. This subsection shall apply to all Iowa educational savings plans existing on or after July 1, 1998.

Sec. 2. Section 450.4, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 10. On the value of any interest in a qualified tuition plan, as defined in section 529 of the Internal Revenue Code, to the same extent to which the value is excluded from the decedent's gross estate for federal estate tax purposes. This subsection shall apply to all qualified tuition plans that are in existence on or after July 1, 1998.

Approved May 10, 2008

CHAPTER 1165

WATER WELL DRILLING SITE WASTEWATER DISCHARGE

H.F. 2685

AN ACT relating to rules for the discharge of wastewater from water well drilling sites and providing for a fee.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 455B.198 WASTEWATER DISCHARGE FROM WELL DRILLING SITES — RULES.

1. The commission shall adopt rules to regulate the discharge of wastewater from water well drilling sites. The rules shall incorporate the following considerations:

a. The size of the well as measured by the flow of water in gallons per minute.

b. The best management practices to address wastewater discharge.

c. Requirements for notification to the department prior to the commencement of drilling operations.

d. Requirements for retention of records for a well.

e. Reasonable and appropriate limitations on wastewater discharge that take into consideration the need for the well.

f. Reasonable and appropriate limitations on wastewater discharge that take into consideration the need to conserve soil and protect water quality.

2. The commission shall have the authority in the rules to provide for the issuance of a general permit and to establish a fee sufficient to recover the costs of issuing a general permit, which shall not exceed fifty dollars. The fees shall be remitted to the department and shall be used by the department to administer the permitting requirements of this section.

3. The commission shall convene an advisory committee that includes representatives of the Iowa water well association to assist in the development of the rules.

4. The rules shall be adopted no later than July 31, 2009.

Approved May 10, 2008

CHAPTER 1166

ALCOHOLIC BEVERAGE LICENSEE OR PERMITTEE
SECURITY PERSONNEL TRAINING

H.F. 901

AN ACT concerning the training and certification of designated security personnel working at commercial establishments with a liquor control license or wine or beer permit and providing for fees.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 123.32, subsection 4, Code 2007, is amended to read as follows:

4. SECURITY EMPLOYEE TRAINING. A local authority, as a condition of obtaining and holding a license or permit for on-premises consumption, may require a designated security employee as defined in section 123.3 to be trained and certified in security methods. The training shall include but is not limited to ~~mediation~~ de-escalation techniques, anger management techniques, civil rights or unfair practices awareness as provided in section 216.7, recognition of fake or altered identification, information on laws applicable to the serving of alcohol at a licensed premises, use of force and techniques for safely removing patrons, and ~~providing~~ instruction on the proper physical restraint methods used against a person who has become combative.

Sec. 2. PILOT PROJECT — ALCOHOLIC BEVERAGE CONTROL — SECURITY EMPLOYEE TRAINING — FEES — REPORT.

1. On and after January 1, 2009, and notwithstanding any other provision of law to the contrary, a local authority located in a county with a population as of the most recent decennial census in excess of three hundred thousand persons, shall require a licensee or permittee, as provided in chapter 123, of a premises with an occupancy of at least two hundred persons to have at least one designated security employee, as defined in section 123.3, who shall be designated as the supervising security person, who is trained and certified in security methods as provided in this section, on the premises during an event for which an admission or a cover charge of at least five dollars is charged or collected to enter the premises or attend a performance or program on the premises while alcoholic beverages are served or made available to patrons. However, a designated security employee who is a certified peace officer shall be exempt from the requirement to be trained and certified through a program conducted by the division of labor services as provided in this section.

2. a. The labor commissioner of the division of labor services of the department of workforce development shall establish and conduct an eight-hour security and safety certification training program for designated security employees. The commissioner shall assess a fee of not more than fifty dollars to a person participating in the training and issue a certificate to the designated security employee upon successful completion of the training program.

b. The training program shall include but is not limited to the following:

(1) De-escalation techniques.

(2) Anger management techniques.
(3) Use of force and techniques for safely removing patrons.
(4) Recognition of fake or altered identification.
(5) Information on laws applicable to the serving of alcohol at a licensed premises.
(6) Disaster preparedness.
(7) Communications skills and report writing.
(8) Civil rights or unfair practices awareness as provided in section 216.7.
(9) Instruction on the proper physical restraint methods used against a person who has become combative.

3. Fees assessed pursuant to this section of this Act shall be retained by the commissioner and shall be considered repayment receipts as defined in section 8.2, and shall be used to offset the cost of conducting the training. Notwithstanding section 8.33, repayment receipts collected by the commissioner for security employee training that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

4. The labor commissioner of the division of labor services of the department of workforce development and the administrator of the alcoholic beverages division of the department of commerce shall jointly submit a written report to the general assembly by January 1, 2011, concerning the effectiveness of the pilot project and any recommendations for legislative action to expand or modify the pilot project.

5. This section of this Act is repealed June 30, 2011.

Approved May 12, 2008

CHAPTER 1167

USED OIL FILTER DISPOSAL OR RECYCLING

H.F. 2668

AN ACT relating to the disposal and recycling of used oil filters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455D.13, Code 2007, is amended to read as follows:

455D.13 LAND DISPOSAL OF ~~WASTE~~ USED OIL AND USED OIL FILTERS PROHIBITED — COLLECTION AND RECYCLING.

1. A sanitary landfill shall not accept ~~waste~~ used oil for final disposal ~~beginning July 1, 1990~~.

2. A person offering for sale or selling oil or oil filters at retail in the state shall do the following:

a. Accept at the point of sale, ~~waste~~ used oil and used oil filters from customers, or post notice of locations where a customer may dispose of ~~waste~~ used oil and used oil filters.

b. Post written notice that it is unlawful to dispose of ~~waste~~ used oil in a sanitary landfill.

Sec. 2. Section 455D.13, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A business that generates used oil filters or collects used oil filters from a person shall not dispose of the oil filters in a sanitary landfill and shall source-separate and recycle the oil filters.

Approved May 12, 2008

CHAPTER 1168

MERCURY-ADDED THERMOSTAT
COLLECTION AND RECYCLING

H.F. 2669

AN ACT relating to the collection and recycling of mercury-added thermostats.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 455D.31 MERCURY — THERMOSTATS.

1. As used in this section, unless the context otherwise requires:

a. "Manufacturer" means any person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that owns or owned the brand name of the thermostat.

b. "Mercury-added thermostat" means a product or device that uses a mercury switch to sense and control room temperature through communication with heating, ventilating, or air-conditioning equipment. "Mercury-added thermostat" includes thermostats used to sense and control room temperature in residential, commercial, industrial, and other buildings but does not include thermostats used to sense and control temperature as part of a manufacturing process.

c. "Thermostat retailer" means a person who sells thermostats of any kind directly to homeowners or other nonprofessionals through any selling or distribution mechanism, including but not limited to sales using the internet or catalogues. A thermostat retailer may also be a thermostat wholesaler if it meets the definition of thermostat wholesaler.

d. "Thermostat wholesaler" means a person who is engaged in the distribution and wholesale selling of large quantities of heating, ventilation, and air-conditioning components, including thermostats, to contractors who install heating, ventilation, and air-conditioning components, including thermostats.

2. Beginning July 1, 2009, a person shall not sell, offer for sale, or install a mercury-added thermostat in this state.

3. Beginning April 1, 2009, except as otherwise provided, a person who generates a discarded mercury-added thermostat shall manage the mercury-added thermostat as a hazardous waste or universal hazardous waste, according to all applicable state and federal regulations. A contractor who replaces or removes mercury-added thermostats shall assure that any discarded mercury-added thermostat is subject to proper separation and management as hazardous waste or universal hazardous waste. A contractor who replaces a mercury-added thermostat in a residence shall deliver the mercury-added thermostat to an appropriate collection location for recycling.

4. Each thermostat manufacturer that has offered for final sale, sold at final sale, or distributed mercury-added thermostats in the state shall individually, or in conjunction with other thermostat manufacturers, do all of the following:

a. Not later than October 1, 2008, submit a plan to the department for approval describing a collection program for mercury-added thermostats. The program contained in the plan shall ensure that all the following take place:

(1) That an education and outreach program is developed. The program shall be directed toward thermostat wholesalers, thermostat retailers, contractors, and homeowners and ensure a maximum rate of collection of mercury-added thermostats. There shall not be a cost to thermostat wholesalers or thermostat retailers for education and outreach materials.

(2) That handling and recycling of mercury-added thermostats are accomplished in a manner that is consistent with the provisions of the universal waste rules.

(3) That containers for mercury-added thermostat collection are provided to all thermostat wholesalers. The cost to thermostat wholesalers for such containers shall be limited to an initial, reasonable, one-time fee per container as specified in the plan.

(4) That collection points will be established to serve homeowners. The collection points shall include but are not limited to regional collection centers permitted under 567 IAC 123. Collection points may include but are not limited to thermostat retailers.

(5) That collection systems are provided to all collection points. Collection systems may include individual product mail back or multiple collection containers. The costs of collection shall not be passed on to a collection point. The costs to a collection point shall be limited to an initial, reasonable, one-time fee per container as specified in the plan.

b. Not later than April 1, 2009, implement a mercury-added thermostat collection plan approved by the department.

c. Beginning in 2010, submit an annual report to the department by April 1 of each year that includes, at a minimum, all of the following:

(1) The number of mercury-added thermostats collected and recycled by that manufacturer during the previous calendar year.

(2) The estimated total amount of mercury contained in the thermostat components collected by that manufacturer during the previous calendar year.

(3) A list of all participating thermostat wholesalers and all collection points for homeowners.

(4) An evaluation of the effectiveness of the manufacturer's collection program.

(5) An accounting of the administrative costs incurred in the course of administering the collection and recycling program.

5. a. By April 1, 2009, a thermostat wholesaler shall do both of the following:

(1) Act as a collection site for mercury-added thermostats.

(2) Promote and utilize the collection containers provided by thermostat manufacturers to facilitate a contractor collection program.

b. By April 1, 2009, a thermostat retailer shall participate in an education and outreach program to educate consumers on the collection program for mercury-added thermostats.

6. Beginning April 1, 2009, all of the following sales prohibitions shall apply to thermostat manufacturers, thermostat wholesalers, and thermostat retailers:

a. A thermostat manufacturer not in compliance with this section is prohibited from offering any thermostat for final sale in the state. A thermostat manufacturer not in compliance with this section shall provide the necessary support to thermostat wholesalers and thermostat retailers to ensure the manufacturer's thermostats are not offered for final sale.

b. A thermostat wholesaler or thermostat retailer shall not offer for final sale any thermostat of a manufacturer that is not in compliance with this section.

7. The department shall do all of the following:

a. Review and grant approval of, deny, or approve with modifications a manufacturer plan required under this section. The department shall not approve a plan unless all elements of subsection 4, paragraph "a", are adequately addressed and the program outlined in the plan will assure a maximum rate of collection of mercury-added thermostats. In reviewing a plan the department may consider consistency of the plan with collection requirements in other states and consider consistency between thermostat manufacturer collection programs. In reviewing plans, the agency shall ensure that education and outreach programs are uniform and consistent to ensure ease of implementation by thermostat wholesalers and thermostat retailers.

b. The department shall establish a process for public review and comment on all plans submitted by thermostat manufacturers prior to plan approval. The department shall consult with interested persons, including representatives of thermostat manufacturers, environmental groups, thermostat wholesalers, thermostat retailers, contractors, and local government.

c. By January 15, 2010, and annually thereafter, the department shall submit a written report to the general assembly regarding the collection and recycling of mercury-added thermostats in the state. The first report submitted shall include recommendations for any statutory changes concerning the collection and recycling of mercury-added thermostats. Subsequent reports shall include an evaluation of the effectiveness of the mercury-added thermostat collection and recycling programs, information on actual collection rates, and recommendations

for any statutory changes concerning the collection and recycling of mercury-added thermostats.

8. The goal of the collection and recycling efforts under this section is to collect and recycle as many mercury-added thermostats as reasonably practicable. By January 1, 2009, the department shall determine collection goals for the program in consultation with interested persons, including the national electrical manufacturers association and representatives of thermostat manufacturers, thermostat wholesalers, thermostat retailers, contractors, environmental groups, and local government. If collection efforts fail to meet the collection goals described in this subsection, the department shall, in consultation with the national electrical manufacturers association and other interested persons, consider modifications to collection programs in an attempt to improve collection rates in accordance with these goals.

Approved May 12, 2008

CHAPTER 1169

RENEWABLE FUELS — MISCELLANEOUS CHANGES

H.F. 2689

AN ACT relating to renewable fuel, including by providing for infrastructure associated with storing, blending, and dispensing renewable fuel, providing for tax credits, providing for the purchase of renewable fuels by governmental entities, providing for renewable fuel marketing efforts, and providing for effective dates and applicability.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
RENEWABLE FUEL INFRASTRUCTURE

Section 1. Section 15G.201, subsection 1, Code 2007, is amended to read as follows:

1. "Biodiesel", "biodiesel blended fuel", "biodiesel fuel", "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", "motor fuel", ~~"motor fuel pump",~~ "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

Sec. 2. Section 15G.201, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Motor fuel pump" and "motor fuel blender pump" or "blender pump" mean the same as defined in section 214.1.

NEW SUBSECTION. 5A. "Tank vehicle" means the same as defined in section 321.1.

Sec. 3. NEW SECTION. 15G.201A CLASSIFICATION OF RENEWABLE FUEL.

For purposes of this division,[1] ethanol blended fuel and biodiesel fuel shall be classified in the same manner as provided in section 214A.2.

Sec. 4. Section 15G.203, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

A renewable fuel infrastructure program for retail motor fuel sites is established in the department under the direction of the renewable fuel infrastructure board created pursuant to section 15G.202.

[1] According to enrolled Act; the word "subchapter" probably intended

Sec. 5. Section 15G.203, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The purpose of the program is to improve retail motor fuel sites by installing, replacing, or converting ~~motor fuel storage and dispensing~~ infrastructure~~. The infrastructure must be~~ to be used to store, blend, or dispense renewable fuel. The infrastructure shall be ethanol infrastructure or biodiesel infrastructure.

a. (1) Ethanol infrastructure shall be designed and ~~shall be~~ used exclusively to ~~store~~ do any of the following:

(a) Store and dispense ~~renewable fuel which is~~ E-85 gasoline~~,~~.

(b) Store, blend, and dispense motor fuel from a motor fuel blender pump, as required in this subparagraph subdivision. The ethanol infrastructure must provide for the storage of ethanol or ethanol blended gasoline, or for blending ethanol with gasoline. The ethanol infrastructure must at least include a motor fuel blender pump which dispenses different classifications of ethanol blended gasoline and allows E-85 gasoline to be dispensed at all times that the blender pump is operating.

(2) Biodiesel infrastructure shall be designed and used exclusively to do any of the following:

(a) Store and dispense biodiesel~~,~~ or biodiesel blended fuel ~~on the~~.

(b) Blend or dispense biodiesel fuel from a motor fuel blender pump.

b. The infrastructure must be part of the premises of a retail motor fuel ~~sites~~ site operated by a retail ~~dealers~~ dealer. The infrastructure shall not include a tank vehicle.

Sec. 6. Section 15G.203, subsection 3, Code Supplement 2007, is amended by striking the subsection.

Sec. 7. Section 15G.203, subsection 4, paragraph b, subparagraphs (3) and (4), Code Supplement 2007, are amended to read as follows:

(3) A statement describing how the retail motor fuel site is to be improved, the total estimated cost of the planned improvement, and the date when the infrastructure will be first used ~~to store and dispense the renewable fuel~~.

(4) A statement certifying that the infrastructure shall ~~not~~ only be used to ~~store or dispense motor fuel other than E-85 gasoline, biodiesel, or biodiesel blended fuel~~ comply with the provisions of this section and as specified in the cost-share agreement, unless granted a waiver by the infrastructure board pursuant to this section.

Sec. 8. Section 15G.203, subsection 6, Code Supplement 2007, is amended by striking the subsection.

Sec. 9. Section 15G.203, subsection 7, Code Supplement 2007, is amended to read as follows:

7. An award of financial incentives to a participating person shall be on a cost-share basis in the form of a grant. To

~~In order to~~ participate in the program, an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the retail motor fuel site. A cost-share agreement shall be for a three-year period or a five-year period. A cost-share agreement shall include provisions for standard financial incentives or standard financial incentives and supplemental financial incentives as provided in this subsection. The infrastructure board may approve multiple improvements to the same retail motor fuel site for the full amount available for both ethanol infrastructure and biodiesel infrastructure so long as the improvements for ethanol infrastructure and for biodiesel infrastructure are made under separate cost-share agreements.

a. (1) Except as provided in paragraph "b", a participating person may be awarded standard financial incentives to make improvements to a retail motor fuel site. The standard financial incentives awarded to ~~the~~ a participating person shall not exceed the following:

(a) For a three-year cost-share agreement, fifty percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.

(b) For a five-year cost-share agreement, seventy percent of the actual cost of making the improvement or fifty thousand dollars, whichever is less.

(2) The infrastructure board may approve multiple awards of standard financial incentives to make improvements to a retail motor fuel site so long as the total amount of the awards for ethanol infrastructure or biodiesel infrastructure does not exceed the limitations provided in ~~this paragraph~~ subparagraph (1).

b. In addition to any standard financial incentives awarded to a participating person under paragraph "a", the participating person may be awarded supplemental financial incentives to make improvements to a retail motor fuel site to ~~upgrade~~ do any of the following:

(1) Upgrade or replace a dispenser which is part of gasoline storage and dispensing infrastructure used to store and dispense E-85 gasoline as provided in section 455G.31. The participating person is only eligible to ~~receive~~ be awarded the supplemental financial incentives if the person installed the dispenser not later than sixty days after the date of the publication in the Iowa administrative bulletin of the state fire marshal's order providing that a commercially available dispenser is listed as compatible for use with E-85 gasoline by an independent testing laboratory as provided in section 455G.31. The supplemental financial incentives awarded to the participating person shall not exceed seventy-five percent of the actual cost of making the improvement or thirty thousand dollars, whichever is less.

(2) To improve additional retail motor fuel sites owned or operated by a participating person within a twelve-month period as provided in the cost-share agreement. The supplemental financial incentives shall be used for the installation of an additional tank and associated infrastructure at each such retail motor fuel site. A participating person may be awarded supplemental financial incentives under this subparagraph and standard financial incentives under paragraph "a" to improve the same motor fuel site. The supplemental financial incentives awarded to the participating person shall not exceed twenty-four thousand dollars. The participating person shall be awarded the supplemental financial incentives on a cumulative basis according to the schedule provided in this subparagraph, which shall not exceed the following:

(a) For the second retail motor fuel site, six thousand dollars.

(b) For the third retail motor fuel site, six thousand dollars.

(c) For the fourth retail motor fuel site, six thousand dollars.

(d) For the fifth retail motor fuel site, six thousand dollars.

Sec. 10. Section 15G.204, subsection 2, Code Supplement 2007, is amended by striking the subsection.

Sec. 11. Section 15G.204, subsection 4, Code Supplement 2007, is amended to read as follows:

4. a. An award of financial incentives to a participating person shall be in the form of a grant. In order to participate in the program, an eligible person must execute a cost-share agreement with the department as approved by the infrastructure board in which the person contributes a percentage of the total costs related to improving the terminal. The financial incentives awarded to the participating person shall not exceed the following:

(1) For improvements to store, blend, or dispense biodiesel fuel from B-2 or higher but not as high as B-99, fifty percent of the actual cost of making the improvements or fifty thousand dollars, whichever is less.

(2) For improvements to store, blend, and dispense biodiesel fuel from B-99 to B-100, fifty percent of the actual cost of making the improvements or one hundred thousand dollars, whichever is less. However, a person shall not be awarded moneys under this subparagraph if the person has been awarded a total of eight hundred thousand dollars under this subparagraph during any period of time and pursuant to all cost-share agreements in which the person participates.

b. The infrastructure board may approve multiple awards to make improvements to a termi-

nal so long as the total amount of the awards does not exceed the limitations provided in ~~this subsection~~ paragraph "a".

Sec. 12. Section 214.1, Code 2007, is amended to read as follows:

214.1 DEFINITIONS.

~~For the purpose of~~ As used in this chapter, unless the context otherwise requires:

1. "Biodiesel", "biodiesel fuel", "biofuel", "ethanol", "motor fuel", "retail dealer", "retail motor fuel site", and "wholesale dealer" mean the same as defined in section 214A.1.

2. "Commercial weighing and measuring device" or "device" means the same as defined in section 215.26.

~~2.~~ 3. "Motor ~~fuel" means the same as defined in section 214A.1~~ fuel blender pump" or "blender pump" means a motor fuel pump that dispenses a type of motor fuel that is blended from two or more different types of motor fuels and which may dispense more than one type of blended motor fuel.

~~3.~~ 4. "Motor fuel pump" means a pump, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel on a retail basis.

~~4. "Retail dealer" means the same as defined in section 214A.1.~~

5. ~~"Wholesale dealer" means the same as defined in section 214A.1~~ "Motor fuel storage tank" or "storage tank" means an aboveground or belowground container that is a fixture used to store an accumulation of motor fuel.

Sec. 13. Section 214.9, Code 2007, is amended to read as follows:

214.9 SELF-SERVICE MOTOR FUEL PUMPS.

~~Self-service~~ A self-service motor fuel ~~pumps~~ pump located at a retail motor ~~vehicle~~ fuel ~~stations~~ site may be equipped with an automatic latch-open ~~devices~~ device on the fuel dispensing hose nozzle only if the nozzle valve is the automatic closing type.

Sec. 14. Section 214A.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Biodiesel fuel" means biodiesel or biodiesel blended fuel.

Sec. 15. Section 214A.1, subsections 9, 14, and 15, Code 2007, are amended to read as follows:

9. "E-85 gasoline" or "E-85" means ethanol blended gasoline formulated with a ~~minimum~~ percentage of between seventy and eighty-five percent by volume of ethanol, if the formulation meets the standards provided in section 214A.2.

14. "Motor fuel pump" and "motor fuel blender pump" or "blender pump" means the same as defined in section 214.1.

15. "Motor fuel storage tank" means ~~an aboveground or belowground container that is a fixture, used to keep an accumulation of motor fuel~~ the same as defined in section 214.1.

Sec. 16. Section 214A.1, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 21A. "Standard ethanol blended gasoline" means ethanol blended gasoline for use in gasoline-powered vehicles other than flexible fuel vehicles, that meets the requirements of section 214A.2.

NEW SUBSECTION. 21B. "Unleaded gasoline" means gasoline, including ethanol blended gasoline, if all of the following applies:

a. It has an octane number of not less than eighty-seven as provided in section 214A.2.

b. Lead or phosphorus compounds have not been intentionally added to it.

c. It does not contain more than thirteen thousandths grams of lead per liter and not more than thirteen ten-thousandths grams of phosphorus per liter.

Sec. 17. Section 214A.2, subsection 3, paragraph b, Code 2007, is amended to read as follows:

b. If the motor fuel is advertised for sale or sold as ethanol blended gasoline, the motor fuel

must comply with departmental standards which shall ~~comply with specifications for ethanol-blended gasoline adopted by A.S.T.M. international. For ethanol blended gasoline~~ meet all of the following ~~shall apply~~ requirements:

(1) Ethanol must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D4806 for denatured fuel ethanol for blending with gasoline for use as automotive spark-ignition engine fuel, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

(2) Gasoline blended with ethanol must meet any of the following requirements:

(a) For the gasoline, A.S.T.M. international specification D4814.

(b) For the ethanol blended gasoline, A.S.T.M. international specification D4814.

(c) For the gasoline, A.S.T.M. international specification D4814 except for distillation, if, for E-10 or a classification below E-10, the ethanol blended gasoline meets the requirements of A.S.T.M. international specification D4814.

(3) For ethanol blended gasoline ~~other than E-85 gasoline~~, at least ~~ten~~ nine percent ~~of the gasoline~~ by volume must be fuel grade ethanol. In addition the following applies:

(a) For the period beginning on September 16 and ending on May 31 of each year, the state grants a waiver of one pound per square inch from the A.S.T.M. international D4814 Reid vapor pressure requirement.

(b) For the period beginning on June 1 and ending on September 15 of each year the United States environmental protection agency must grant a one pound per square inch waiver for ethanol blended conventional gasoline with at least nine but not more than ten percent by volume of ethanol pursuant to 40 C.F.R. § 80.27.

(4) For standard ethanol blended gasoline, it must be ethanol blended gasoline classified as any of the following:

(a) E-9 or E-10, if the ethanol blended gasoline meets the standards for that classification as otherwise provided in this paragraph "b".

(b) Higher than E-10, if authorized by the department pursuant to approval for the use of that classification of ethanol blended gasoline in this state by the United States environmental protection agency, by granting a waiver or the adoption of regulations.

(5) E-85 gasoline must be an agriculturally derived ethyl alcohol that meets A.S.T.M. international specification D5798, described as a fuel blend for use in ground vehicles with automotive spark-ignition engines, or a successor A.S.T.M. international specification, as established by rules adopted by the department.

Sec. 18. Section 214A.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Ethanol blended gasoline shall be designated E-xx where "xx" is the volume percent of ethanol in the ethanol blended gasoline and biodiesel shall be designated B-xx where "xx" is the volume percent of biodiesel.

Sec. 19. Section 214A.2B, Code Supplement 2007, is amended to read as follows:

214A.2B LABORATORY FOR MOTOR FUEL AND BIOFUELS.

A laboratory for motor fuel and biofuels is established at a merged area school which is engaged in biofuels testing on July 1, 2007, and which testing includes but is not limited to ~~B20~~ B-20 biodiesel fuel testing for motor trucks and the ability of biofuels to meet A.S.T.M. international standards. The laboratory shall conduct testing of motor fuel sold in this state and biofuel which is blended in motor fuel in this state to ensure that the motor fuel or biofuels meet the requirements in section 214A.2.

Sec. 20. Section 214A.3, subsection 2, paragraph b, Code 2007, is amended to read as follows:

b. (1) Ethanol blended gasoline sold by a dealer shall be designated ~~E-xx where "xx" is the volume percent of ethanol in the ethanol blended gasoline~~ according to its classification as provided in section 214A.2. However, a person advertising E-9 or E-10 gasoline may only designate it as ethanol blended gasoline. A person advertising ethanol blended gasoline formu-

lated with a percentage of between seventy and eighty-five percent by volume of ethanol shall designate it as E-85. A person shall not knowingly falsely advertise ethanol blended gasoline by using an inaccurate designation in violation of this subparagraph.

(2) Biodiesel ~~blended~~ fuel shall be designated ~~B-xx where "xx" is the volume percent of biodiesel in the biodiesel blended fuel~~ according to its classification as provided in section 214A.2. A person shall not knowingly falsely advertise biodiesel blended fuel by using an inaccurate designation in violation of this subparagraph.

Sec. 21. Section 214A.16, Code 2007, is amended to read as follows:

214A.16 NOTICE OF BLENDED FUEL — DECAL.

1. If motor fuel containing a renewable fuel is sold from a motor fuel pump, the pump shall have affixed a decal identifying the name of the renewable fuel. The decal ~~may~~ shall be different based on the type of renewable fuel ~~used~~ dispensed. If the motor fuel pump dispenses ethanol blended gasoline classified as higher than standard ethanol blended gasoline pursuant to section 214A.2, the decal shall contain the following notice: "FOR FLEXIBLE FUEL VEHICLES ONLY".

2. The design and location of the decal shall be prescribed by rules adopted by the department. A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department.

Sec. 22. Section 455G.31, subsection 1, Code Supplement 2007, is amended to read as follows:

1. As used in this section, unless the context otherwise requires:

a. "Dispenser" includes a motor fuel pump, including but not limited to a motor fuel blender pump.

~~a.~~ b. "E-85 gasoline", "ethanol blended gasoline", and "retail dealer" mean the same as defined in section 214A.1.

~~b.~~ c. "Gasoline storage and dispensing infrastructure" means any storage tank located below ground or above ground and any associated equipment including but not limited to a pipe, hose, connection, fitting seal, or motor fuel pump, which is used to store, measure, and dispense gasoline by a retail dealer.

d. Ethanol blended gasoline shall be designated in the same manner as provided in section 214A.2.

e. "Motor fuel pump" means the same as defined in section 214.1.

Sec. 23. Section 455G.31, subsection 2, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

A retail dealer may use gasoline storage and dispensing infrastructure to store and dispense ~~E-85~~ ethanol blended gasoline classified as E-9 or higher if all of the following apply:

Sec. 24. Section 455G.31, subsection 2, paragraph a, Code Supplement 2007, is amended to read as follows:

a. For gasoline storage and dispensing infrastructure other than the dispenser, the department of natural resources under this chapter or the state fire marshal under chapter 101 must determine that it is compatible with ~~E-85~~ the ethanol blended gasoline being used.

Sec. 25. Section 455G.31, subsection 2, paragraph b, subparagraph (1), subparagraph subdivision (a), Code Supplement 2007, is amended to read as follows:

(a) The dispenser must be listed by an independent testing laboratory as compatible with ethanol blended gasoline classified as E-9 or higher.

Sec. 26. Section 15.401, Code 2007, is repealed.

Sec. 27. RENEWABLE FUEL INFRASTRUCTURE — STANDARD FINANCIAL INCENTIVES AWARDED FOR THE ACQUISITION OF TANK VEHICLES.

1. Notwithstanding the amendments to section 15G.203, subsection 1, paragraph "b", as enacted in this Act, a person may participate in the renewable fuel infrastructure program for retail motor fuel sites as provided in section 15G.203, as amended by this Act, for the acquisition of any of the following:

a. One tank vehicle used to store and dispense E-85 gasoline, which shall be deemed ethanol infrastructure.

b. One tank vehicle used to store and dispense biodiesel or biodiesel blended fuel, which shall be deemed biodiesel infrastructure.

2. The renewable fuel infrastructure board may approve an award of financial incentives for the acquisition of a tank vehicle as provided in a cost-share agreement for a three-year period as provided in section 15G.203, as amended by this Act. The standard financial incentives awarded to the participating person shall not exceed fifty percent of the actual cost of the acquisition of the tank vehicle or thirty thousand dollars, whichever is less. The infrastructure board may approve an application for both a tank vehicle used to store and dispense E-85 gasoline as ethanol infrastructure and for a tank vehicle used to store and dispense biodiesel or biodiesel blended fuel as biodiesel infrastructure so long as the standard financial incentives awarded to the participating person for the acquisition of the two tank vehicles are made under separate cost-share agreements.

3. In order to participate in the renewable fuel infrastructure program for retail motor fuel sites as provided in this section, a person must apply to the department of economic development as provided in section 15G.203, as amended by this Act, not later than December 31, 2008.

Sec. 28. RENEWABLE FUEL INFRASTRUCTURE PROGRAMS — CONSIDERATION OF APPLICATIONS.

1. The renewable fuel infrastructure board created in section 15G.202 may award financial incentives to a person participating in the renewable fuel infrastructure program for retail motor fuel sites for an amount provided in section 15G.203, subsection 7, as amended in this Act, if the person applied to the department of economic development on or after February 19, 2008.

2. The renewable fuel infrastructure board created in section 15G.202 may award financial incentives to a person participating in the renewable fuel infrastructure program for terminal facilities for an amount provided in section 15G.204, subsection 4, as amended in this Act, if the person applied to the department of economic development on or after February 19, 2008.

Sec. 29. SECRETARY OF AGRICULTURE — APPLICATION TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. The secretary of agriculture shall make application to the United States environmental protection agency to obtain approval for the use of ethanol blended gasoline containing more than ten percent ethanol by volume in this state by gasoline-powered vehicles other than flexible fuel vehicles. The application shall, as necessary, seek a waiver of relevant standards promulgated by the agency under the federal Clean Air Act, including but not limited to 42 U.S.C. § 7545 and 40 C.F.R. pt. 80. Within sixty days after obtaining such approval, the secretary of agriculture shall publish a notice in the Iowa administrative bulletin certifying the approval.

Sec. 30. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act, being deemed of immediate importance, takes effect upon enactment.

2. The amendments to section 15G.204, subsection 4, as amended by this division of this Act, take effect January 1, 2009.

DIVISION II
BIODIESEL BLENDED FUEL INCOME TAX CREDIT

Sec. 31. Section 422.11P, subsection 2, paragraph a, subparagraphs (1) and (2), Code Supplement 2007, are amended to read as follows:

(1) The taxpayer is a retail dealer who sells and dispenses biodiesel blended fuel through a motor fuel pump located at a motor fuel site operated by the retail dealer in the tax year in which the tax credit is claimed.

(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps located at a motor fuel site operated by the retail dealer during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.

Sec. 32. Section 422.11P, subsection 3, Code Supplement 2007, is amended to read as follows:

3. a. The tax credit shall be calculated separately for each retail motor fuel site operated by the retail dealer.

b. The amount of the tax credit is three cents multiplied by the total number of gallons of biodiesel blended fuel sold and dispensed by the retail dealer through all motor fuel pumps located at a retail motor fuel site operated by the retail dealer during the retail dealer's tax year.

Sec. 33. Section 422.33, subsection 11C, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer in the same manner as provided in section 422.11P.

d. This subsection is repealed on January 1, 2012.

Sec. 34. FUTURE APPLICABILITY DATE. Section 422.11P, as amended by this Act, and section 422.33, subsection 11C, as applied due to the enactment of this Act, shall apply to tax years beginning on or after January 1, 2009.

Sec. 35. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.[2]

DIVISION III
GOVERNMENT FLEET PURCHASES
OF RENEWABLE FUELS

Sec. 36. Section 8A.362, subsection 3, paragraph b, Code Supplement 2007, is amended to read as follows:

b. A gasoline-powered motor vehicle operated under this subsection shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1, unless under emergency circumstances. A diesel-powered motor vehicle operated under this subsection shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available. A state-issued credit card ~~used to purchase gasoline~~ shall not be valid to purchase gasoline other than ethanol blended gasoline, if commercially available, or to purchase diesel fuel other than biodiesel fuel, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 37. Section 216B.3, subsection 16, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A gasoline-powered motor vehicle purchased by the commission shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. A diesel-powered mo-

[2] See chapter 1191, §137 herein

tor vehicle purchased by the commission shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available. A state issued credit card ~~used to purchase gasoline~~ shall not be valid to purchase gasoline other than ethanol blended gasoline or to purchase diesel fuel other than biodiesel fuel, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 38. Section 262.25A, subsection 2, Code Supplement 2007, is amended to read as follows:

2. A gasoline-powered motor vehicle purchased by the institutions shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1, unless under emergency circumstances or if to do so would result in the use of a percentage of ethanol blended gasoline higher than recommended by the vehicle manufacturer or would result in a violation of the vehicle's manufacturer warranty. A diesel-powered motor vehicle purchased by the institutions shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available, unless to do so would result in the use of a percentage of biodiesel not recommended by the vehicle manufacturer or would result in violation of the vehicle's manufacturer warranty, or under emergency circumstances. A state-issued credit card ~~used to purchase gasoline~~ shall not be ~~valid~~ used to purchase gasoline other than ethanol blended gasoline if commercially available or to purchase diesel fuel other than biodiesel fuel if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 39. Section 307.21, subsection 4, paragraph d, Code Supplement 2007, is amended to read as follows:

d. A ~~motor~~ gasoline-powered vehicle purchased by the administrator shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. A diesel-powered motor vehicle purchased by the administrator shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available. A state-issued credit card ~~used to purchase gasoline~~ shall not be valid to purchase gasoline other than ethanol blended gasoline or to purchase diesel fuel other than biodiesel fuel, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 40. Section 904.312A, subsection 1, Code Supplement 2007, is amended to read as follows:

1. A gasoline-powered motor vehicle purchased by the department shall not operate on gasoline other than ethanol blended gasoline as defined in section 214A.1. A diesel-powered motor vehicle purchased by the department shall not operate on diesel fuel other than biodiesel fuel as defined in section 214A.1, if commercially available. A state-issued credit card ~~used to purchase gasoline~~ shall not be valid to purchase gasoline other than ethanol blended gasoline, or to purchase diesel fuel other than biodiesel fuel, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on ethanol blended gasoline or biodiesel fuel, as applicable. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 41. USE OF BIODIESEL FUEL BY LOCAL ENTITIES. It is the policy of the state to

encourage the use of biodiesel fuel to the extent practical in all diesel-powered motor vehicles purchased or used by cities, counties, school corporations, and merged area schools.

Sec. 42. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
RENEWABLE FUELS MARKETING EFFORTS

Sec. 43. DEFINITIONS. As used in this division of this Act, unless the context otherwise requires:

1. "Biodiesel fuel", "biofuel", "E-85", and "retail dealer" mean the same as defined in section 214A.1.

2. "Renewable fuel" means biodiesel fuel or ethanol blended gasoline.

Sec. 44. RENEWABLE FUELS MARKETING PLAN. The office of energy independence shall develop a renewable fuels marketing plan to promote the biofuel industry in this state.

1. The renewable fuels marketing plan shall provide for research to determine what barriers hinder the increased use of renewable fuels, including renewable fuels containing higher blends of biofuels in this state. The research shall include but is not limited to determining all of the following:

a. Barriers that may prevent retail dealers from selling more renewable fuels, which shall at least include issues involving infrastructure, product quality, and cost efficiencies.

b. Barriers that may prevent consumers from purchasing more renewable fuels, which shall at least include issues involving fuel efficiency and consumer awareness of renewable fuels and flexible fuel vehicles.

2. The office shall prepare and submit the renewable fuels marketing plan to the governor and the general assembly by March 15, 2009.

Sec. 45. DIRECT MARKETING CAMPAIGN — FLEXIBLE FUEL VEHICLES AND DIESEL POWERED VEHICLES. The office of energy independence shall conduct a direct marketing campaign specifically targeted to owners of flexible fuel vehicles and diesel powered vehicles.

1. The direct marketing campaign shall include but is not limited to education to increase owner awareness and knowledge regarding all of the following:

a. Flexible fuel vehicles and E-85 as an alternative fuel choice. The office shall provide owners with maps indicating where retail motor fuel sites offering E-85 are located.

b. Diesel powered vehicles and biodiesel fuel as an alternative fuel choice. The office shall provide owners with information on but not limited to successful cold weather handling and use of biodiesel fuel, engine manufacturer warranties covering the use of biodiesel fuel, and maps indicating where retail motor fuel sites offering biodiesel fuel are located.

2. The department of transportation shall provide the office with a list of the names and addresses of owners of flexible fuel vehicles and diesel powered vehicles, including vehicles registered under sections 321.109, 321.121, and 321.122.

3. The office shall complete the direct marketing campaign by December 15, 2008.

Sec. 46. COLLABORATION. The office of energy independence may collaborate with public or private organizations to carry out the provisions of this division of this Act.

Sec. 47. FUNDING. The office of energy independence shall carry out the provisions of this division of this Act using moneys received by the office from all sources, including but not limited to moneys appropriated to the office as provided in section 469.10.

Sec. 48. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 2008

CHAPTER 1170

UNEMPLOYMENT INSURANCE — BENEFITS,
EMPLOYER PARTICIPATION AND REPORTING,
AND MISCELLANEOUS PENALTIES

S.F. 2160

AN ACT relating to employers' participation in unemployment insurance adjudications and unemployment insurance tax penalties, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 96.3, subsection 7, Code 2007, is amended to read as follows:

7. RECOVERY OF OVERPAYMENT OF BENEFITS.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

Sec. 2. Section 96.14, subsection 2, paragraph d, Code Supplement 2007, is amended to read as follows:

d. A penalty shall not be less than ~~ten dollars for the first delinquent report or the first insufficient report not made sufficient within thirty days after a request to do so. The penalty shall not be less than twenty-five dollars for the second delinquent or insufficient report, and not less than fifty~~ thirty-five dollars for each delinquent or insufficient report ~~thereafter, until four consecutive calendar quarters of reports are timely and sufficiently filed~~. Interest, penalties, and cost shall be collected by the department in the same manner as provided by this chapter for contributions.

Sec. 3. Section 96.14, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. ee. If any tendered payment of any amount due in the form of a check, draft, or money order is not honored when presented to a financial institution, any costs assessed to the department by the financial institution and a fee of thirty dollars shall be assessed to the employer.

Sec. 4. Section 96.14, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 17. EMPLOYER SUBPOENA COST AND PENALTY. An employer who is served with a subpoena pursuant to section 96.11, subsection 7, for the investigation of an employer liability issue, to complete audits, to secure reports, or to assess contributions shall pay all costs associated with the subpoena, including service fees and court costs. The department shall penalize an employer in the amount of two hundred fifty dollars if that employer refused to honor a subpoena or negligently failed to honor a subpoena. The cost of the subpoena and any penalty shall be collected in the manner provided in section 96.14, subsection 3.

Sec. 5. EFFECTIVE DATE. The sections of this Act amending section 96.14 take effect January 1, 2009.

Approved May 15, 2008

CHAPTER 1171

PUBLIC RETIREMENT SYSTEMS
AND ANALOGOUS BENEFITS

S.F. 2424

AN ACT concerning public retirement systems and other employee benefit-related matters, including the public safety peace officers' retirement, accident, and disability system, the Iowa public employees' retirement system, the statewide fire and police retirement system, and the judicial retirement system, including implementation and transition provisions, 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 97A.1, subsection 14, Code 2007, is amended by striking the subsection.

Sec. 2. Section 97A.1, subsection 15, Code 2007, is amended to read as follows:

15. "Pensions" shall mean annual payments for life derived from the appropriations provided by the state of Iowa and from contributions of the members which are deposited in the ~~pension accumulation~~ retirement fund. All pensions shall be paid in equal monthly installments.

Sec. 3. Section 97A.5, subsections 3 and 4, Code 2007, are amended to read as follows:

3. COMPENSATION. The trustees shall serve as such without compensation, but they shall be reimbursed from the ~~expense~~ retirement fund for all necessary expenses which they may incur through service on the board.

4. RULES. The board of trustees shall, from time to time, establish such rules not inconsistent with this chapter, for the administration of ~~funds~~ the system and the retirement fund created by this chapter and as may be necessary or appropriate for the transaction of its business.

Sec. 4. Section 97A.5, subsection 6, paragraph a, Code 2007, is amended to read as follows:

a. The department of public safety shall keep in convenient form the data necessary for the actuarial valuation of the ~~various funds of the~~ system and for checking the expense of the system. The commissioner of public safety shall keep a record of all the acts and proceedings of the board, which records shall be open to public inspection. The board of trustees shall biennially make a report to the general assembly showing the fiscal transactions of the system for the preceding biennium, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the system.

Sec. 5. Section 97A.5, subsections 8, 9, 11, and 12, Code 2007, are amended to read as follows:

8. MEDICAL BOARD. The board of trustees shall designate a single medical provider network as the medical board ~~to be composed of three physicians who~~ for the system. The medical board shall arrange for and pass upon ~~the~~ all medical examinations required under the provisions of this chapter and shall report in writing to the board of trustees, its conclusions and recommendations upon all matters duly referred to it. For examinations required because of disability, a physician from the medical board specializing in occupational medicine, and a second physician specializing in an appropriate field of medicine as determined by the occupational medicine physician, shall pass upon the medical examinations required for disability retirements and shall report to the system in writing their conclusions and recommendations upon all matters referred to the medical board. Each report of a medical examination under section 97A.6, subsections 3 and 5, shall include the medical board's findings in accordance with section 97A.6 as to the extent of the member's physical impairment.

9. DUTIES OF ACTUARY. The actuary hired by the board of trustees shall be the technical advisor of the board of trustees on matters regarding the operation of the ~~funds~~ retirement fund created by ~~the provisions of~~ this chapter and shall perform such other duties as are required in connection therewith.

11. ACTUARIAL INVESTIGATION. At least once in each two-year period, the actuary hired by the board of trustees shall make an actuarial investigation in the mortality, service, and compensation experience of the members and beneficiaries of the system, and the interest and other earnings on the moneys and other assets of the system, and shall make a valuation of the assets and liabilities of the ~~funds~~ retirement fund of the system, and taking into account the results of the investigation and valuation, the board of trustees shall~~:~~

~~a. Adopt~~ adopt for the system, upon recommendation of the system's actuary, such actuarial methods and assumptions, interest rate, and mortality and other tables as shall be deemed necessary~~;~~

~~b. Certify the rates of contribution payable by the state of Iowa in accordance with section 97A.8~~ to conduct the actuarial valuation of the system.

12. ANNUAL ACTUARIAL VALUATION.

a. On the basis of the actuarial methods and assumptions, rate of interest, and tables adopted by the board of trustees, the actuary hired by the board of trustees shall make an annual actuarial valuation of the assets and liabilities of the ~~funds of the system~~ retirement fund created by this chapter. As a result of the annual actuarial valuation, the board of trustees shall certify the rates of contribution payable by the state of Iowa in accordance with section 97A.8.

b. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required to be conducted shall include information as required by section 97D.5.

Sec. 6. Section 97A.5, subsection 13, paragraphs b, c, and d, Code 2007, are amended to read as follows:

b. The ~~funds~~ retirement fund established in section 97A.8 shall be held in trust for the benefit of the members of the system and the members' beneficiaries. No part of the corpus or income of the ~~funds~~ retirement fund shall be used for, or diverted to, purposes other than for the exclusive benefit of the members or the members' beneficiaries or for expenses incurred in

the operation of the ~~funds~~ retirement fund. A person shall not have any interest in, or right to, any part of the corpus or income of the ~~funds~~ retirement fund except as otherwise expressly provided.

c. Notwithstanding any provision of this chapter to the contrary, in the event of a complete discontinuance of contributions, for reasons other than achieving fully funded status upon an actuarially determined basis, or upon termination of the ~~funds~~ retirement fund established in section 97A.8, a member shall be vested, to the extent then funded, in the benefits which the member has accrued at the date of the discontinuance or termination.

d. Benefits payable from the ~~funds~~ retirement fund established in section 97A.8 to members and members' beneficiaries shall not be increased due to forfeitures from other members. Forfeitures shall be used as soon as possible to reduce future contributions by the state to the ~~pension accumulation~~ retirement fund, except that the rate shall not be less than the minimum rate established in section 97A.8.

Sec. 7. Section 97A.5, subsection 14, Code 2007, is amended to read as follows:

14. INVESTMENT CONTRACTS. The board of trustees may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the ~~funds~~ retirement fund established in section 97A.8.

Sec. 8. Section 97A.6, subsection 7, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Should a disability beneficiary under age fifty-five be employed in a public safety occupation, the disability beneficiary's retirement allowance shall cease. Notwithstanding any provision of this chapter to the contrary, if a disability beneficiary is employed in a public safety occupation that would otherwise constitute membership service, the disability beneficiary shall not become a member of the system. For purposes of this paragraph, "public safety occupation" means a peace officer, as defined in section 97A.1; a protection occupation, as defined in section 97B.49B; a sheriff or deputy sheriff as defined in section 97B.49C; and a police officer or fire fighter as defined in section 411.1, who was not restored to active service as provided by this subsection.

Sec. 9. Section 97A.6, subsection 11, Code 2007, is amended to read as follows:

11. PENSIONS OFFSET BY COMPENSATION BENEFITS. Any amounts which may be paid or payable by the state under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death, shall be offset against and payable in lieu of any benefits payable out of ~~funds~~ the retirement fund provided by the state under the provisions of this chapter on account of the same disability or death. In case the present value of the total commuted benefits under said workers' compensation or similar law is less than the ~~pension reserve on~~ present value of the benefits otherwise payable from ~~funds~~ the retirement fund provided by the state under this chapter, then the present value of the commuted payments shall be deducted from the pension ~~reserve~~ payable and such benefits as may be provided by the ~~pension reserve~~ system so reduced shall be payable under the provisions of this chapter.

Sec. 10. Section 97A.7, subsections 1, 2, and 3, Code Supplement 2007, are amended to read as follows:

1. The board of trustees shall be the trustees of the ~~several funds~~ retirement fund created by this chapter as provided in section 97A.8 and shall have full power to invest and reinvest ~~such~~ funds subject to the terms, conditions, limitations, and restrictions imposed by subsection 2 of this section and chapter 12F, and subject to like terms, conditions, limitations, and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments ~~in which any~~ of the ~~funds created herein shall~~ retirement fund which have been invested, as well as of the proceeds of said investments and

any moneys belonging to ~~said funds~~ the retirement fund. The board of trustees may authorize the treasurer of state to exercise any of the duties of this section. When so authorized the treasurer of state shall report any transactions to the board of trustees at its next monthly meeting.

2. The ~~several funds~~ retirement fund created by this chapter may be invested in any investments authorized for the Iowa public employees' retirement system in section 97B.7A.

3. The treasurer of the state shall be the custodian of the ~~several funds~~ retirement fund. All payments from ~~said funds~~ the retirement fund shall be made by the treasurer only upon vouchers signed by two persons designated by the board of trustees. A duly attested copy of the resolution of the board of trustees designating such persons and bearing on its face specimen signatures of such persons shall be filed with the treasurer of state as the treasurer's authority for making payments on such vouchers. No voucher shall be drawn unless it shall previously have been allowed by resolution of the board of trustees.

Sec. 11. Section 97A.8, Code 2007, is amended to read as follows:

97A.8 METHOD OF FINANCING.

There is hereby created as a special fund, separate and apart from all other public moneys or funds of this state, the peace officers' retirement, accident, and disability system retirement fund, hereafter called the "retirement fund". All the assets of the system created and established by this chapter shall be credited ~~according to the purpose for which they are held to one of three funds, namely, the pension accumulation fund, the pension reserve fund, and the expense~~ to the retirement fund.

1. ~~PENSION ACCUMULATION FUND. The pension accumulation fund shall be the fund in which shall be accumulated all~~ All moneys for the payment of all pensions and other benefits payable from contributions made by the state and from which shall be paid the lump-sum death benefits for all members payable from the said contributions shall be accumulated in the retirement fund. The refunds and benefits for all members and beneficiaries shall be payable from the retirement fund. Contributions to and payments from the ~~pension accumulation~~ retirement fund shall be as follows:

a. On account of each member there shall be paid annually into the ~~pension accumulation~~ retirement fund by the state of Iowa an amount equal to a certain percentage of the earnable compensation of the member to be known as the "normal contribution". The rate percent of such contribution shall be fixed on the basis of the liabilities of the retirement system as shown by annual actuarial valuations.

b. (1) On the basis of the actuarial methods and assumptions, rate of interest, and of the mortality, interest, and other tables adopted by the board of trustees, the board of trustees, upon the advice of the actuary hired by the board for that purpose, shall make each valuation required by this chapter pursuant to the requirements of section 97A.5 and shall immediately after making such valuation, determine the "normal contribution rate". The normal contribution rate shall be the rate percent of the earnable compensation of all members ~~obtained by deducting from the total liabilities of the fund the sum of the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted by the board of trustees, all~~ equal to the rate required by the system to discharge its liabilities, stated as a percentage of the earnable compensation of all members, and reduced by the employee contribution ~~made pursuant to~~ rate provided in this subsection. However, the normal rate of contribution shall not be less than seventeen percent. ~~The normal rate of contribution shall be determined by the board of trustees after each valuation. To assist in determining the normal rate of contribution, the board of trustees may adopt a smoothing method for valuing the assets of the system. The smoothing method is designed to reduce changes in the normal contribution rate which could result from fluctuations in the market value of the assets of the system.~~

(2) Notwithstanding the provisions of subparagraph (1) to the contrary, the normal contribution rate shall be as follows:

(a) For the fiscal year beginning July 1, 2008, nineteen percent.

(b) For the fiscal year beginning July 1, 2009, twenty-one percent.

(c) For the fiscal year beginning July 1, 2010, twenty-three percent.

(d) For the fiscal year beginning July 1, 2011, twenty-five percent.

(e) For each fiscal year beginning on or after July 1, 2012, the lesser of twenty-seven percent or the normal contribution rate as calculated pursuant to subparagraph (1).

c. The total amount payable in each year to the ~~pension accumulation~~ retirement fund shall not be less than the rate percent known as the normal contribution rate of the total compensation earnable by all members during the year. However, the aggregate payment by the state shall be sufficient when combined with the amount in the retirement fund to provide the pensions and other benefits payable out of the retirement fund during the then current year.

d. All lump-sum death benefits on account of death in active service payable from contributions of the state shall be paid from the ~~pension accumulation~~ retirement fund.

~~e. Upon the retirement or death of a member an amount equal to the pension reserve on any pension payable to the member or on account of the member's death shall be transferred from the pension accumulation fund to the pension reserve fund.~~

~~f.~~ e. Except as otherwise provided in paragraph ~~"h"~~ "g":

(1) An amount equal to three and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1989.

(2) An amount equal to four and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1990.

(3) An amount equal to five and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1991.

(4) An amount equal to six and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1992.

(5) An amount equal to seven and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1993.

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal period beginning July 1, 1994, through December 31, 1994, and an amount equal to eight and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal period beginning January 1, 1995, through June 30, 1995.

(7) An amount equal to nine and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal year beginning July 1, 1995.

(8) Notwithstanding any other provision of this chapter, beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the ~~pension accumulation~~ retirement fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be nine and thirty-five hundredths percent. However, the system shall increase the member's contribution rate as necessary to cover any increase in cost to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1995, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent. After the employee contribution reaches eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by the employer under paragraph "c" and forty percent of the additional cost shall be paid by employees under this ~~paragraph~~ subparagraph (8).

~~g.~~ f. The board of trustees shall certify to the director of the department of administrative services and the director of the department of administrative services shall cause to be deducted from the earnable compensation of each member the contribution required under this subsection and shall forward the contributions to the board of trustees for recording and for deposit in the ~~pension accumulation~~ retirement fund.

The deductions provided for under this subsection shall be made notwithstanding that the minimum compensation provided by law for any member is reduced. Every member is deemed to consent to the deductions made under this section.

~~h.~~ g. Notwithstanding the provisions of paragraph ~~"f"~~ "e", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the ~~pension accumulation~~ retirement fund for the fiscal period beginning July 1, 1990, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph ~~"f"~~ "e", subparagraphs (4) through (8), shall apply.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal period beginning July 1, 1991, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph ~~"f"~~ "e", subparagraphs (4) through (8), shall apply.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph ~~"f"~~ "e", subparagraphs (4) through (8), shall apply.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph ~~"f"~~ "e", subparagraphs (4) through (8), shall apply.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to seven and one-tenth percent shall be paid for the fiscal period beginning July 1, 1992, through October 15, 1992. Commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph ~~"f"~~ "e", subparagraphs (4) through (8), shall apply.

~~i.~~ h. (1) Notwithstanding paragraph ~~"g"~~ "f" or other provisions of this chapter, beginning January 1, 1995, for federal income tax purposes, and beginning January 1, 1999, for state income tax purposes, member contributions required under paragraph ~~"f"~~ "e" or ~~"h"~~ "g" which are picked up by the department shall be considered employer contributions for federal and state income tax purposes, and the department shall pick up the member contributions to be made under paragraph ~~"f"~~ "e" or ~~"h"~~ "g" by its employees. The department shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph ~~"f"~~ "e" or ~~"h"~~ "g" and shall certify the amount picked up in lieu of the member contributions to the department of administrative services. The department of administrative services shall forward the amount

of the contributions picked up to the board of trustees for recording and deposit in the ~~pension accumulation~~ retirement fund.

(2) Member contributions picked up by the department under subparagraph (1) shall be treated as employer contributions for federal and state income tax purposes only and for all other purposes of this chapter shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

~~2. PENSION RESERVE FUND. The pension reserve fund shall be the fund in which shall be held the reserves on all pensions granted to members or to their beneficiaries and from which such pensions and benefits in lieu thereof shall be paid. Should a beneficiary retired on account of disability be restored to active service and again become a member of the system, the member's pension reserve shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of a disability beneficiary be reduced as a result of an increase in the beneficiary's amount earned, the amount of the annual reduction in the beneficiary's pension shall be paid annually into the pension accumulation fund during the period of such reduction.~~

~~3.~~ 2. a. ~~EXPENSE FUND. The expense fund shall be the fund to which shall be credited all money provided by the state of Iowa to pay the administration expenses of the system and from which shall be paid all~~ All the expenses necessary in connection with the administration and operation of the system shall be paid from the retirement fund. ~~Biennially the board of trustees shall estimate the amount of money necessary to be paid into the expense fund during the ensuing biennium to provide for the expense of operation of the system.~~ Investment management expenses shall be charged to the investment income of the system and there is appropriated from the system an amount required for the investment management expenses. The board of trustees shall report the investment management expenses for the fiscal year as a percent of the market value of the system.

b. For purposes of this subsection, investment management expenses are limited to the following:

~~a.~~ (1) Fees for investment advisors, consultants, and investment management and benefit consultant firms hired by the board of trustees in administering this chapter.

~~b.~~ (2) Fees and costs for safekeeping fund assets.

~~c.~~ (3) Costs for performance and compliance monitoring, and accounting for fund investments.

~~d.~~ (4) Any other costs necessary to prudently invest or protect the assets of the fund.

Sec. 12. Section 97A.11, Code 2007, is amended to read as follows:

97A.11 CONTRIBUTIONS BY THE STATE.

On or before the first day of November in each year, the board of trustees shall certify to the director of the department of administrative services the amounts which will become due and payable during the year next following to the ~~pension accumulation~~ retirement fund ~~and the expense fund~~. The amounts so certified shall be paid by the director of the department of administrative services out of the funds appropriated for the Iowa department of public safety, to the treasurer of state, the same to be credited to the system for the ensuing year.

Sec. 13. Section 97A.12, Code 2007, is amended to read as follows:

97A.12 EXEMPTION FROM EXECUTION AND OTHER PROCESS OR ASSIGNMENT — EXCEPTIONS.

The right of any person to a pension, annuity, or retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or death benefit, any other right accrued or accruing to any person under this chapter, and the moneys in the ~~various funds~~ retirement fund created under this chapter, are not subject to execution, garnishment, attachment, or any other process whatsoever, and are unassignable except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or as otherwise specifically provided in this chapter. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execu-

tion against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 14. Section 97A.14, Code 2007, is amended to read as follows:

97A.14 HOSPITALIZATION AND MEDICAL ATTENTION.

The board of trustees shall provide hospital, nursing, and medical attention for the members in service when injured while in the performance of their duties and shall continue to provide hospital, nursing, and medical attention for injuries or diseases incurred while in the performance of their duties for the members receiving a retirement allowance under section 97A.6, subsection 6. The cost of hospital, nursing, and medical attention shall be paid out of the ~~expense~~ retirement fund. However, any amounts received by the injured person under the workers' compensation law of the state, or from any other source for such specific purposes, shall be deducted from the amount paid by the board of trustees provisions of this section.

Sec. 15. Section 97A.14A, subsection 5, Code 2007, is amended to read as follows:

5. All funds recovered by the system under this section shall be deposited in the ~~pension accumulation~~ retirement fund created in section 97A.8.

Sec. 16. Section 97A.15, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to the member's individual account in the annuity savings fund together with regular interest thereon as provided in this subsection. Accumulated contributions do not include any amount deducted from the compensation of a member and credited to the ~~pension accumulation~~ retirement fund.

Sec. 17. Section 97A.15, subsection 8, Code 2007, is amended to read as follows:

8. The actuary shall annually determine the amount required in the annuity reserve fund. If the amount required is less than the amount in the annuity reserve fund, the board of trustees shall transfer the excess funds from the annuity reserve fund to the ~~pension accumulation~~ retirement fund. If the amount required is more than the amount in the annuity reserve fund, the board of trustees shall transfer the amount prescribed by the actuary to the annuity reserve fund from the ~~pension accumulation~~ retirement fund.

DIVISION II
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Sec. 18. Section 97B.1A, subsection 20, paragraph a, Code 2007, is amended to read as follows:

a. Service in the armed forces of the United States, if the employee was employed by a covered employer immediately prior to entry into the armed forces, and if ~~the~~ any of the following requirements are met:

(1) The employee was released from service and returns to covered employment with an employer within twelve months of the date on which the employee has the right of release from service or within a longer period as required by the applicable laws of the United States.

(2) The employee, while serving on active duty in the armed forces of the United States in an area designated by the president of the United States or the United States Congress as a combat zone or as a qualified hazardous duty area, or deployed outside the United States away from the individual's permanent duty station while participating in an operation designated by the United States secretary of defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became such a contingency operation by the operation of law, dies, or suffers an injury or acquires a disease resulting in death, so long as the death from the injury or disease occurs within a two-year period from the date the employee suffered the active duty injury or disease and the active duty injury or disease prevented the employee from returning to covered employment as provided in subparagraph (1).

Sec. 19. Section 97B.1A, subsection 26, paragraph a, subparagraph (2), subparagraph subdivision (i), Code 2007, is amended to read as follows:

(i) Payments for allowances ~~made to an employee that are not included in an employee's federal taxable income~~ except for those allowances included as wages for a member of the general assembly.

Sec. 20. Section 97B.1A, subsection 26, paragraph a, subparagraph (2), Code 2007, is amended by adding the following new subparagraph subdivision:

NEW SUBPARAGRAPH SUBDIVISION. (n) Bonuses of any type, whether paid in a lump sum or in installments.

Sec. 21. Section 97B.4, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. In administering this chapter, the system shall not be a participating agency for purposes of chapter 8A, subchapter II.

Sec. 22. Section 97B.4, subsection 4, paragraph d, Code Supplement 2007, is amended to read as follows:

d. ANNUAL VALUATION OF ASSETS. The system shall cause an annual actuarial valuation to be made of the assets and liabilities of the retirement system and shall prepare an annual statement of the amounts to be contributed under this chapter, and shall publish annually such valuation of the assets and liabilities and the statement of receipts and disbursements of the retirement system. Based upon the actuarial methods and assumptions adopted by the board for the annual actuarial valuation, the system shall certify to the governor the contribution rates determined thereby as the rates necessary and sufficient for members and employers to fully fund the benefits and retirement allowances being credited. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required by this paragraph shall include information as required by section 97D.5 for each membership group which separately determines contribution rates under this chapter.

Sec. 23. Section 97B.7, subsection 3, paragraph d, Code 2007, is amended to read as follows:

d. To be used to pay for investment management expenses incurred in the management of the retirement fund. Expenses incurred pursuant to this paragraph shall be charged to the investment income of the retirement fund. ~~However, the amount appropriated for a fiscal year under this paragraph shall not exceed four-tenths of one percent of the market value of the retirement fund.~~

Sec. 24. Section 97B.9, subsections 1 and 2, Code 2007, are amended to read as follows:

1. An employer shall be charged the greater of ~~ten~~ twenty dollars per occurrence or interest at the combined interest and dividend rate required under section 97B.70 for the applicable calendar year for contributions unpaid on the date on which they are due and payable as prescribed by the system. The system may adopt rules prescribing circumstances for which the interest or charge shall not accrue with respect to contributions required. Interest or charges collected pursuant to this section shall be paid into the Iowa public employees' retirement fund.

2. If within thirty days after due notice the employer defaults in payment of contributions or interest thereon, the amount due ~~shall~~ may be collected by civil action in the name of the system, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions.

Sec. 25. Section 97B.10, subsection 3, Code 2007, is amended to read as follows:

3. ~~Except as provided in this subsection, interest~~ Interest shall not be paid on credits issued pursuant to this section. However, ~~if a credit for contributions paid prior to an individual's de-~~

~~cision to elect out of coverage pursuant to section 97B.42A is issued, accumulated interest and interest on dividends as provided in section 97B.70 shall apply. In addition,~~ the system may, at any time, apply accumulated interest and interest dividends as provided in section 97B.70 on any credits issued under this section if the system finds that the crediting of interest is just and equitable.

Sec. 26. Section 97B.11, Code 2007, is amended to read as follows:

97B.11 CONTRIBUTIONS BY EMPLOYER AND EMPLOYEE.

1. Each employer shall deduct from the wages of each member of the retirement system a contribution in the amount of the applicable employee percentage of the covered wages paid by the employer and such additional amount if otherwise required by law, until the member's termination from employment. The contributions of the employer shall be in the amount of the applicable employer percentage of the covered wages of the member and such additional amount if otherwise required by law.

2. ~~For~~ Prior to July 1, 2011, for purposes of this section, unless the context otherwise requires:

a. "Applicable employee percentage" means the percentage rate equal to three and seven-tenths percent plus forty percent of the total additional percentage.

b. "Applicable employer percentage" means the percentage rate equal to five and seventy-five hundredths percent plus sixty percent of the total additional percentage.

c. "Total additional percentage" means ~~as follows:~~

~~(1) For,~~ for the fiscal period beginning July 1, 2007, through June 30, 2011, ~~the total additional percentage for a fiscal year shall be~~ the total additional percentage for the prior fiscal year plus, only if the total comparison percentage is greater than the total of the applicable employee percentage and the applicable employer percentage for the prior fiscal year, one-half percentage point.

~~(2) For each fiscal year beginning on or after July 1, 2011, the total additional percentage shall be the total additional percentage for the prior fiscal year.~~

d. "Total comparison percentage" means the percentage rate that the system determines, based upon the most recent actuarial valuation of the retirement system, would be sufficient to amortize the unfunded actuarial liability of the retirement system in ten years.

3. On and after July 1, 2011, for purposes of this section, unless the context otherwise requires:

a. For members in regular service:

(1) "Applicable employee percentage" means the percentage rate equal to forty percent of the required contribution rate for members in regular service.

(2) "Applicable employer percentage" means the percentage rate equal to sixty percent of the required contribution rate for members in regular service.

b. For members in special service in a protection occupation as described in section 97B.49B:

(1) "Applicable employee percentage" means the percentage rate equal to forty percent of the required contribution rate for members described in section 97B.49B.

(2) "Applicable employer percentage" means the percentage rate equal to sixty percent of the required contribution rate for members described in section 97B.49B.

c. For members in special service as a county sheriff or deputy sheriff as described in section 97B.49C:

(1) "Applicable employee percentage" means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

(2) "Applicable employer percentage" means the percentage rate equal to fifty percent of the required contribution rate for members described in section 97B.49C.

d. "Required contribution rate" means that percentage of the covered wages of members in regular service, members described in section 97B.49B, and members described in section 97B.49C, that the system shall, for each fiscal year, separately set for members in each membership category as provided in this paragraph. The required contribution rate for a membership category shall be the contribution rate the system actuarially determines, based upon the

most recent actuarial valuation of the system and using the actuarial methods, assumptions, and funding policy approved by the investment board, is the rate required by the system to discharge its liabilities as a percentage of the covered wages of members in that membership category. However, the required contribution rate set by the system for a fiscal year shall not vary by more than one-half percentage point from the required contribution rate for the prior fiscal year.

Sec. 27. Section 97B.14, Code 2007, is amended to read as follows:

97B.14 CONTRIBUTIONS FORWARDED.

Contributions deducted from the wages of the member under section 97B.11 prior to January 1, 1995, member contributions picked up by the employer under section 97B.11A beginning January 1, 1995, and the employer's contribution shall be forwarded to the system for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly~~, if total contributions by both employee and employer amount to one hundred dollars or more each month,~~ and shall be otherwise paid in such manner, at such times, and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the system.

Sec. 28. Section 97B.33, Code 2007, is amended to read as follows:

97B.33 ~~CERTIFICATION TO DIRECTOR~~ PAYMENT TO INDIVIDUALS.

Upon final decision of the system, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this chapter, the system shall ~~certify to the director of the department of administrative services the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the system, through the director of the department of administrative services, shall~~ make payment ~~in accordance with the certification of the system~~ to the person, provided that where judicial review of the ~~system~~ system's decision is or may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A, ~~certification of~~ payment may be withheld pending such review. ~~The director of the department of administrative services shall not be held personally liable for any payment or payments made in accordance with a certification by the system.~~

Sec. 29. Section 97B.34A, subsections 1 and 2, Code 2007, are amended to read as follows:

1. If the total sum to be paid to the minor is less than ~~ten~~ the greater of twenty-five thousand dollars or the maximum amount permitted under section 565B.7, subsection 3, the funds may be paid to an adult as custodian for the minor. The custodian must complete the proper forms as determined by the system.

2. If the total sum to be paid to the minor is equal to or more than ~~ten thousand dollars~~ the amount authorized in subsection 1, the funds must be paid to a court-established conservator. The system shall not make payment until the conservatorship has been established and the system has received the appropriate documentation.

Sec. 30. Section 97B.38, Code 2007, is amended to read as follows:

97B.38 FEES FOR SERVICES.

The system may, by rule, prescribe reasonable fees which may be charged for ~~production~~ costs incurred, including staff time and materials, ~~associated with performing~~ to perform its duties under this chapter ~~for active, inactive, and retired members, beneficiaries, and the general public, where such production costs are more than de minimis, as determined by the system~~.

Sec. 31. Section 97B.49B, subsection 1, paragraph e, Code 2007, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (9) A jailer or detention officer who performs duties as a jailer,

including but not limited to the transportation of inmates, who is certified as having completed jailer training pursuant to chapter 80B, and who is employed by a county as a jailer.

NEW SUBPARAGRAPH. (10) An employee covered by the merit system as provided in chapter 8A, subchapter IV, whose primary duty is providing security at Iowa national guard installations and facilities and who carries or is licensed to carry a firearm while performing those duties.

NEW SUBPARAGRAPH. (11) An emergency medical care provider who provides emergency medical services, as defined in section 147A.1, and who is not a member of the retirement systems established in chapter 410 or 411.

NEW SUBPARAGRAPH. (12) An investigator employed by a county attorney's office who is a certified law enforcement officer and who is deputized as an investigator for the county attorney's office by the sheriff of the applicable county.

Sec. 32. Section 97B.49B, subsection 3, paragraph a, Code 2007, is amended by striking the paragraph.

Sec. 33. Section 97B.49C, subsection 3, paragraph a, Code 2007, is amended by striking the paragraph.

Sec. 34. Section 97B.49F, subsection 1, paragraph b, subparagraph (2), subparagraph subdivision (b), Code 2007, is amended to read as follows:

(b) The percentage representing the percentage amount the actuary has certified~~, in the annual actuarial valuation of the retirement system as of June 30 of the year in which the dividend is to be paid,~~ that the fund can absorb without requiring an increase in the employer and employee contributions to the fund. The actuary's certification of such percentage amount shall be based on a comparison of the actuarially required contribution rate for the fiscal year of the dividend adjustment to the statutory contribution rate for that same fiscal year. If the actuarially required contribution rate exceeds the statutory contribution rate for that same fiscal year, the percentage amount shall be zero.

Sec. 35. Section 97B.49H, subsection 3, Code 2007, is amended to read as follows:

3. The system shall annually determine the amount to be credited to the supplemental accounts of active members. The total amount credited to the supplemental accounts of all active members shall not exceed the amount that the system determines, in consultation with the system's actuary, ~~can be absorbed without significantly impacting the funded status of~~ leaves the system fully funded following the crediting of the total amount to the supplemental accounts. The amount to be credited shall not be greater than the amount calculated by multiplying the member's covered wages for the applicable wage reporting period by the supplemental rate. For purposes of this subsection, the supplemental rate is the difference, if positive, between the combined employee and employer statutory contribution rates in effect under section 97B.11 and the normal cost rate of the retirement system as determined by the system's actuary in the most recent annual actuarial valuation of the retirement system. The credits shall be made ~~at least quarterly~~ to each member's account at the time that covered wages are reported for each wage reporting period during the calendar year following a determination that the retirement system ~~does not have an unfunded accrued liability~~ will remain fully funded following the crediting of the total amount to the supplemental accounts. The normal cost rate, calculated according to the actuarial cost method used, is the percent of pay allocated to each year of service that is necessary to fund projected benefits over all members' service with the retirement system.

Sec. 36. Section 97B.50, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For a vested member who retires from the retirement system due to disability on or after July 1, 2009, and commences receiving disability benefits pursuant to

the federal Railroad Retirement Act, 45 U.S.C. § 231 et seq., or the federal Social Security Act, 42 U.S.C. § 423 et seq., the system may require the vested member to certify on an annual basis continued eligibility for disability payments under the federal Railroad Retirement Act or the federal Social Security Act. If the vested member is under the age at which disability benefits are converted under the federal Social Security Act or the federal Railroad Retirement Act to retirement benefits and is no longer eligible for disability payments under either the federal Railroad Retirement Act or the federal Social Security Act, the vested member shall no longer be eligible to receive retirement benefits as provided by this subsection. If the system has paid retirement benefits to the member between the month the member was no longer eligible for payment pursuant to the federal Railroad Retirement Act or the federal Social Security Act and the month the system terminated retirement benefits under this paragraph, the member shall return all retirement benefits paid by the system following the termination of such federal disability benefits, plus interest. The system shall adopt rules pursuant to chapter 17A to implement this paragraph.

Sec. 37. Section 97B.50A, subsection 12, Code 2007, is amended to read as follows:

12. CONTRIBUTIONS. The expenses incurred in the administration of this section by the system shall be paid through contributions as determined pursuant to section ~~97B.49B, subsection 3, or section 97B.49C, subsection 3, as applicable~~ 97B.11.

Sec. 38. Section 97B.52, subsection 1, paragraph a, unnumbered paragraphs 1 and 3, Code 2007, are amended to read as follows:

A lump sum payment equal to the accumulated contributions of the member at the date of death plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the applicable denominator. ~~However, a lump sum payment made to a beneficiary under this paragraph due to the death of a member shall not be less than the amount that would have been payable on the death of the member on June 30, 1984, under this paragraph as it appeared in the 1983 Code.~~

~~Effective July 1, 1978, a method of payment under this paragraph filed with the system by a member does not apply.~~

Sec. 39. Section 97B.53B, Code 2007, 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~~ an eligible person.

b. "Eligible person" means any of the following:

(1) The member.

(2) The member's surviving spouse.

(3) The member's spouse or former spouse as an alternate payee under a qualified domestic relations order.

(4) Effective January 1, 2007, the member's nonspouse beneficiaries who are designated beneficiaries as defined by section 401(a)(9)(E) of the federal Internal Revenue Code, as authorized under section 829 of the federal Pension Protection Act of 2006.

c. "Eligible retirement plan" means ~~either~~, for an eligible person, any of the following retirement plans that ~~accepts~~ can accept an eligible rollover distribution from ~~a member or a member's surviving spouse~~ that eligible person:

(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.

(3) ~~In addition, an "eligible retirement plan" includes an~~ 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.

(4) 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 section 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.

(5) Effective January 1, 2008, a Roth individual retirement account or a Roth individual retirement annuity established under section 408A of the Internal Revenue Code.

~~c.~~ d. (1) "Eligible rollover distribution" includes any of the following:

(a) All or any portion of a member's account and supplemental account.

(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.~~ Effective January 1, 2007, after-tax employee contributions to a qualified defined benefit plan described in federal Internal Revenue Code section 401(a) or 403(a), or a tax-sheltered annuity plan described in federal Internal Revenue Code section 403(b), and such plan agrees to separately account for the after-tax amount so transferred.

(2) An eligible rollover distribution 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) Prior to January 1, 2002, 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.

2. ~~Effective January 1, 1993, a member or a member's surviving spouse~~ An eligible person may elect, at the time and in the manner prescribed in rules adopted by the system and in rules of the receiving retirement plan, to have the system 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. However, effective January 1, 2007, if the eligible person is a nonspouse beneficiary as described in subsection 1, paragraph "b", subparagraph (4), the nonspouse beneficiary may only have a direct rollover of the distribution to an individual retirement account or annuity as described in subsection 1, paragraph "c", subparagraphs (1), (2), and (5), established for the purpose of receiving the distribution on behalf of the nonspouse beneficiary, and such individual retirement account or annuity will be treated as an inherited individual retirement account or annuity pursuant to section 829 of the federal Pension Protection Act of 2006.

Sec. 40. Section 97B.65, Code 2007, is amended to read as follows:

97B.65 REVISION RIGHTS RESERVED — LIMITATION ON INCREASE OF BENEFITS — RATES OF CONTRIBUTION.

1. The right is reserved to the general assembly to alter, amend, or repeal any provision of this chapter or any application thereof to any person, provided, however, that to the extent of the funds in the retirement system the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to any member of the retirement system shall not be repudiated, provided further, however, that the amount of benefits accrued on account

of prior service shall be adjusted to the extent of any unfunded accrued liability then outstanding.

2. An increase in the benefits or retirement allowances provided under this chapter shall not be enacted until after the system's actuary determines that the system is fully funded and will continue to be fully funded immediately following enactment of the increase and the increase can be absorbed within the contribution rates otherwise established for the membership group authorized to receive the increase. However, an increase in the benefits or retirement allowances provided under this chapter may be enacted if the statutory change providing for the increase is accompanied by ~~a change in the employer and employee contribution rates~~ an adjustment in the required contribution rate of the membership group affected that is necessary to support such increase as determined by the system's actuary.

Sec. 41. Section 97B.80C, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. "Nonqualified service" means ~~service that is not qualified service and includes, but is not limited to,~~ any of the following:

(1) ~~Full-time volunteer public service in the federal peace corps program.~~ Service that is not qualified service.

(2) ~~Public employment comparable to employment covered under this chapter in a qualified Canadian governmental entity that is an elementary school, secondary school, college, or university that is organized, administered, and primarily supported by the provincial, territorial, or federal governments of Canada, or any combination of the same.~~ Any period of time for which there was no performance of services.

(3) Service as described in subsection 1, paragraph "c", subparagraph (2).

Sec. 42. Section 97B.80C, subsection 2, Code 2007, is amended to read as follows:

2. a. A vested or retired member may make contributions to the retirement system to purchase up to the maximum amount of permissive service credit for qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), ~~and~~ the requirements of this section, and the system's administrative rules.

b. A vested or retired member of the retirement system ~~who has five or more full calendar years of covered wages~~ may make contributions to the retirement system to purchase up to ~~five years~~ a maximum of twenty quarters of permissive service credit for nonqualified service as determined by the system, pursuant to Internal Revenue Code section 415(n), ~~and~~ the requirements of this section, and the system's administrative rules. A vested or retired member must have at least twenty quarters of covered wages in order to purchase permissive service credit for nonqualified service.

c. A vested or retired member may convert regular member service credit to special service credit by payment of the amount actuarially determined as necessary to fund the resulting increase in the member's accrued benefit. The conversion shall be treated as a purchase of qualified service credit subject to the requirements of paragraph "a" if the service credit to be converted was or would have been for qualified service. The conversion shall be treated as a purchase of nonqualified service credit subject to the requirements of paragraph "b" if the service credit to be converted was purchased as nonqualified service credit.

Sec. 43. Section 97B.80C, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. cc. For a member making contributions for a purchase of permissive service credit for qualified service as described in subsection 1, paragraph "c", subparagraph (1), subparagraph subdivision (h), in which, prior to July 1, 1998, the member received a refund of the member's accumulated contributions and subsequently returned to covered employment as a full-time employee for whom coverage under this chapter was mandatory the member shall receive a credit against the actuarial cost of the service purchase equal to the

amount of the member's employer's accumulated contributions which were not paid to the member as a refund pursuant to section 97B.53 plus interest as calculated pursuant to section 97B.70.

Sec. 44. Section 97B.82, subsection 2, paragraph b, subparagraph (2), subparagraph subdivision (c), Code 2007, is amended to read as follows:

(c) ~~The~~ For rollover service purchases prior to January 1, 2007, 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.

For rollover service purchases on or after January 1, 2007, 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, shall be treated as an eligible rollover distribution only when such portion is received from a qualified plan under section 401(a) or 403(a) of the federal Internal Revenue Code.

Sec. 45. Section 97B.82, subsection 3, Code 2007, is amended to read as follows:

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~~ of pretax amounts, and effective January 1, 2007, 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 retirement 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 retirement system.

Sec. 46. Section 97B.73B, Code 2007, is repealed.

Sec. 47. TRANSITION PROVISION — REQUIRED CONTRIBUTION RATE FOR FISCAL YEAR 2010-2011. For purposes of establishing the required contribution rate for the fiscal year beginning July 1, 2011, as provided in section 97B.11, as amended in this Act, the required contribution rate for the fiscal year beginning July 1, 2010, shall be, for members in regular service, members described in section 97B.49B, and members described in section 97B.49C, the total contribution percentage rate paid by members and employers of that membership group for the fiscal year beginning July 1, 2010.

Sec. 48. IMPLEMENTATION PROVISION. Notwithstanding any provision of section 97B.65 to the contrary, the provisions of this division of this Act shall be enacted and implemented by the Iowa public employees' retirement system upon the effective dates provided for the provisions of this division of this Act.

Sec. 49. EFFECTIVE DATES — RETROACTIVE APPLICABILITY.

1. The sections of this Act amending section 97B.49B, subsection 3, section 97B.49C, subsection 3, section 97B.50A, subsection 12, and section 97B.65 take effect July 1, 2011.

2. The section of this Act amending section 97B.53B, being deemed of immediate importance, takes effect upon enactment, and, except as otherwise stated, is retroactively applicable to January 1, 2007, and is applicable on and after that date.

3. The sections of this Act amending section 97B.82, being deemed of immediate importance, take effect upon enactment, and are retroactively applicable to January 1, 2007, and are applicable on and after that date.

4. The section of this Act enacting section 97B.80C, subsection 3, paragraph cc, takes effect January 1, 2009.

DIVISION III
STATEWIDE FIRE AND POLICE RETIREMENT SYSTEM

Sec. 50. Section 411.5, subsections 10 and 11, Code 2007, are amended to read as follows:

10. ACTUARIAL INVESTIGATION — TABLES — RATES. At least once in each five-year period, the actuary shall make an actuarial investigation into the mortality, service, and compensation experience of the members and beneficiaries of the retirement system, and the interest and other earnings on the moneys and other assets of the retirement system, and shall make a valuation of the assets and liabilities of the fire and police retirement fund, and on the basis of the results of the investigation and valuation, the system shall ~~do all of the following:~~

~~a. Adopt~~ adopt for the retirement system such actuarial methods and assumptions, interest rate, and mortality and other tables as are deemed necessary to conduct the annual actuarial valuation of the system.

~~b. Certify the rates of contribution payable by the cities in accordance with section 411.8.~~

~~c. Certify the rates of contributions payable by the members in accordance with section 411.8.~~

11. ANNUAL ACTUARIAL VALUATION.

a. On the basis of the actuarial methods and assumptions, rate of interest and tables adopted, the actuary shall make an annual valuation of the assets and liabilities of the fire and police retirement fund created by this chapter. As a result of the annual actuarial valuation, the system shall do all of the following:

(1) Certify the rates of contribution payable by the cities in accordance with section 411.8.

(2) Certify the rates of contributions payable by the members in accordance with section 411.8.

b. Effective with the fiscal year beginning July 1, 2008, the annual actuarial valuation required to be conducted shall include information as required by section 97D.5.

Sec. 51. Section 411.8, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. On the basis of the actuarial methods and assumptions, rate of interest, and of the mortality, interest and other tables adopted by the system, the actuary engaged by the system to make each valuation required by this chapter pursuant to the requirements of section 411.5, shall immediately after making such valuation, determine the "normal contribution rate". Except as otherwise provided in this lettered paragraph, the normal contribution rate shall be the rate percent of the earnable compensation of all members ~~obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, all~~ equal to the rate required by the system to discharge its liabilities, stated as a percentage of the earnable compensation of all members, and reduced by the employee contribution ~~made pursuant to~~ rate provided in paragraph "f" of this subsection and the contribution rate representing the state appropriation made as provided in section 411.20. However, the normal rate of contribution shall not be less than seventeen percent.

~~Beginning July 1, 1996, and each fiscal year thereafter, the normal contribution rate shall be the rate percent of the earnable compensation of all members obtained by deducting from the total liabilities of the fund the amount of the funds in hand to the credit of the fund and dividing the remainder by one percent of the present value of the prospective future compensation of all members as computed on the basis of the rate of interest and of mortality and service tables adopted, multiplied by six-tenths, or seventeen percent, whichever is greater.~~

The normal rate of contribution shall be determined by the actuary after each valuation.

Sec. 52. NEW SECTION. 411.10 PURCHASE OF SERVICE CREDIT FOR MILITARY SERVICE.

1. An active member of the system who has been a member of the retirement system five or more years may elect to purchase up to five years of service credit for 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 Reemployment Rights Act, that will be recognized by the retirement system for purposes of calculating a member's benefit, pursuant to Internal Revenue Code section 415(n) and the requirements of this section.

2. a. A member seeking to purchase service credit pursuant to this section shall file a written application with the system requesting an actuarial determination of the cost of a purchase of service credit. Upon receipt of the cost estimate for the purchase of service from the system, the member may make contributions to the system in an amount equal to the actuarial cost of the service credit purchase.

b. For purposes of this subsection, the actuarial cost of the service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system by the system's actuary, which reflects the actuarial cost necessary to fund an increased retirement allowance resulting from the purchase of service credit.

3. The system 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.

4. The board of trustees shall adopt rules providing for the implementation and administration of this section.

Sec. 53. Section 411.15, Code 2007, is amended to read as follows:

411.15 HOSPITALIZATION AND MEDICAL ATTENTION.

Cities shall provide hospital, nursing, and medical attention for the members of the police and fire departments of the cities, when injured while in the performance of their duties as members of such department, and shall continue to provide hospital, nursing, and medical attention for injuries or diseases incurred while in the performance of their duties for members receiving a retirement allowance under section 411.6, subsection 6. Cities may ~~provide~~ fund the cost of the hospital, nursing, and medical attention required by this section through the purchase of insurance, by self-insuring the obligation, or through payment of moneys into a local government risk pool established for the purpose of covering the costs associated with the requirements of this section. However, the cost of the hospital, nursing, and medical attention required by this section shall not be funded through an employee-paid health insurance policy. The cost of ~~providing~~ the hospital, nursing, and medical attention required by this section shall be paid from moneys held in a trust and agency fund established pursuant to section 384.6, or out of the appropriation for the department to which the injured person belongs or belonged; provided that any amounts received by the injured person ~~under the workers' compensation law of the state, or~~ from any other source for such specific purposes, shall be deducted from the amount paid by the city under the provisions of this section.

DIVISION IV
JUDICIAL RETIREMENT SYSTEM

Sec. 54. Section 602.9104, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. The state shall contribute annually to the judicial retirement fund an amount equal to the state's required contribution for all judges covered under this article. ~~The state's required contribution shall be appropriated directly to the judicial retirement fund by the general assembly.~~

Sec. 55. Section 602.9104, subsection 4, paragraphs b, c, d, and e, Code 2007, are amended to read as follows:

b. "Fully funded status" means that the most recent actuarial valuation reflects that~~, using the projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries,~~ the funded status of the system is at least ~~ninety~~ one hundred percent, based upon the benefits provided for judges through the judicial retirement system as of July 1, 2006.

c. "Judge's required contribution" means an amount equal to the basic salary of the judge multiplied by the following applicable percentage:

(1) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, seven and seven-tenths percent.

(2) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, eight and seven-tenths percent.

~~(1)~~ (3) For the fiscal year beginning July 1, ~~2006~~ 2010, and for each subsequent fiscal year until the system attains fully funded status, ~~six percent multiplied by a fraction equal to the actual percentage rate contributed by the state for that fiscal year divided by twenty-three and seven-tenths percent~~ nine and thirty-five hundredths percent.

~~(2)~~ (4) Commencing with the first fiscal year in which the system attains fully funded status, and for each subsequent fiscal year, the percentage rate equal to ~~fifty~~ forty percent of the required contribution rate.

d. "Required contribution rate" means that percentage of the basic salary of all judges covered under this article ~~which the actuary of the system determines is necessary, using the projected unit credit method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, to amortize the unfunded actuarial liability of the judicial retirement system within twenty years~~ equal to the actuarially required contribution rate determined by the actuary pursuant to section 602.9116.

e. "State's required contribution" means an amount equal to the basic salary of all judges covered under this article multiplied by the following applicable percentage:

(1) For the fiscal year beginning July 1, ~~2006~~ 2008, and for each subsequent fiscal year until the system attains fully funded status, ~~twenty-three and seven-tenths~~ thirty and six-tenths percent.

(2) Commencing with the first fiscal year in which the system attains fully funded status, and for each subsequent fiscal year, the percentage rate equal to ~~fifty~~ sixty percent of the required contribution rate.

Sec. 56. Section 602.9116, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund at least once every four years commencing with the fiscal year beginning July 1, 1981. For each fiscal year in which an actuarial valuation is not conducted, the court administrator shall cause an annual actuarial update to be prepared for the purpose of determining the adequacy of the contribution rates specified in section 602.9104. The court administrator shall adopt actuarial methods and assumptions, mortality tables, and other necessary factors for use in the actuarial calculations required for the valuation upon the recommendation of the actuary. In addition, effective with the fiscal year beginning July 1, 2008, the actuarial valuation or actuarial update required to be conducted shall include information as required by section 97D.5. Following the actuarial valuation or annual actuarial update, the court administrator shall determine the condition of the system, determine the actuarially required contribution rate for each fiscal year which is the rate required by the system to discharge its liabilities, stated as a percentage of the basic salary of all judges covered under this article, and shall report any findings and recommendations to the general assembly.

DIVISION V
MISCELLANEOUS PROVISIONS

Sec. 57. Section 8A.438, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

8A.438 TAX-SHELTERED INVESTMENT CONTRACTS.

1. The director may establish a tax-sheltered investment program for eligible employees. The director may arrange for the provision of investment vehicles authorized under sec-

tion 403(b) of the Internal Revenue Code, as defined in section 422.3. The department may offer the tax-sheltered investment program to eligible public employers in the state of Iowa.

2. a. A special, separate tax-sheltered investment revolving trust fund is created in the state treasury under the control of the department. The fund shall consist of all moneys deposited in the fund pursuant to this section, any funds received from other entities in the state of Iowa, and interest and earnings thereon. The director is the trustee of the fund and shall administer the fund. Any loss to the fund shall be charged against the fund and the director shall not be personally liable for such loss.

b. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 58. Section 55.1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

A person who is elected to a municipal, county, state, or federal office shall, upon written application to the employer of that person, be granted a leave of absence from regular employment to serve in that office except where prohibited by the federal law. The leave of absence may be granted without pay ~~and~~, except that if a salaried employee takes leave without pay from regular employment for a portion of a pay period, the employee's salaried compensation for that pay period shall be reduced by the ratio of the number of days of leave taken to the total number of days in the pay period. The leave of absence shall be granted without loss of net credited service and benefits earned. This section shall not be construed to require an employer to pay pension, health or other benefits during the leave of absence to an employee taking a leave of absence under this section.

Sec. 59. Section 55.1, unnumbered paragraph 3, Code 2007, is amended to read as follows:

An employee shall not be prohibited from returning to regular employment before the period expires for which the leave of absence was granted. This section applies only to employers which employ twenty or more full-time persons. ~~The leave of absence granted by this section need not exceed six years.~~ The leave of absence granted by this section does not apply to an elective office held by the employee prior to the election.

Sec. 60. Section 97C.21, Code 2007, is amended to read as follows:

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. Alternatively, the governor may authorize a statewide referendum of the appointed and elected officials of the state and its political subdivisions on the question of whether to include in or exclude from the definition of employee all such positions. This choice shall be reflected in the federal-state agreement described in section 97C.3, and, if necessary, in this chapter. 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. 61. Section 97D.2, Code 2007, is amended to read as follows:

97D.2 ANALYSIS OF COST OF PROPOSED CHANGES.

When the public retirement systems committee established by section 97D.4 or a standing committee of the senate or house of representatives recommends a proposal for a change in a public retirement system within this state, the committee shall require the development of actuarial information concerning the costs of the proposed change. If the proposal affects police and fire retirement under chapter 411, the committee shall arrange for the services of an actuarial consultant or request actuarial information from the statewide fire and police retirement system created in chapter 411 to assist in developing the information. Actuarial informa-

tion developed as provided under this section concerning the cost of a proposed change shall include information on the effect of the proposed change on the normal cost rate for that public retirement system using the entry age normal actuarial cost method.

Sec. 62. NEW SECTION. 97D.5 PUBLIC RETIREMENT SYSTEMS — ANNUAL ACTUARIAL VALUATIONS — REQUIRED INFORMATION.

1. For purposes of this section, "public retirement system" means the public safety peace officers' retirement system created in chapter 97A, the Iowa public employees' retirement system created in chapter 97B, the statewide fire and police retirement system created in chapter 411, or the judicial retirement system created in chapter 602.

2. Effective with the fiscal year beginning July 1, 2008, a public retirement system shall include in each actuarial valuation or actuarial update required to be conducted by that public retirement system the following additional information, all as determined by using the entry age normal actuarial cost method:

a. The actuarially required contribution rate for the public retirement system which is equal to the normal cost rate plus the contribution rate necessary to amortize the unfunded actuarial accrued liability on a level percent of payroll basis over thirty years.

b. The normal cost rate for the public retirement system which shall be determined for each individual member on a level percentage of salary basis and then summed for all members to obtain the total normal cost.

Sec. 63. Section 260C.14, subsection 9, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

9. a. The board may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

b. The selection of investment contracts to be included within the plan established by the board shall be made either pursuant to a competitive bidding process conducted by the board, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this subsection. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the board and the employee organizations representing employees eligible to participate in the plan.

c. The board may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to an investment contract in the plan on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the board may make nonelective employer contributions to the plan.

d. As used in this subsection, unless the context otherwise requires, "investment contract" shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

Sec. 64. Section 273.3, subsection 14, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

14. a. The board may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

b. The selection of investment contracts to be included within the plan established by the

board shall be made either pursuant to a competitive bidding process conducted by the board, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this subsection. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the board and the employee organizations representing employees eligible to participate in the plan.

c. The board may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to the investment contract on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the board may make nonelective employer contributions to the plan.

d. As used in this subsection, unless the context otherwise requires, "investment contract" shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

Sec. 65. Section 294.16, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

294.16 INVESTMENT CONTRACTS.

1. The school district may establish a plan, in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state.

2. The selection of investment contracts to be included within the plan established by the school district shall be made either pursuant to a competitive bidding process conducted by the school district, in coordination with employee organizations representing employees eligible to participate in the plan, or pursuant to an agreement with the department of administrative services to make available investment contracts included in a deferred compensation or similar plan established by the department pursuant to section 8A.438, which plan meets the requirements of this section. The determination of whether to select investment contracts for the plan pursuant to a competitive bidding process or by agreement with the department of administrative services shall be made by agreement between the school district and the employee organizations representing employees eligible to participate in the plan.

3. The school district may make elective deferrals in accordance with the plan as authorized by an eligible employee for the purpose of making contributions to the investment contract on behalf of the employee. The deferrals shall be made in the manner which will qualify contributions to the investment contract for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. In addition, the school district may make nonelective employer contributions to the plan.

4. As used in this section, unless the context otherwise requires, "investment contract" shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

Sec. 66. TRANSITION PROVISIONS — INTERNAL REVENUE CODE SECTION 403(b) PLANS. Notwithstanding any provision of law to the contrary, the investment contracts to be included within a plan established pursuant to section 260C.14, subsection 9, section 273.3, subsection 14, or section 294.16, for the period beginning January 1, 2009, and ending December 31, 2009, shall be investment contracts selected by the department of administrative services from among the investment contracts included in a deferred compensation or similar plan established by the department of administrative services, which plan meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3, or shall be

from no more than five companies authorized to issue investment contracts as selected by the applicable employer and from no more than three companies authorized to issue investment contracts as selected by, and in the sole discretion of, the employee organizations representing the applicable employer's employees. Selection of companies and investment contracts for a plan shall be made in the best interests of employees eligible to participate in the plan. The determination of whether to select investment contracts for the plan for the period beginning January 1, 2009, and ending December 31, 2009, that are included in a deferred compensation or similar plan established by the department of administrative services or that are selected by the applicable employer and the employee organizations representing the applicable employer's employees, shall be made by an agreement entered into by August 15, 2008, between the applicable employer and the employee organizations representing the applicable employer's employees eligible to participate in the plan. Applicable employers shall have the authority to take such action as deemed necessary to establish, effective January 1, 2009, an eligible plan pursuant to section 260C.14, subsection 9, section 273.3, subsection 14, or section 294.16.

Sec. 67. DEPARTMENT OF ADMINISTRATIVE SERVICES — SELECTION OF INVESTMENT CONTRACT PROVIDERS FOR INTERNAL REVENUE CODE SECTION 403(b) PLANS.

1. The department of administrative services shall establish, by January 1, 2010, a plan, as authorized pursuant to section 8A.438 and in accordance with section 403(b) of the Internal Revenue Code, as defined in section 422.3, for employees, which plan shall consist of one or more investment contracts, on a group or individual basis, acquired from a company, or a salesperson for that company, that is authorized to do business in this state, that is eligible to be utilized as a vendor of investment contracts for plans established pursuant to section 260C.14, subsection 9, section 273.3, subsection 14, or section 294.16.

2. The department of administrative services shall determine which vendors will be authorized to participate under the tax-sheltered investment program established by the department pursuant to section 8A.438. Employee organizations representing employees and employers participating in the programs authorized under sections 8A.433 and 8A.438 shall be allowed to assist the department in this decision, specific only to the initial competitive bid process that will determine the vendors that will be in the program as of January 1, 2010.

3. As used in this section, unless the context otherwise requires, "investment contract" shall mean a custodial account utilizing mutual funds or an annuity contract which meets the requirements of section 403(b) of the Internal Revenue Code, as defined in section 422.3.

Sec. 68. EFFECTIVE DATE.

1. The sections of this division of this Act amending section 260C.14, subsection 9, section 273.3, subsection 14, and section 294.16, take effect January 1, 2009.

2. The section of this division of this Act, enacting transition provisions relating to plans required to meet requirements for Internal Revenue Code section 403(b) plans, being deemed of immediate importance, takes effect upon enactment.

Approved May 15, 2008

CHAPTER 1172

DEBTS OWED THE STATE
OR POLITICAL SUBDIVISIONS —
COLLECTION, PAYMENT, AND SANCTIONS

S.F. 2428

AN ACT relating to the collection of delinquent debt owed the state and political subdivisions of the state by requiring offsets of gambling winnings, sanctioning of professional licenses, modifying provisions related to debt and tax collection practices and fees, writing off certain delinquent court debt, modifying provisions relating to the deposit of certain funds in the jury and witness fee fund, and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
GAMBLING SETOFF

Section 1. Section 99D.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Claimant agency" means a state agency as defined in section 8A.504, subsection 1, or the state court administrator as defined in section 602.1101.

Sec. 2. Section 99D.7, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 22A. To require licensees to establish a process with the state for licensees to have electronic access to names and social security numbers of debtors of claimant agencies through a secured interactive web site maintained by the state.

Sec. 3. NEW SECTION. 99D.28 SETOFF.

1. A licensee or a person acting on behalf of a licensee shall be provided electronic access to the names of the persons indebted to a claimant agency pursuant to the process established pursuant to section 99D.7, subsection 22A. The electronic access provided by the claimant agency shall include access to the names of the debtors, their social security numbers, and any other information that assists the licensee in identifying the debtors. If the name of a debtor provided to the licensee through electronic access is retrieved by the licensee, and the winnings are equal to or greater than ten thousand dollars per occurrence, the retrieval of such a name shall constitute a valid lien upon and claim of lien against the winnings of the debtor whose name is electronically retrieved from the claimant agency. If a debtor's winnings are equal to or greater than ten thousand dollars per occurrence, the full amount of the debt shall be collectible from any winnings due the debtor without regard to limitations on the amounts that may be collectible in increments through setoff or other proceedings.

2. The licensee is authorized and directed to withhold any winnings of a debtor which are paid out directly by the licensee subject to the lien created by this section and provide notice of such withholding to the winner when the winner appears and claims winnings in person. The licensee shall pay the funds over to the collection entity which administers the setoff program pursuant to section 8A.504.

3. Notwithstanding any other provision of law to the contrary, the licensee may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section, and likewise the claimant agency may provide all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the licensee in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. An employee or prior employee of a claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the claimant agency.

5. The information obtained by a licensee from a claimant agency in accordance with this section shall retain its confidentiality and only be used by the licensee in the pursuit of debt collection duties and practices. An employee or prior employee of a licensee who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the licensee.

6. Except as otherwise provided in this chapter, attachments, setoffs, or executions authorized and issued pursuant to law shall be withheld if timely served upon the licensee.

7. A claimant agency or licensee, acting in good faith, shall not be liable for actions taken to comply with this section.

Sec. 4. Section 99F.1, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Claimant agency" means a state agency as defined in section 8A.504, subsection 1, or the state court administrator as defined in section 602.1101.

Sec. 5. Section 99F.4, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 26. To require licensees to establish a process with the state for licensees to have electronic access to names and social security numbers of debtors of claimant agencies through a secured interactive web site maintained by the state.

Sec. 6. NEW SECTION. 99F.19 SETOFF.

1. A licensee or a person acting on behalf of a licensee shall be provided electronic access to the names of the persons indebted to a claimant agency pursuant to the process established pursuant to section 99F.4, subsection 26. The electronic access provided by the claimant agency shall include access to the names of the debtors, their social security numbers, and any other information that assists the licensee in identifying the debtors. If the name of a debtor provided to the licensee through electronic access is retrieved by the licensee, and the winnings are equal to or greater than ten thousand dollars per occurrence, the retrieval of such a name shall constitute a valid lien upon and claim of lien against the winnings of the debtor whose name is electronically retrieved from the claimant agency. If a debtor's winnings are equal to or greater than ten thousand dollars per occurrence, the full amount of the debt shall be collectible from any winnings due the debtor without regard to limitations on the amounts that may be collectible in increments through setoff or other proceedings.

2. The licensee is authorized and directed to withhold any winnings of a debtor which are paid out directly by the licensee subject to the lien created by this section and provide notice of such withholding to the winner when the winner appears and claims winnings in person. The licensee shall pay the funds over to the collection entity which administers the setoff program pursuant to section 8A.504.

3. Notwithstanding any other provision of law to the contrary, the licensee may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this section, and likewise the claimant agency may provide all information necessary to accomplish and effectuate the intent of this section.

4. The information obtained by a claimant agency from the licensee in accordance with this section shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. An employee or prior employee of a claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the claimant agency.

5. The information obtained by a licensee from a claimant agency in accordance with this section shall retain its confidentiality and only be used by the licensee in the pursuit of debt collection duties and practices. An employee or prior employee of a licensee who unlawfully discloses any such information for any other purpose, except as otherwise specifically autho-

rized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the licensee.

6. Except as otherwise provided in this chapter, attachments, setoffs, or executions authorized and issued pursuant to law shall be withheld if timely served upon the licensee.

7. A claimant agency or licensee, acting in good faith, shall not be liable for actions taken to comply with this section.

DIVISION II
LICENSING SANCTIONS

Sec. 7. NEW SECTION. 272D.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Certificate of noncompliance" means a document provided by the unit certifying the named person has outstanding liability placed with the unit and has not entered into an approved payment plan to pay the liability.

2. "Liability" means a debt or obligation placed with the unit for collection that is greater than one thousand dollars. For purposes of this chapter "liability" does not include support payments collected pursuant to chapter 252J.

3. "License" means a license, certification, registration, permit, approval, renewal, or other similar authorization issued to a person by a licensing authority which evidences the admission to, or granting of authority to engage in, a profession, occupation, business, industry, or recreation. "License" includes licenses for hunting and fishing, or other recreational activity.

4. "Licensee" means a person to whom a license has been issued, or who is seeking the issuance of a license.

5. "Licensing authority" means the supreme court, or an instrumentality, agency, board, commission, department, officer, organization, or any other entity of the state, which has authority within this state to suspend or revoke a license or to deny the renewal or issuance of a license authorizing a person to engage in a business, occupation, profession, recreation, or industry.

6. "Obligor" means a person with a liability placed with the unit.

7. "Person" means a licensee.

8. "Unit" means the centralized collection unit of the department of revenue.

9. "Withdrawal of a certificate of noncompliance" means a document provided by the unit certifying that the certificate of noncompliance is withdrawn and that the licensing authority may proceed with issuance, reinstatement, or renewal of the person's license.

Sec. 8. NEW SECTION. 272D.2 PURPOSE AND USE.

1. Notwithstanding other statutory provisions to the contrary, the unit may utilize the process established in this chapter to collect liabilities placed with the unit.

2. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and any resulting court hearing shall be an original hearing before the district court.

3. Notwithstanding chapter 22, all of the following apply:

a. Information obtained by the unit under this chapter shall be used solely for the purposes of this chapter.

b. Information obtained by a licensing authority under this chapter shall be used solely for the purposes of this chapter.

4. Notwithstanding any other law to the contrary, information shall be exchanged by a licensing authority and the unit to effectuate this chapter.

Sec. 9. NEW SECTION. 272D.3 NOTICE TO PERSON OF POTENTIAL SANCTION OF LICENSE.

The unit shall proceed in accordance with this chapter only if the unit sends a notice to the person by regular mail to the last known address of the person. The notice shall include all of the following:

1. The address and telephone number of the unit and the person's unit account number.

2. A statement that the person may request a conference with the unit to contest the action.

3. A statement that if, within twenty days of mailing of the notice to the person, the person fails to contact the unit to schedule a conference, the unit shall issue a certificate of noncompliance, bearing the person's name, social security number, and unit account number, to any appropriate licensing authority, certifying that the obligor has an outstanding liability placed with the unit.

4. A statement that in order to stay the issuance of a certificate of noncompliance the request for a conference shall be in writing and shall be received by the unit within twenty days of mailing of the notice to the person.

5. The names of the licensing authorities to which the unit intends to issue a certificate of noncompliance.

6. A statement that if the unit issues a certificate of noncompliance to an appropriate licensing authority, the licensing authority shall initiate proceedings to refuse to issue or renew, or to suspend or revoke the person's license, unless the unit provides the licensing authority with a withdrawal of a certificate of noncompliance.

Sec. 10. NEW SECTION. 272D.4 CONFERENCE.

1. The person may schedule a conference with the unit following mailing of the notice pursuant to section 272D.3, or at any time after service of notice of suspension, revocation, denial of issuance, or nonrenewal of a license from a licensing authority, to challenge the unit's actions under this chapter.

2. The request for a conference shall be made to the unit, in writing, and, if requested after mailing of the notice pursuant to section 272D.3, shall be received by the unit within twenty days following mailing of the notice.

3. The unit shall notify the person of the date, time, and location of the conference by regular mail, with the date of the conference to be no earlier than ten days following issuance of notice of the conference by the unit. If the person fails to appear at the conference, the unit shall issue a certificate of noncompliance.

4. Following the conference, the unit shall issue a certificate of noncompliance unless any of the following applies:

a. The unit finds a mistake in the identity of the person.

b. The unit finds a mistake in determining the amount of the liability.

c. The unit determines the amount of the liability is not greater than one thousand dollars.

d. The obligor enters into an acceptable payment plan.

e. Issuance of a certificate of noncompliance is not appropriate under other criteria established in accordance with rules adopted by the department of revenue pursuant to chapter 17A.

5. The unit shall grant the person a stay of the issuance of a certificate of noncompliance upon receiving a timely written request for a conference, and if a certificate of noncompliance has previously been issued, shall issue a withdrawal of a certificate of noncompliance if the obligor enters into a written agreement with the unit to pay the liability.

6. If the person does not timely request a conference or does not pay the total amount of liability owed within twenty days of mailing of the notice pursuant to section 272D.3, the unit shall issue a certificate of noncompliance.

Sec. 11. NEW SECTION. 272D.5 WRITTEN AGREEMENT.

1. The obligor and the unit may enter into a written agreement for payment of the liability owed which takes into consideration the obligor's ability to pay and other criteria established by rule of the department of revenue. The written agreement shall include all of the following:

a. The method, amount, and dates of payments by the obligor.

b. A statement that upon breach of the written agreement by the obligor, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. A written agreement entered into pursuant to this section does not preclude any other remedy provided by law.

3. Following issuance of a certificate of noncompliance, if the obligor enters into a written agreement with the unit, the unit shall issue a withdrawal of the certificate of noncompliance to any appropriate licensing authority and shall forward a copy of the withdrawal by regular mail to the obligor.

Sec. 12. NEW SECTION. 272D.6 DECISION OF THE UNIT.

1. If the unit mails a notice to a person pursuant to section 272D.3, and the person requests a conference pursuant to section 272D.4, the unit shall issue a written decision if any of the following conditions exist:

a. The person fails to appear at a scheduled conference under section 272D.4.

b. A conference is held under section 272D.4.

c. The obligor fails to comply with a written agreement entered into by the obligor and the unit under section 272D.5.

2. The unit shall send a copy of the written decision to the person by regular mail at the person's most recent address of record. If the decision is made to issue a certificate of noncompliance or to withdraw the certificate of noncompliance, a copy of the certificate of noncompliance or of the withdrawal of the certificate of noncompliance shall be attached to the written decision. The written decision shall state all of the following:

a. That the certificate of noncompliance or withdrawal of the certificate of noncompliance has been provided to the licensing authorities named in the notice provided pursuant to section 272D.3.

b. That upon receipt of a certificate of noncompliance, the licensing authority shall initiate proceedings to suspend, revoke, deny issuance, or deny renewal of a license, unless the licensing authority is provided with a withdrawal of a certificate of noncompliance from the unit.

c. That in order to obtain a withdrawal of a certificate of noncompliance from the unit, the obligor shall enter into a written agreement with the unit, comply with an existing written agreement with the unit, or pay the total amount of liability owed.

d. That if the unit issues a written decision which includes a certificate of noncompliance, the person may request a hearing as provided in section 272D.9, before the district court. The person may retain an attorney at the person's own expense to represent the person at the hearing. The review of the district court shall be limited to demonstration of a mistake of fact related to the amount of the liability owed or the identity of the person.

3. If the unit issues a certificate of noncompliance, the unit shall only issue a withdrawal of the certificate of noncompliance if any of the following applies:

a. The unit or the court finds a mistake in the identity of the person.

b. The unit or the court finds a mistake in the amount owed.

c. The obligor enters into a written agreement with the unit to pay the liability owed, the obligor complies with an existing written agreement, or the obligor pays the total amount of liability owed.

d. Issuance of a withdrawal of the certificate of noncompliance is appropriate under other criteria in accordance with rules adopted by the department of revenue pursuant to chapter 17A.

Sec. 13. NEW SECTION. 272D.7 CERTIFICATE OF NONCOMPLIANCE — CERTIFICATION TO LICENSING AUTHORITY.

1. If a person fails to respond to a notice of potential license sanction provided pursuant to section 272D.3 or the unit issues a written decision under section 272D.6 which states that the person is not in compliance, the unit shall issue a certificate of noncompliance to any appropriate licensing authority.

2. The certificate of noncompliance shall contain the person's name and social security number.

3. The certificate of noncompliance shall require all of the following:

a. That the licensing authority initiate procedures for the revocation or suspension of the person's license, or for the denial of the issuance or renewal of a license using the licensing authority's procedures.

b. That the licensing authority provide notice to the person, as provided in section 272D.8, of the intent to suspend, revoke, deny issuance, or deny renewal of a license including the effective date of the action. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the person.

Sec. 14. NEW SECTION. 272D.8 REQUIREMENTS AND PROCEDURES OF LICENSING AUTHORITY.

1. A licensing authority shall maintain records of licensees by name, current known address, and social security number. The records shall be made available to the unit in an electronic format in order for the unit to match the names of the persons with any liability placed with the unit for collection.

2. In addition to other grounds for suspension, revocation, or denial of issuance or renewal of a license, a licensing authority shall include in rules adopted by the licensing authority as grounds for suspension, revocation, or denial of issuance or renewal of a license, the receipt of a certificate of noncompliance from the unit.

3. The supreme court shall prescribe rules for admission of persons to practice as attorneys and counselors pursuant to chapter 602, article 10, which include provisions, as specified in this chapter, for the denial, suspension, or revocation of the admission for failure to pay a liability placed with the unit.

4. a. A licensing authority that is issued a certificate of noncompliance shall initiate procedures for the suspension, revocation, or denial of issuance or renewal of licensure to a person. The licensing authority shall utilize existing rules and procedures for suspension, revocation, or denial of the issuance or renewal of a license.

b. In addition, the licensing authority shall provide notice to the person of the licensing authority's intent to suspend, revoke, or deny issuance or renewal of a license under this chapter. The suspension, revocation, or denial shall be effective no sooner than thirty days following provision of notice to the person. The notice shall state all of the following:

(1) The licensing authority intends to suspend, revoke, or deny issuance or renewal of a person's license due to the receipt of a certificate of noncompliance from the unit.

(2) The person must contact the unit to schedule a conference or to otherwise obtain a withdrawal of a certificate of noncompliance.

(3) Unless the unit furnishes a withdrawal of a certificate of noncompliance to the licensing authority within thirty days of the issuance of the notice under this section, the person's license will be revoked, suspended, or denied.

(4) If the licensing authority's rules and procedures conflict with the additional requirements of this section, the requirements of this section shall apply. Notwithstanding section 17A.18, the person does not have a right to a hearing before the licensing authority to contest the authority's actions under this chapter but may request a court hearing pursuant to section 272D.9 within thirty days of the provision of notice under this section.

5. If the licensing authority receives a withdrawal of a certificate of noncompliance from the unit, the licensing authority shall immediately reinstate, renew, or issue a license if the person is otherwise in compliance with licensing requirements established by the licensing authority.

Sec. 15. NEW SECTION. 272D.9 DISTRICT COURT HEARING.

1. Following the issuance of a written decision by the unit under section 272D.6 which includes the issuance of a certificate of noncompliance, or following provision of notice to the person by a licensing authority pursuant to section 272D.8, a person may seek review of the decision and request a hearing before the district court by filing an application with the district court in the county where the majority of the liability was incurred, and sending a copy of the application to the unit by regular mail.

2. An application shall be filed to seek review of the decision by the unit or following issuance of notice by the licensing authority no later than within thirty days after the issuance of the notice pursuant to section 272D.8. The clerk of the district court shall schedule a hearing and mail a copy of the order scheduling the hearing to the person and the unit and shall also mail a copy of the order to the licensing authority, if applicable. The unit shall certify a copy of its written decision and certificate of noncompliance, indicating the date of issuance, and the licensing authority shall certify a copy of a notice issued pursuant to section 272D.8, to the court prior to the hearing.

3. The filing of an application pursuant to this section shall automatically stay the actions of a licensing authority pursuant to section 272D.8. The hearing on the application shall be scheduled and held within thirty days of the filing of the application. However, if the person fails to appear at the scheduled hearing, the stay shall be lifted and the licensing authority shall continue procedures pursuant to section 272D.8.

4. The scope of review by the district court shall be limited to demonstration of the amount of the liability owed or the identity of the person.

5. If the court finds that the unit was in error in issuing a certificate of noncompliance, or in failing to issue a withdrawal of a certificate of noncompliance, the unit shall issue a withdrawal of a certificate of noncompliance to the appropriate licensing authority.

DIVISION III
COLLECTION OF DEBT

Sec. 16. Section 96.11, subsection 6, paragraph b, subparagraph (3), Code Supplement 2007, is amended to read as follows:

(3) Information obtained from an employing unit or individual in the course of administering this chapter and an initial determination made by a representative of the department under section 96.6, subsection 2, as to benefit rights of an individual shall not be used in any action or proceeding, except in a contested case proceeding or judicial review under chapter 17A. However, the department shall make information, which is obtained from an employing unit or individual in the course of administering this chapter and which relates to the employment and wage history of the individual, available to a county attorney for the county attorney's use in the performance of duties under section 331.756, subsection 5, or section 602.8107. The department shall make such information electronically accessible to the county attorney at the county attorney's office, if requested, provided the county attorney's office pays the cost of the installation of the equipment to provide such access. Information in the department's possession which may affect a claim for benefits or a change in an employer's rating account shall be made available to the interested parties. The information may be used by the interested parties in a proceeding under this chapter to the extent necessary for the proper presentation or defense of a claim.

Sec. 17. NEW SECTION. 321.11A PERSONAL INFORMATION DISCLOSURE — EXCEPTION.

1. Notwithstanding section 321.11, the department, upon request, shall provide personal information that identifies a person by the social security number of the person to the following:

a. The department of revenue for the purpose of collecting debt.

b. The judicial branch for the purpose of collecting court debt pursuant to section 602.8107.

c. The department of administrative services for the purpose of administering the setoff program pursuant to section 8A.504.

2. The social security number obtained by the department of revenue or the judicial branch shall retain its confidentiality and shall only be used for the purposes provided in this section.

Sec. 18. Section 321.40, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. a. The clerk of the district court shall notify the county treasurer of any delinquent court debt, as defined in section 602.8107, which is being collected by the

county attorney pursuant to section 602.8107, subsection 4. The county treasurer shall refuse to renew the vehicle registration of the applicant upon such notification from the clerk of the district court in regard to such applicant.

b. If the applicant enters into or renews a payment plan that is satisfactory to the county attorney or the county attorney's designee, the county attorney shall provide the county treasurer with written or electronic notice of the payment plan within five days of entering into such a plan. The county treasurer shall temporarily lift the registration hold on an applicant for a period of ten days if the treasurer receives such notice in order to allow the applicant to register a vehicle for the year. If the applicant remains current with the payment plan entered into with the county attorney or the county attorney's designee, subsequent lifts of registration holds shall be granted without additional restrictions.

Sec. 19. Section 321.210A, subsection 2, Code Supplement 2007, is amended to read as follows:

2. If after suspension, the person enters into an installment agreement with the county attorney, the county attorney's designee, or the centralized collection unit of the department of revenue in accordance with section 321.210B to pay the fine, penalty, court cost, or surcharge, the person's license shall be reinstated by the department upon receipt of a report of an executed installment agreement.

Sec. 20. Section 321.210A, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If the county attorney or the county attorney's designee, while collecting delinquent court debt pursuant to section 602.8107, determines that the person has been convicted of an additional violation of a law regulating the operation of a motor vehicle, the county attorney or the county attorney's designee shall notify the clerk of the district court of the appropriate case numbers, and the clerk of the district court shall notify the department for the purpose of instituting suspension procedures pursuant to this section.

Sec. 21. Section 321.210B, Code Supplement 2007, is amended to read as follows:

321.210B INSTALLMENT AGREEMENT.

1. If a person's fine, penalty, surcharge, or court cost is deemed delinquent as provided in section 602.8107, subsection ~~3~~ 2, and the person's driver's license has been suspended pursuant to section 321.210A, the person may execute an installment agreement with the county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit of the department of revenue to pay the delinquent amount and the fee assessed in subsection 7 in installments. Prior to execution of the installment agreement, the person shall provide the county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit of the department of revenue with a financial statement in order for the parties to the agreement to determine the amount of the installment payments.

2. ~~A~~ If the person enters into an installment agreement with the county attorney or the county attorney's designee, the person shall execute an installment agreement in the county where the fine, penalty, surcharge, or court cost was imposed. If the county where the fine, penalty, surcharge, or court cost was imposed does not have an installment agreement program, the person shall execute an installment agreement in the person's county of residence. If the county of residence does not have an installment agreement program, the person may execute an installment agreement with any county attorney or county attorney's designee.

3. The county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit of the department of revenue shall file the installment agreement with the clerk of the district court in the county where the fine, penalty, surcharge, or court cost was imposed, within five days of execution of the agreement.

4. Upon receipt of an executed installment agreement and after the first installment payment, the clerk of the district court shall report the receipt of the executed installment agreement to the department of transportation.

5. Upon receipt of the report from the clerk of the district court and payment of the reinstate-

ment fee as provided in section 321.191, the department shall immediately reinstate the driver's license of the person unless the driver's license of the person is otherwise suspended, revoked, denied, or barred under another provision of law.

6. If a driver's license is reinstated upon receipt of a report of an executed installment agreement the driver shall provide proof of financial responsibility pursuant to section 321A.17, if otherwise required by law.

7. The civil penalty, if assessed pursuant to section 321.218A, shall be added to the amount owing under the installment agreement. The clerk of the district court shall transmit to the department, from the first moneys collected, an amount equal to the amount of any civil penalty assessed and added to the installment agreement. The department shall transmit the money received from the clerk of the district court pursuant to this subsection to the treasurer of state for deposit in the juvenile detention home fund created in section 232.142.

8. Upon determination by the county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit of the department of revenue that the person is in default, the county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit shall notify the clerk of the district court.

9. The clerk of the district court, upon receipt of a notification of a default from the county attorney, ~~or~~ the county attorney's designee, or the centralized collection unit of the department of revenue shall report the default to the department of transportation.

10. Upon receipt of a report of a default from the clerk of the district court, the department shall suspend the driver's license of a person as provided in section 321.210A. For purposes of suspension and reinstatement of the driver's license of a person in default, the suspension and any subsequent reinstatement shall be considered a suspension pursuant to section 321.210A.

11. If a new fine, penalty, surcharge, or court cost is imposed on a person after the person has executed an installment agreement with the county attorney, ~~or~~ the county attorney's designee, the[1] centralized collection unit of the department of revenue, and the new fine, penalty, surcharge, or court cost is deemed delinquent as provided in section 602.8107, subsection ~~3~~ 2, and the person's driver's license has been suspended pursuant to section 321.210A, the person may enter into a second installment agreement with the county attorney, ~~or~~ county attorney's designee, or the centralized collection unit of the department of revenue to pay the delinquent amount and the fee, if assessed, in subsection 7 in installments.

12. If an installment agreement is in default, the fine, penalty, surcharge, or court cost covered under the agreement shall not become part of any new installment agreement.

13. A person is eligible to enter into five installment agreements in the person's lifetime.

14. Except for the civil penalty if assessed and collected pursuant to subsection 7, any amount collected under the installment agreement by the county attorney or the county attorney's designee shall be distributed as provided in section 602.8107, subsection 4, and any amount collected by the centralized collection unit of the department of revenue shall be deposited with the clerk of the district court for distribution under section 602.8108.

Sec. 22. Section 331.756, subsection 5, paragraph e, Code Supplement 2007, is amended by striking the paragraph.

Sec. 23. Section 423.31, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding any other provision of the Code to the contrary, the department shall not attempt to collect delinquent sales tax on a transaction involving the furnishing of lawn care, landscaping, or tree trimming and removal services which occurred more than five years from the date of an audit.

Sec. 24. Section 602.8102, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 105B. Facilitate the collection of court debt pursuant to section 602.8107.

[1] According to enrolled Act; the phrase "or the" probably intended

Sec. 25. Section 602.8107, Code Supplement 2007, is amended by striking the section and inserting in lieu thereof the following:

602.8107 COLLECTION OF COURT DEBT.

1. As used in this section, "court debt" means all fines, penalties, court costs, fees, forfeited bail, surcharges under chapter 911, victim restitution, restitution for court-appointed attorney fees or for expenses of a public defender, or fees charged pursuant to section 356.7 or 904.108.

2. CLERK OF THE DISTRICT COURT COLLECTION. Court debt shall be owed and payable to the clerk of the district court. All amounts collected shall be distributed pursuant to sections 602.8106 and 602.8108 or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. Any fees charged to the clerk with respect to payment by credit card may be paid from receipts collected by credit card.

a. If the clerk receives payment from a person who is an inmate at a correctional institution or who is under the supervision of a judicial district department of correctional services, the payment shall be applied to the balance owed under the identified case number of the case which has resulted in the placement of the person at a correctional institution or under the supervision of the judicial district department of correctional services.

b. If a case number is not identified, the clerk shall apply the payment to the balance owed in the criminal case with the oldest judgment against the person.

c. Payments received under this section shall be applied in the following priority order:

(1) Pecuniary damages as defined in section 910.1, subsection 3.

(2) Fines or penalties and criminal penalty and law enforcement initiative surcharges.

(3) Crime victim compensation program reimbursement.

(4) Court costs, including correctional fees assessed pursuant to sections 356.7 and 904.108, court-appointed attorney fees, or public defender expenses.

d. The court debt is deemed delinquent if it is not paid within thirty days after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future pursuant to section 909.3 is deemed delinquent if it is not received by the clerk within thirty days after the fixed future date set out in the court order. If an amount was ordered to be paid by installments, and an installment is not received within thirty days after the date it is due, the entire amount of the court debt is deemed delinquent.

3. COLLECTION BY CENTRALIZED COLLECTION UNIT OF DEPARTMENT OF REVENUE. Thirty days after court debt has been assessed, or if an installment payment is not received within thirty days after the date it is due, the judicial branch may assign a case to the centralized collection unit of the department of revenue or its designee to collect debts owed to the clerk of the district court for a period of sixty days. In addition, court debt which is being collected under an installment agreement pursuant to section 321.210B which is in default that remains delinquent may also be assigned to the centralized collection unit of the department of revenue or its designee.

a. The department of revenue may impose a fee established by rule to reflect the cost of processing which shall be added to the debt owed to the clerk of the district court. Any amounts collected by the unit shall first be applied to the processing fee. The remaining amounts shall be remitted to the clerk of the district court for the county in which the debt is owed. The judicial branch may prescribe rules to implement this subsection. These rules may provide for remittance of processing fees to the department of revenue or its designee.

b. Satisfaction of the outstanding court debt occurs only when all fees or charges and the outstanding court debt is paid in full. Payment of the outstanding court debt only shall not be considered payment in full for satisfaction purposes.

c. The department of revenue or its collection designee shall file with the clerk of the district court a notice of the satisfaction of each portion of the court debt to the full extent of the moneys collected in satisfaction of the court debt. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

4. COUNTY ATTORNEY COLLECTION. The county attorney or the county attorney's designee may collect court debt sixty days after the court debt is deemed delinquent pursuant to subsection 2. In order to receive a percentage of the amounts collected pursuant to this subsec-

tion, 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 court debt and must file on the first day of each month a list of the cases in which the county attorney or the county attorney's designee is pursuing the collection of delinquent court debt. The list shall include a list of cases where delinquent court debt is being collected under an installment agreement pursuant to section 321.210B, and a list of cases in default which are no longer being collected under an installment agreement but remain delinquent. The annual notice shall contain a list of procedures which will be initiated by the county attorney.

a. This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, the criminal penalty surcharge, drug abuse resistance education surcharge, the law enforcement initiative surcharge, county enforcement surcharge, amounts collected as a result of procedures initiated under subsection 5 or under section 8A.504, or fees charged pursuant to section 356.7.

b. Amounts collected by the county attorney or the county attorney's designee shall be distributed in accordance with paragraphs "c" and "d".

c. (1) Forty percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required by this subsection, unless the county attorney has discontinued collection efforts on a particular delinquent amount.

(2) The remaining sixty percent shall be paid to the clerk of the district court each fiscal year for distribution under section 602.8108. However, if such amount, when added to the amount deposited into the general fund of the county pursuant to subparagraph (1), exceeds the following applicable threshold amount, the excess shall be distributed as provided in paragraph "d":

(a) For a county with a population greater than one hundred fifty thousand, an amount up to five hundred thousand dollars.

(b) For a county with a population greater than one hundred thousand but not more than one hundred fifty thousand, an amount up to four hundred thousand dollars.

(c) For a county with a population greater than fifty thousand but not more than one hundred thousand, an amount up to two hundred fifty thousand dollars.

(d) For a county with a population greater than twenty-six thousand but not more than fifty thousand, an amount up to one hundred thousand dollars.

(e) For a county with a population greater than fifteen thousand but not more than twenty-six thousand, an amount up to fifty thousand dollars.

(f) For a county with a population equal to or less than fifteen thousand, an amount up to twenty-five thousand dollars.

d. Any additional moneys collected by an individual county after the distributions in paragraph "c" shall be distributed by the state court administrator as follows: forty percent of any additional moneys collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county where the moneys were collected; twenty percent of the remaining sixty percent collected by the county attorney or the person procured or designated by the county attorney shall be deposited with the office of the county attorney that collected the moneys; and the remainder shall be paid to the clerk of the district court for distribution under section 602.8108 or the state court administrator may distribute the remainder under section 602.8108 if the additional moneys have already been received by the state court administrator.

e. (1) A county may enter into an agreement pursuant to chapter 28E with one or more other counties for the purpose of collecting delinquent court debt pursuant to this subsection.

(2) Notwithstanding paragraph "c", if a county subject to the threshold amount in paragraph "c", subparagraph (2), subparagraph subdivision (e) or (f) enters into such an agreement exclusively with a county or counties subject to the threshold amount in paragraph "c", subparagraph (2), subparagraph subdivision (e) or (f), the threshold amount applicable to all of the counties combined shall be a single threshold amount, equal to the threshold amount attributable to the county with the largest population.

f. The county attorney shall file with the clerk of the district court a notice of the satisfaction of each portion of the court debt to the full extent of the moneys collected in satisfaction of the court debt. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

5. ASSIGNMENT TO PRIVATE COLLECTION DESIGNEE.

a. The judicial branch may contract with a private collection designee for the collection of court debt sixty days after the court debt in a case is deemed delinquent pursuant to subsection 2 if the county attorney is not collecting the court debt in a case pursuant to subsection 4. The judicial branch shall solicit requests for proposals prior to entering into any contract pursuant to this subsection.

b. The contract shall provide for a collection fee equal to twenty-five percent of the amount of the court debt in a case deemed delinquent. The collection fee as calculated shall be added to the amount of the court debt deemed delinquent. The amount of the court debt deemed delinquent and the collection fee shall be owed by and collected from the defendant. The collection fee shall be used to compensate the private collection designee. The contract may also assess the private collection designee an initial fee for entering into the contract.

c. The judicial branch may consult with the department of revenue and the department of administrative services when entering into the contract with the private collection designee.

d. Subject to the provisions of paragraph "b", the amounts collected pursuant to this subsection shall be distributed as provided in subsection 2. Any initial fee collected by the judicial branch shall be deposited into the general fund of the state.

e. The judicial branch or the private collection designee shall file with the clerk of the district court a notice of the satisfaction of each portion of the court debt to the full extent of the moneys collected in satisfaction of the court debt. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

6. WRITE OFF OF OLD DEBT. If any portion of the court debt in a case remains uncollected after sixty-five years from the date of imposition, the judicial branch shall write off the debt as uncollectible and close the case file for the purposes of collection pursuant to this section.

7. REPORTS. The judicial branch shall prepare a report aging the court debt. The report shall include the amounts collected by the private collection designee, the distribution of these amounts, and the amount of the fee collected by the private collection designee. In addition, the report shall include the amounts written off pursuant to subsection 6. The judicial branch shall provide the report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the legislative services agency, and the department of management by December 15 of each year.

Sec. 26. NEW SECTION. 901.5C PRONOUNCEMENT OF JUDGMENT AND SENTENCE — SOCIAL SECURITY NUMBER.

1. Prior to pronouncement of judgment and sentence pursuant to section 901.5, or prior to pleading guilty for an offense that does not require a court appearance, the defendant shall provide the defendant's social security number to the clerk of the district court or the court.

2. The clerk of the district court shall duly note the social security number in the case file.

3. The defendant's social security number shall be considered a confidential record exempted from public access under section 22.7, but shall be disclosed by the clerk of the district court for the limited purpose of collecting court debt pursuant to section 602.8107.

4. Failure or refusal to provide a social security number pursuant to this section shall not delay the pronouncement of judgment and sentence pursuant to section 901.5.

Sec. 27. Section 907.7, Code 2007, is amended to read as follows:

907.7 LENGTH OF PROBATION.

1. The length of the probation shall be for a term as the court shall fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor.

2. The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony.

3. ~~However, the~~ The court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services and that court debt collected pursuant to section 602.8107 has been paid. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

4. In determining the length of the probation, the court shall determine what period is most likely to provide maximum opportunity for the rehabilitation of the defendant, to allow enough time to determine whether or not rehabilitation has been successful, and to protect the community from further offenses by the defendant and others.

Sec. 28. Section 907.9, subsections 1, 2, and 4, Code 2007, are amended to read as follows:

1. At any time that the court determines that the purposes of probation have been fulfilled and ~~any~~ fees imposed under ~~sections 815.9 and~~ section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the court may order the discharge of a person from probation.

2. At any time that a probation officer determines that the purposes of probation have been fulfilled and ~~any~~ fees imposed under ~~sections 815.9 and~~ section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the officer may order the discharge of a person from probation after approval of the district director and notification of the sentencing court and the county attorney who prosecuted the case.

4. At the expiration of the period of probation ~~and~~ if the fees imposed under ~~sections 815.9 and~~ section 905.14 and court debt collected pursuant to section 602.8107 have been ~~paid or on condition that unpaid supervision fees be~~ paid, the court shall order the discharge of the person from probation~~, and the~~. If portions of the court debt remain unpaid, the person shall establish a payment plan with the clerk of the district court or the county attorney prior to the discharge. The court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person upon discharge. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 29. Section 909.8, Code 2007, is amended to read as follows:

909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO SURCHARGE.

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of surcharges imposed pursuant to chapter 911. ~~However, section 909.10 shall not apply to surcharges assessed under sections 911.3 and 911.4.~~

Sec. 30. Section 909.10, Code 2007, is repealed.

Sec. 31. DEPARTMENT OF REVENUE — COLLECTION SYSTEM UPGRADE. The director of the department of revenue shall enhance the computer assisted collections system of the department to the current web-based technical version and implement related process and procedure improvements that will generate revenue and cost benefits. The director shall procure the enhancements from the current vendor, and such enhancements shall be considered as an upgrade to that vendor's contract with the department.

Sec. 32. COLLECTION OF DELINQUENT DEBT — PROCESSING OR COLLECTION FEE. If court debt is being collected pursuant to section 602.8107, as amended by this Act, for court debt imposed, assessed, or deemed delinquent prior to the effective date of this Act, a processing fee or collection fee shall be added to the court debt as provided in this Act.

Sec. 33. LEGISLATIVE INTENT. It is the intent of the general assembly that the judicial branch enter into a contract with a private collection designee by August 1, 2008, and begin collection efforts pursuant to section 602.8107, as amended by this Act, on August 1, 2008.

Approved May 15, 2008

CHAPTER 1173

UNDERUTILIZED PROPERTY
REDEVELOPMENT TAX CREDITS

H.F. 2687

AN ACT relating to certain economic development programs by providing tax credits for the redevelopment of underutilized properties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 15.291, Code 2007, is amended to read as follows:

15.291 DEFINITIONS.

As used in this part, unless the context otherwise requires:

1. "Brownfield site" means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the property on which the individual or commercial facility is located. A brownfield site ~~shall~~ does not include property which has been placed, or is proposed ~~to be included~~ for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

2. "Council" means the brownfield redevelopment advisory council established in section 15.294.

3. "Grayfield site" means an industrial or commercial property meeting all of the following requirements:

a. The property has been developed and has infrastructure in place but the property's current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

b. The property's improvements and infrastructure are at least twenty-five years old and one or more of the following conditions exists:

(1) Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of twelve months or more.

(2) The assessed value of the improvements on the property has decreased by twenty-five percent or more.

(3) The property is currently being used as a parking lot.

(4) The improvements on the property no longer exist.

4. "Green development" means development which meets or exceeds the sustainable design standards established by the state building code commissioner pursuant to section 103A.8B.

5. "Qualifying investment" means the purchase price, the cleanup costs, and the redevelopment costs directly related to a qualifying redevelopment project.

6. "Qualifying redevelopment project" means a brownfield or a grayfield site being redeveloped or improved by the property owner. Qualifying redevelopment project does not include a previously remediated or redeveloped brownfield site.

~~2.~~ 7. "Sponsorship" means an agreement between a city or county and an applicant for assistance under the brownfield redevelopment program where the city or county agrees to offer assistance or guidance to the applicant.

Sec. 2. NEW SECTION. 15.293A REDEVELOPMENT TAX CREDITS.

1. a. A redevelopment 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 533.329, for a portion of a taxpayer's equity investment, as provided in subsection 2, in a qualifying redevelopment project.

b. An individual may claim a tax credit under this subsection 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. Any tax credit in excess of the taxpayer's liability for the tax year is not refundable but 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 first receives the tax credit.

1A. a. To claim a redevelopment tax credit under this section, a taxpayer must attach one or more tax credit certificates to the taxpayer's tax return. A tax credit certificate shall not be used or attached to a return filed for a taxable year beginning prior to July 1, 2009. The tax credit certificate or certificates attached to the taxpayer's tax return shall be issued in the taxpayer's name, expire on or after the last day of the taxable year for which the taxpayer is claiming the tax credit, and show a tax credit amount equal to or greater than the tax credit claimed on the taxpayer's tax return.

b. After verifying the eligibility of a qualifying investor for a tax credit pursuant to this section, the department of economic development shall issue a redevelopment tax credit certificate to be attached to the investor's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the amount of the credit, the name of the qualifying investor, any other information required by the department of revenue, and a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred.

c. The tax credit certificate, unless rescinded by the board, shall be accepted by the department of revenue as payment for taxes imposed pursuant to chapter 422, divisions II, III, and V, and in chapter 432, and for the moneys and credits tax imposed in section 533.329, subject to any conditions or restrictions placed by the board upon the face of the tax credit certificate and subject to the limitations of this section.

d. Tax credit certificates issued under this section may be transferred to any person or entity. Within ninety days of transfer, the transferee shall submit the transferred tax credit certificate to the department of revenue along with a statement containing the transferee's name, tax identification number, and address, the denomination that each replacement tax credit certificate is to carry, and any other information required by the department of revenue.

e. Within thirty days of receiving the transferred tax credit certificate and the transferee's statement, the department of revenue shall issue one or more replacement tax credit certificates to the transferee. Each replacement tax credit certificate must contain the information required for the original tax credit certificate and must have the same expiration date that appeared in the transferred tax credit certificate. Tax credit certificate amounts of less than the minimum amount established by rule of the department of economic development shall not be transferable.

f. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred 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 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.329. Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, under chapter 432, or against the moneys and credits tax imposed in section 533.329.

2. The amount of the tax credit shall equal one of the following:

a. Twelve percent of the taxpayer's qualifying investment in a grayfield site.

b. Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of a green development.

c. Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

d. Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of a green development.

3. For purposes of individual and corporate income taxes and the franchise tax, the increase in the basis of the redeveloped property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the credit computed under this part.

4. The maximum amount of a tax credit for a qualifying investment in any one qualifying redevelopment project shall not exceed ten percent of the maximum amount of tax credits available in any one fiscal year pursuant to subsection 5.

5. For the fiscal year beginning July 1, 2009, the maximum amount of tax credits issued by the department shall not exceed one million dollars. The department shall not issue tax credits pursuant to this section in subsequent fiscal years unless authorized pursuant to this subsection.

6. An investment shall be deemed to have been made on the date the qualifying redevelopment project is completed. An investment made prior to January 1, 2009, or after June 30, 2010, shall not qualify for a tax credit under this part.

6A. A qualifying redevelopment project that is not completed within thirty months after issuance of an approval for the project by the board shall cease to be eligible for a tax credit pursuant to this section, however, the board in its discretion may provide for an additional twelve-month period in which to complete a project.

7. The department shall develop a system for registration and authorization of tax credits authorized pursuant to this part and shall control distribution of all tax credits distributed to investors pursuant to this part. In developing the system, the department shall provide for a list of applicants for the tax credit and maintain it from year to year so that if the maximum aggregate amount of tax credits is reached in one year, an applicant can be given priority consideration for the credit in an ensuing year.

8. The department shall develop rules for the qualification of qualifying redevelopment projects and qualifying investments. The department of revenue shall adopt these criteria as administrative rules and shall adopt any other rules pursuant to chapter 17A necessary for the administration of this part.

9. The department may cooperate with the department of natural resources and local governments in an effort to disseminate information regarding the availability of tax credits for investments in qualifying redevelopment projects under this part.

10. If the maximum amount of tax credits available has not been issued at the end of a fiscal year, the remaining tax credit amount may be carried over to a subsequent fiscal year or may be issued in advance to qualifying redevelopment projects for a subsequent fiscal year. Whenever the council approves a tax credit which has not been allocated at the end of a fiscal year, the department may prorate the remaining credit amount to more than one eligible applicant.

11. If the recipient of a tax credit issued pursuant to this section has also applied to the department, the board, or any other agency of state government for additional financial assistance, the department, the board, or agency of state government shall not consider the receipt of a tax credit issued pursuant to this section when considering the application for additional financial assistance.

Sec. 3. NEW SECTION. 15.293B APPROVAL — REQUIREMENTS — REPAYMENT.

1. An investor seeking to claim a tax credit pursuant to section 15.293A shall apply to the council which shall have the power to approve the amount of tax credit available for each qualifying redevelopment project.

2. An investor applying for a tax credit shall provide the council with all of the following:

a. Information showing the total costs of the qualifying redevelopment project, including the costs of land acquisition, cleanup, and redevelopment.

b. Information about the financing sources of the investment which are directly related to the qualifying redevelopment project for which the taxpayer is seeking approval for a tax credit, as provided in section 15.293A.

3. If a taxpayer receives a tax credit pursuant to section 15.293A, but fails to comply with any of the requirements, the taxpayer loses any right to the tax credit, and the department of revenue shall seek recovery of the value of the credit received.

Sec. 4. Section 15.294, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The council shall consider applications for redevelopment tax credits as described in sections 15.293A and 15.293B, and the council may approve the amount of such tax credits for qualifying investments in qualifying redevelopment projects.

Sec. 5. Section 103A.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 23. "Sustainable design" means construction design intended to minimize negative environmental impacts and to promote the health and comfort of building occupants including but not limited to measures to reduce consumption of nonrenewable resources, minimize waste, and create healthy, productive environments.

Sec. 6. Section 103A.7, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Standards for sustainable design, also known and referred to as green building standards.

Sec. 7. NEW SECTION. 103A.8B SUSTAINABLE DESIGN OR GREEN BUILDING STANDARDS.

The commissioner, after consulting with and receiving recommendations from the department of natural resources and the office of energy independence, shall adopt rules pursuant to chapter 17A specifying standards and requirements for sustainable design and construction based upon or incorporating nationally recognized ratings, certifications, or classification systems, and procedures relating to documentation of compliance. The standards and requirements shall be incorporated into the state building code established in section 103A.7, but in lieu of general applicability shall apply to construction projects only if such applicability is expressly authorized by statute, or as established by another state agency by rule.

Sec. 8. NEW SECTION. 422.11V REDEVELOPMENT TAX CREDIT.

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a redevelopment tax credit allowed under chapter 15, part 9.

Sec. 9. Section 422.33, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 25. The taxes imposed under this division shall be reduced by a redevelopment tax credit allowed under chapter 15, part 9.

Sec. 10. Section 422.60, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The taxes imposed under this division shall be reduced by a redevelopment tax credit allowed under chapter 15, part 9.

Sec. 11. NEW SECTION. 432.12L REDEVELOPMENT TAX CREDIT.
The taxes imposed under this chapter shall be reduced by a redevelopment tax credit allowed under chapter 15, part 9.

Sec. 12. Section 533.329, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:
NEW PARAGRAPH. n. The moneys and credits tax imposed under this section shall be reduced by a redevelopment tax credit allowed under chapter 15, part 9.

Approved May 15, 2008

CHAPTER 1174

LIVESTOCK OPERATION ODOR MITIGATION

H.F. 2688

AN ACT providing for efforts to mitigate odor emitted from a livestock operation including by providing for basic and applied research and evaluations, providing for implementation, and including applicability and effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION V
ODOR MITIGATION FOR LIVESTOCK OPERATIONS

Section 1. NEW SECTION. 266.40 DEFINITIONS.
For purposes of this division, the following definitions apply:
1. "Livestock" means beef cattle, dairy cattle, swine, chickens, or turkeys.
2. "Livestock operation" means any area in which livestock are kept in a confined space, including a confinement feeding operation or open feedlot.
3. "Livestock producer" means the titleholder of livestock or a livestock operation.
4. "University" means Iowa state university of science and technology.

Sec. 2. NEW SECTION. 266.41 ESTABLISHMENT.
Iowa state university of science and technology shall consult with the department of agriculture and land stewardship and the department of natural resources to establish and administer livestock odor mitigation efforts to reduce the impacts of odor emitted from livestock operations involving swine, beef or dairy cattle, chickens, or turkeys as provided in this division.

Sec. 3. NEW SECTION. 266.42 PURPOSES.
The purposes of this division shall be to further livestock odor mitigation efforts as follows:
1. Further a livestock odor mitigation research effort in order to accelerate the adoption of affordable and effective odor mitigation technologies and strategies by livestock producers, expand the number of affordable and effective odor mitigation technologies and strategies available to livestock producers, and provide research-grounded information regarding odor mitigation technologies and strategies that are ineffective or cost-prohibitive.
2. Develop a livestock odor mitigation evaluation effort as provided in section 266.49, which

shall be a multilevel process to determine the potential odor exposure to persons who would neighbor a new livestock operation as proposed to be constructed.

Sec. 4. NEW SECTION. 266.43 DEVELOP AND ADVANCE TECHNOLOGIES AND STRATEGIES — APPLIED ON-SITE RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct applied on-site research projects to address whether odor mitigation technologies or strategies can be successfully implemented across many livestock operations, locations, and situations, and to analyze the costs of their successful implementation and maintenance to accomplish the purposes provided in section 266.42.

1. The projects shall be conducted at livestock operations on a statewide basis and under different circumstances.

2. The university shall evaluate technologies or strategies that have a firm foundation in basic and applied research but which may further benefit from statewide on-site application. The technologies and strategies may include but are not limited to the following:

a. The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

b. The use of a livestock odor mitigation evaluation effort as provided in section 266.49.

c. The manipulation of livestock diet.

3. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in an applied on-site research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 5. NEW SECTION. 266.44 DEVELOP AND ADVANCE TECHNOLOGIES AND STRATEGIES — BASIC AND APPLIED RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct basic or applied research projects to develop or advance technologies or strategies to accomplish the purposes provided in section 266.42.

1. The university shall evaluate technologies or strategies that have not been subject to comprehensive scientific scrutiny but which demonstrate promise to accomplish the purposes provided in section 266.42. The technologies and strategies may include but are not limited to the following:

a. The adaption and use of modeling to locate livestock operations associated with keeping livestock in addition to swine, and to locate livestock operations utilizing odor mitigation devices, techniques, or strategies.

b. The installation, maintenance, and use of odor mitigating devices, techniques, or strategies.

c. The use of topical treatments applied to manure originating with livestock operations keeping chickens and turkeys.

2. Nothing in this section restricts the university from conducting its evaluation at livestock operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in a basic or applied research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 6. NEW SECTION. 266.45 EMERGING TECHNOLOGIES AND STRATEGIES — BASIC RESEARCH PROJECTS.

Iowa state university of science and technology shall conduct basic research projects to investigate emerging technologies or strategies that may accomplish the purposes provided in section 266.42.

1. The university shall evaluate technologies or strategies that demonstrate promise for future development but which may require a long-term research commitment.

2. Nothing in this section restricts the university from conducting its evaluation at livestock

operations, including as provided in section 266.43. A livestock producer who is classified as a habitual violator pursuant to section 459.604 or a chronic violator pursuant to section 657.11 shall not participate in a basic research project under this section unless the livestock producer contributes one hundred percent of the total costs of conducting the project.

Sec. 7. NEW SECTION. 266.46 INFORMATION REPORTING.

In accordance with section 266.42, Iowa state university of science and technology is the custodian of all information including but not limited to reports and records obtained, submitted, and maintained in connection with the research projects conducted on the site of a livestock operation as provided in this division, and all information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3. The public shall have a right to examine and copy the information as provided in chapter 22, subject to the exceptions of section 22.7. In addition, the university or an agent or employee of the university shall not release the name or location, or any other information sufficient to identify the name or location of any livestock producer or livestock operation participating in a research project or participating in a livestock odor mitigation evaluation pursuant to section 266.49 or section 459.303, subsection 3, and such information shall not be subject to release pursuant to subpoena or discovery in any civil proceeding, unless such confidentiality is waived in writing by the livestock producer. In addition, the university or an employee or agent of the university shall release no other information submitted by or gathered from or deduced from a livestock producer or livestock operation pursuant to a livestock odor mitigation evaluation under section 266.49 or section 459.303, subsection 3, unless such information is used in a research project, which in turn shall not occur without the written consent of the livestock producer. Any information provided by, gathered from, or deduced from a livestock producer or livestock operation in connection with a research project or odor mitigation evaluation that is in the possession of the livestock producer or livestock operation shall not be subject to subpoena or discovery in any civil action against the producer.

Sec. 8. NEW SECTION. 266.47 RESEARCH RESULTS — INTERIM AND FINAL REPORTS.

Iowa state university of science and technology shall prepare and submit reports as follows:

1. a. The university shall submit an interim report to the general assembly each year on or before January 15, through January 15, 2013. The interim report shall do all of the following:

(1) Describe the university's progress in achieving the purposes of section 266.42, and detail its efforts in carrying out the livestock odor mitigation efforts described in this division.

(2) Evaluate applied and basic research projects being conducted or completed and provide estimates for their completion.

(3) Make any recommendation for improving, continuing, or expanding livestock odor mitigation efforts and for disseminating the results of those efforts to livestock producers.

b. The university shall submit a final report to the general assembly on or before six months after the completion of its research projects as provided in section 266.41. The final report shall include a summary of efforts, the university's findings and conclusions, and recommendations necessary to carry out the purposes of section 266.42.

2. Nothing in this section prevents the university, or any individual researcher employed by or affiliated with the university, from compiling information obtained, submitted, and maintained as the result of a livestock odor mitigation effort as provided in section 266.42 involving a specific livestock operation, and publishing that information as part of the report so long as the information cannot be used to identify a livestock producer or livestock operation without the consent of the livestock producer as provided in section 266.46.

3. All information obtained by the university in connection with a research project shall be available for public examination and copying as provided in chapter 22, subject to the exceptions of section 22.7, so long as the information cannot be used to identify the livestock producer or livestock operation as provided in section 266.46.

Sec. 9. NEW SECTION. 266.48 COST-SHARE PROGRAM FOR LIVESTOCK MITIGATION EFFORTS.

1. a. Iowa state university, in cooperation with the department of agriculture and land stewardship and the department of natural resources, shall establish a cost-share program for the livestock odor mitigation research efforts as established in sections 266.43 through 266.45 that maximizes participation in the livestock mitigation research efforts so as to accomplish the purposes in section 266.42, subsection 1.

b. The cost-share program shall allow for monetary contributions from livestock producers and other persons with an interest in livestock production. In addition, a livestock producer participating in a livestock odor mitigation research effort as provided in sections 266.43 through 266.45 shall provide in-kind contributions to participate in a research effort which may include but are not limited to furnishing the livestock producer's own labor, construction equipment, electricity and other utility costs, insurance, real property tax payments, and basic construction materials that may be reused or continued to be used by the livestock producer after the completion of the research effort.

2. This section does not apply to a livestock producer who is required to contribute one hundred percent of the total costs of conducting a research project.

Sec. 10. NEW SECTION. 266.49 LIVESTOCK ODOR MITIGATION EVALUATION EFFORT.

1. If funding is available, Iowa state university shall provide for a livestock odor mitigation evaluation effort as provided in section 266.42. The effort shall accomplish all the following objectives:

a. Ensure ease of its use and timeliness in producing results, including reports and the issuance of a livestock odor mitigation certificate as provided in this section.

b. Ensure a cost-effective process of evaluation.

c. Provide a level of evaluation that corresponds to the complexity of the proposed site of construction, including unique characteristics associated with that site.

2. The livestock odor mitigation evaluation effort shall provide for increasing levels of participation by a person who requests the evaluation in cooperation with the university as follows:

a. A level one evaluation that provides an opportunity for the person to complete a simple questionnaire which may be accessed by using the internet without assistance by university personnel.

b. A level two evaluation that provides an opportunity for the person to consult with a specialist designated by the university who shall assist in performing a comprehensive evaluation of the site of the proposed construction.

c. A level three evaluation which provides an opportunity for the person to participate in a community-based odor assessment model that uses predictive computer modeling to analyze the potential odor intensity, duration, and frequency for a neighbor from a livestock operation.

3. An evaluation may account for all factors impacting upon odor exposure as determined relevant by the university. The factors may vary based upon the type of evaluation performed. Factors which may be considered include but are not limited to all of the following:

a. Characteristics relating to the proposed site including but not limited to terrain, weather patterns, surrounding vegetative barriers, the proximity of neighbors, and contributing odor sources.

b. The type and size of the structure proposed to be constructed and its relationship to existing livestock operation structures.

4. At the completion of an evaluation, the university shall provide the participating person with a report including its findings and recommendations. A report may vary based upon the type of evaluation performed. The report resulting from a level one or level two evaluation may recommend that the participating person conduct a higher level evaluation. A report resulting from a level two or level three evaluation may recommend modifications to the design or orien-

tation of the livestock operation structure proposed to be constructed, the adoption of odor mitigating practices, or the installation of odor mitigating technologies.

5. A participating person who has completed the level of evaluation as recommended by the university may request that the university issue the participating person a livestock odor mitigation evaluation certificate. The university shall issue a certificate to the participating person that verifies the person's completion of an evaluation that satisfies the requirements of this section. The university shall not issue a certificate to a participating person who has not completed the level of evaluation recommended by the university. The certificate shall identify the name of the participating person and the site where the construction is proposed. However, it shall not include any other information.

Sec. 11. Section 459.303, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A livestock odor mitigation evaluation certificate issued by Iowa state university as provided in section 266.49. The department shall not obtain, maintain, or consider the results of an evaluation. The applicant is not required to submit the certificate if any of the following applies:

(1) The confinement feeding operation is twice the minimum separation distance required from the nearest object or location from which a separation distance is required pursuant to section 459.202 on the date of the application, not including a public thoroughfare.

(2) The owner of each object or location which is less than twice the minimum separation distance required pursuant to section 459.202 from the confinement feeding operation on the date of the application, other than a public thoroughfare, executes a document consenting to the construction.

(3) The applicant submits a document swearing that Iowa state university has failed to furnish a certificate to the applicant within forty-five days after the applicant requested the university to conduct a livestock odor mitigation evaluation as provided in section 266.49.

(4) The application is for a permit to expand a confinement feeding operation, if the confinement feeding operation was first constructed before the effective date of this section of this Act.

(5) Iowa state university does not provide for a livestock odor mitigation evaluation effort as provided in section 266.49, for any reason, including because funding is not available.

Sec. 12. APPLICABILITY. Section 459.303, subsection 3, as amended by this Act, shall not apply to require an applicant for a permit to construct a confinement feeding operation structure to submit a livestock odor mitigation evaluation certificate to the department of natural resources, if the application was submitted prior to the effective date of the section of this Act amending section 459.303, subsection 3.

Sec. 13. CONTINGENT IMPLEMENTATION. Subject to the effective date provisions of this Act, this Act shall be implemented by Iowa state university and the department of natural resources only when Iowa state university first receives moneys during a fiscal year as necessary to carry out all of the provisions of this Act.

Sec. 14. EFFECTIVE DATE. The section of this Act amending section 459.303, subsection 3, takes effect January 1, 2009.

Approved May 15, 2008

CHAPTER 1175

LONG-TERM CARE INSURANCE AND BENEFITS

H.F. 2694

AN ACT relating to long-term care insurance, and providing for penalties, an applicability date, repeals, and an appropriation and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 505.8, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. The commissioner shall utilize the senior health insurance information program to assist in the dissemination of objective and noncommercial educational material and to raise awareness of prudent consumer choices in considering the purchase of various insurance products designed for the health care needs of older Iowans.

Sec. 2. NEW SECTION. 514G.101 TITLE AND PURPOSE.

This chapter may be known and cited as the "Long-term Care Insurance Act". The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

Sec. 3. NEW SECTION. 514G.102 SCOPE.

The requirements of this chapter apply to policies delivered or issued for delivery in this state on or after July 1, 2008. This chapter is not intended to supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and regulations designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

Sec. 4. NEW SECTION. 514G.103 DEFINITIONS.

As used in this chapter, unless the context requires otherwise:

1. "Activities of daily living" means at least bathing, continence, dressing, eating, toileting, and transferring.

2. "Applicant" means either of the following:

a. In the case of an individual long-term care insurance policy, the person who seeks to contract for benefits.

b. In the case of a group long-term care insurance policy, the proposed certificate holder.

3. "Benefit trigger" means a contractual provision in a policy of long-term care insurance that conditions the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment, or on other conditions of the insured as specified in the policy. For purposes of a qualified long-term care insurance contract, "benefit trigger" means a determination by a licensed health care practitioner that an insured is a chronically ill individual. For purposes of this definition, "licensed health care practitioner" means the same as defined in section 7702B(c)(4) of the Internal Revenue Code.

4. "Certificate" means any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

5. "Chronically ill individual" means the same as defined in section 7702B(c)(2) of the Internal Revenue Code.

6. "Claim" means a request for payment of benefits under an in-force long-term care insurance policy, regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met.

7. "Cognitive impairment" means a deficiency in a person's short-term or long-term mem-

ory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.

8. "Commissioner" means the commissioner of insurance.

9. "Group long-term care insurance" means a long-term care insurance policy that is delivered or issued for delivery in this state to any of the following:

a. One or more employers or labor organizations, or to a trust or to the trustee or trustees of a fund established, created, or maintained by one or more employers or labor organizations or a combination thereof, for the benefit of employees or former employees or a combination thereof, or for members or former members or a combination thereof, of the employers or labor organizations.

b. Any professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if the association meets both of the following requirements:

(1) Is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation.

(2) Has been maintained in good faith for purposes other than obtaining insurance.

c. An association or associations, or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one or more associations, which files evidence with the commissioner prior to advertising, marketing, or offering a policy within this state by the association or associations, or their insurer, that the following organizational requirements have been met:

(1) At the outset, there are a minimum of one hundred members of the association or associations.

(2) The association or associations have been organized and maintained in good faith for purposes other than that of obtaining insurance.

(3) The association or associations have been in active existence for at least one year at the time of filing.

(4) The association or associations have a constitution and bylaws that require all of the following:

(a) The association or associations have regular meetings, not less than annually, to further the purposes of the members.

(b) Except for credit unions, the association or associations collect dues or solicit contributions from members.

(c) The members have voting privileges and representation on a governing board and committees.

Thirty days after the required evidentiary filings have been made, the association or associations shall be deemed to satisfy the organizational requirements, unless the commissioner makes a finding that the association or associations do not satisfy those requirements.

d. A group other than those described in paragraphs "a" through "c", subject to a finding by the commissioner that all of the following are true:

(1) The issuance of the group policy is not contrary to the best interests of the public.

(2) The issuance of the group policy would result in economies of acquisition or administration.

(3) The benefits are reasonable in relation to the premiums charged.

10. "Independent review entity" means a review entity certified by the commissioner pursuant to section 514G.110, subsection 5.

11. "Insurer" means an entity qualified and licensed by the insurance division to transact the business of insurance in this state by a certificate issued pursuant to chapter 508, 512B, 514, or 514B.

12. "Licensed health care professional" means a qualified professional in an appropriate field for determining an insured's functional or cognitive impairment as it relates to the insured's specific diagnosis. Licensed health care professionals include but are not limited to physical therapists, occupational therapists, neurologists, physical medicine specialists, and rehabilitation medicine specialists.

13. "Long-term care insurance" means any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. "Long-term care insurance" includes group and individual annuities and life insurance policies or riders that directly provide or supplement long-term care insurance. The term also includes a policy or rider that provides for payment of benefits based upon cognitive impairment or the loss of functional capacity. The term also includes a qualified long-term care insurance contract. Long-term care insurance may be issued by an insurer. "Long-term care insurance" does not include any insurance policy that is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income or related asset-protection coverage, accident-only coverage, specified disease or specified accident coverage, or limited benefit health coverage. With regard to life insurance, "long-term care insurance" does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump-sum payment for those benefits, where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Notwithstanding any other provision of this chapter, any product advertised, marketed, or offered as long-term care insurance shall be subject to the provisions of this chapter.

14. "Policy" means any policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer; fraternal benefit society; nonprofit health, hospital, or medical service corporation; prepaid health plan; or health maintenance organization or any similar organization.

15. "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within six months preceding the effective date of coverage of an individual.

16. "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" means any of the following:

a. An individual or group insurance contract that meets the requirements of section 7702B(b) of the Internal Revenue Code, as follows:

(1) The only insurance protection provided under the contract is coverage of qualified long-term care services. A contract does not fail to satisfy the requirements of this subparagraph because payments are made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(2) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under Title XVIII of the federal Social Security Act, as amended, or would be reimbursable but for the application of a deductible or coinsurance amount. The requirements of this subparagraph do not apply to expenses that are reimbursable under Title XVIII of the federal Social Security Act only as a secondary payor. A contract does not fail to satisfy the requirements of this subparagraph because payments are made on a per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate.

(3) The contract is guaranteed renewable within the meaning of section 7702B(b)(1)(C) of the Internal Revenue Code.

(4) The contract does not provide for a cash surrender value or for other money that can be paid, assigned or pledged as collateral for a loan, or borrowed except as provided in subparagraph (5).

(5) All refunds of premiums and all policyholder dividends or similar accounts under the contract are to be applied as a reduction in future premiums or to increase future benefits, except that a refund in the event of the death of the insured or a complete surrender or cancellation of the contract shall not exceed the aggregate premiums paid under the contract.

(6) The contract meets the consumer protection provisions set forth in section 7702B(g) of the Internal Revenue Code.

b. The portion of a life insurance contract that provides long-term care insurance coverage by rider or as part of the contract and that satisfies the requirements of section 7702B(b) and (e) of the Internal Revenue Code.

Sec. 5. NEW SECTION. 514G.104 EXTRATERRITORIAL JURISDICTION — GROUP LONG-TERM CARE INSURANCE.

Group long-term care insurance coverage shall not be offered to a resident of this state under a group policy issued in another state unless either this state or another state with statutory and regulatory requirements for long-term care insurance that are substantially similar to those adopted in this state has made a determination that the group to which the policy is issued meets the requirements of section 514G.103, subsection 9.

Sec. 6. NEW SECTION. 514G.105 DISCLOSURE AND PERFORMANCE STANDARDS FOR LONG-TERM CARE INSURANCE.

1. PROHIBITED POLICY PRACTICES. A long-term care insurance policy shall not:

a. Be canceled, nonrenewed, or otherwise terminated on the grounds of the age or deterioration of the mental or physical health of the insured individual or certificate holder.

b. Contain a provision establishing a new waiting period in the event that existing coverage is converted to or replaced by a new or other policy form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual, the certificate holder, or the group policyholder.

c. Provide coverage for skilled nursing care only, or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care.

2. PREEXISTING CONDITIONS.

a. A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as described in section 514G.103, subsection 9, shall not use a definition of "preexisting condition" that is more restrictive than the definition contained in section 514G.103, subsection 15.

b. A long-term care insurance policy or certificate, other than a policy or certificate issued to a group as described in section 514G.103, subsection 9, shall not exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within six months following the effective date of coverage of an insured individual.

c. The commissioner may extend the limitation periods set forth in paragraphs "a" and "b" as to specific age group categories in specific policy forms upon finding that such an extension is in the best interest of the public.

d. The requirements of paragraph "a" do not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and on the basis of the answers on that application, underwriting in accordance with that insurer's established underwriting standards. Unless otherwise provided in the policy or certificate, a preexisting condition, regardless of whether it is disclosed on the application, is not required to be covered until the waiting period described in paragraph "b" expires. A long-term care insurance policy or certificate shall not exclude, or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in paragraph "b".

3. PRIOR HOSPITALIZATION OR INSTITUTIONALIZATION.

a. A long-term care insurance policy shall not be delivered or issued for delivery in this state if the policy does any of the following:

(1) Conditions eligibility for any benefits on a prior hospitalization requirement.

(2) Conditions eligibility for any benefits provided in an institutional care setting on the receipt of a higher level of institutional care.

(3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care, or recuperative benefits on a prior institutionalization requirement.

b. A long-term care insurance policy that contains post-confinement, post-acute care, or recuperative benefits shall contain, in a clearly visible, separate paragraph or the policy or certificate entitled "limitations or conditions on eligibility for benefits", a description of such limitations or conditions, including any required number of days of confinement.

c. A long-term care insurance policy or rider that conditions eligibility for noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than thirty days.

d. A long-term care insurance policy or rider that provides benefits only following institutionalization shall not condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days after discharge from the institution.

4. RIGHT TO RETURN — FREE LOOK — REFUND.

a. A long-term care insurance applicant shall have the right to return the long-term care insurance policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason.

b. A long-term care insurance policy or certificate delivered or issued for delivery in this state shall have a notice prominently displayed on the first page of the policy or certificate, or attached thereto, which states in substance that the applicant has the right to return the policy or certificate within thirty days of its delivery and to have the premium refunded if, after examination of the policy or certificate, other than a certificate issued pursuant to a policy issued to a group as described in section 514G.103, subsection 9, paragraph "a", the applicant is not satisfied for any reason.

c. Any premium refund shall be made to the applicant within thirty days of the return.

5. DENIALS — REFUND. If an application is denied by an insurer, any premium refund shall be made to the applicant within thirty days of the denial.

6. OUTLINE OF COVERAGE.

a. A written outline of coverage shall be delivered to a prospective applicant for long-term care insurance at the time of the initial solicitation for coverage which prominently directs the attention of the applicant to the document and its purpose.

b. The commissioner shall prescribe, by rule, a standard format, including style, arrangement, and overall appearance, and content of the outline of coverage.

c. In the case of producer solicitations, a producer shall deliver the outline of coverage to a prospective applicant prior to the presentation of an application or enrollment form.

d. In the case of direct response solicitations, the outline of coverage shall be presented in conjunction with any application or enrollment form.

e. In the case of a policy issued to a group as described in section 514G.103, subsection 9, paragraph "a", an outline of coverage is not required to be delivered to the applicant, provided that the information described in subsection 7 of this section, paragraphs "a" through "f", is contained in other enrollment materials provided. Upon request, such other enrollment materials shall be made available to the commissioner.

7. CONTENTS OF OUTLINE OF COVERAGE. An outline of coverage of long-term care insurance shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement of the terms under which the policy or certificate, or both, may be continued in force or discontinued, including any reservation in the policy of a right to change the premium. Continuation or conversion provisions of group coverage shall be specifically described.

d. A statement that the outline of coverage is a summary of coverage only, not a contract of insurance, and that the policy or group master policy contains governing contractual provisions.

e. A description of the terms under which the policy or certificate may be returned and the premium refunded.

f. A brief description of the relationship of cost of care and benefits.

g. A statement that discloses to the policyholder or certificate holder whether the policy is

intended to be a federally tax-qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code.

8. CONTENTS OF GROUP CERTIFICATE. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include all of the following:

a. A description of the principal benefits and coverage provided in the policy.

b. A statement of the principal exclusions, reductions, and limitations contained in the policy.

c. A statement that the group master policy determines governing contractual provisions.

9. TIME FOR DELIVERY. If an application for a long-term care insurance policy or certificate is approved, the issuer shall deliver the policy or certificate of insurance to the applicant no later than thirty days after the date of approval.

10. INDIVIDUAL LIFE INSURANCE — POLICY SUMMARY.

a. A written policy summary shall accompany the delivery of an individual life insurance policy that provides long-term care benefits within the policy or by rider. In the case of direct response solicitations, the insurer shall deliver a policy summary upon the applicant's request or at the time of policy delivery, whichever occurs first.

b. A policy summary shall include all of the following:

(1) An explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits.

(2) An illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits if any, for each covered person.

(3) Any exclusions, reductions, or limitations on long-term care benefits.

(4) A statement that a long-term care inflation protection option required by 191 IAC 39.10 is not available under this policy.

(5) If applicable to the policy type, the summary shall also include all of the following:

(a) A disclosure of the effect of exercising other rights under the policy.

(b) A disclosure of guarantees related to long-term care costs of insurance charges.

(c) Current and projected maximum lifetime benefits.

c. The requirements of a policy summary set forth in paragraph "b" may be incorporated into the basic illustration required to be delivered in accordance with 191 IAC 14, or into the life insurance policy summary required to be delivered in accordance with 191 IAC 15.4.

11. MONTHLY REPORT. If a long-term care benefit, funded through a life insurance vehicle by the acceleration of the death benefit, is in benefit payment status, a monthly report shall be provided to the policyholder. The report shall include all of the following:

a. Any long-term care benefits paid out during the month.

b. An explanation of any changes in the policy, including but not limited to changes in death benefits or cash values due to long-term care benefits being paid out.

c. The amount of long-term care benefits existing or remaining.

12. CLAIM DENIAL. If a claim made under a long-term care insurance policy is denied, the issuer, within sixty days of the date of receipt of a written request by the policyholder, certificate holder, or a representative thereof, shall provide a written explanation of the reasons for the denial, and shall make all information directly related to the denial available to the requestor.

13. COMPLIANCE. Any policy or rider advertised, marketed, or offered as long-term care insurance or nursing home insurance shall comply with the provisions of this chapter.

Sec. 7. NEW SECTION. 514G.106 INCONTESTABILITY PERIOD.

1. An insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the policy or certificate has been in force for less than six months upon a showing of misrepresentation that is material to the insurer's acceptance for coverage.

2. An insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim if the policy or certificate has been in force for at

least six months but less than two years, upon a showing of misrepresentation that is both material to the acceptance for coverage and pertains to the condition for which benefits are sought.

3. An insurer shall not contest a long-term care insurance policy or certificate that has been in force for two or more years solely upon the grounds of misrepresentation. Such a policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

4. A long-term care insurance policy or certificate may be field-issued if the compensation paid to the field issuer is not based on the number of policies or certificates issued. For the purposes of this subsection, a "field-issued" policy means a policy or certificate issued by a producer or third-party administrator pursuant to the underwriting authority granted to the producer or third-party administrator by an insurer and using the insurer's underwriting guidelines.

5. An insurer that has paid benefits under a long-term care insurance policy or certificate shall not recover such benefit payments if the policy or certificate is rescinded.

6. The provisions of this section are applicable to life insurance policies or certificates that accelerate benefits for long-term care. However, if an insured dies, the remaining death benefits of a life insurance policy that accelerates benefits for long-term care are not governed by this section but by the provisions of section 508.28. In all other situations, this section shall apply to life insurance policies that accelerate benefits for long-term care.

Sec. 8. NEW SECTION. 514G.107 NONFORFEITURE BENEFITS.

1. Except as otherwise provided in subsection 2, a long-term care insurance policy or certificate shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate that includes a nonforfeiture benefit. A nonforfeiture benefit may be offered in the form of a rider that is attached to the policy or certificate. If the policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that is available for a specified period of time following a substantial increase in premium rates.

2. When a group long-term care insurance policy or certificate is delivered or issued for delivery in this state, an offer of benefits shall be made to the group policyholder that meets the requirements of subsection 1. However, if the policy is delivered or issued for delivery to a group as described in section 514G.103, subsection 9, paragraph "d", that is not a continuing care retirement community or other similar entity, the offer of benefits shall be made to each proposed certificate holder.

3. The commissioner shall, by rule, specify the type or types of nonforfeiture benefits to be offered as part of long-term care insurance policies and certificates, the standards for such nonforfeiture benefits, and the standards for contingent benefit upon lapse including a specified period of time during which a contingent benefit upon lapse will be available and what constitutes a substantial premium rate increase that will trigger a contingent benefit upon lapse as provided in subsection 1.

Sec. 9. NEW SECTION. 514G.108 PROMPT PAYMENT OF CLAIMS — REQUIREMENTS.

1. An insurer providing long-term care insurance under this chapter and subject to state insurance regulation shall either accept and pay or deny a clean claim. For the purposes of this section, "clean claim" means a properly completed paper or electronic request for payment that contains all necessary information for the insurer to timely adjudicate and pay claims for long-term care benefits under the policy, does not involve coordination of benefits for third-party liability or subrogation, and does not involve the existence of particular circumstances requiring special treatment that prevents a prompt payment from being made.

2. The commissioner shall adopt rules establishing processes for timely adjudication and payment of claims for long-term care benefits by insurers.

3. Payment of a clean claim shall include interest at the rate of ten percent per annum when

an insurer or other entity that administers or processes claims on behalf of the insurer fails to timely pay a clean claim.

Sec. 10. NEW SECTION. 514G.109 BENEFIT TRIGGER DETERMINATIONS — NOTICE — APPEALS.

1. NOTICE. When a long-term care insurer determines that the benefit trigger in an insured's long-term care insurance policy has not been met, the insurer shall provide a clear, written notice to the insured of all of the following:

a. The reason that the insurer determined that the insured's benefit trigger has not been met.

b. The insurer's internal appeal process provided under the insured's long-term care insurance policy.

c. The insured's right, after exhaustion of the insurer's internal appeal process, to have the benefit trigger determination reviewed under the independent review process set forth in section 514G.110.

2. INTERNAL APPEAL.

a. An insured may request an internal appeal of a benefit trigger determination by sending a written request to the insurer, along with any additional supporting information, within sixty days after the insured receives the notice described in subsection 1. The internal appeal shall be considered by an individual or group of individuals designated by the insurer, provided that the individual or individuals making the internal appeal decision shall not be the same individual or individuals who made the initial benefit trigger determination. All internal appeals shall be completed and written notice of the internal appeal decision sent to the insured within sixty days of the insurer's receipt of all necessary information upon which a final determination can be made.

b. If the determination that the benefit trigger was not met is upheld upon internal appeal, the notice of the appeal decision shall describe additional internal appeal rights that are offered by the insurer, if any. Nothing in this paragraph shall require an insurer to offer any internal appeal rights other than those described in paragraph "a".

c. If the determination that the benefit trigger was not met is upheld after the internal appeal process has been exhausted and there is no new information not previously provided to the insurer for consideration, the insurer shall provide the insured with a written description of the insured's right to request an independent review of the benefit trigger determination.

3. RECEIPT OF NOTICE. Notices required by this section shall be deemed received within five days after the date of mailing.

Sec. 11. NEW SECTION. 514G.110 INDEPENDENT REVIEW OF BENEFIT TRIGGER DETERMINATIONS.

1. REQUEST. An insured may file a written request for independent review of a benefit trigger determination with the commissioner after the internal appeal process has been exhausted. The request shall be filed within sixty days after the insured receives written notice of the insurer's internal appeal decision.

2. FEE. A request for independent review shall be accompanied by a twenty-five dollar filing fee. The commissioner may waive the filing fee for good cause. The filing fee shall be refunded if the insured prevails in the independent review process.

3. ELIGIBILITY FOR REVIEW. The commissioner shall certify that the request is eligible for independent review if all of the following criteria are satisfied:

a. The insured was covered by a long-term care insurance policy issued by the insurer at the time the benefit trigger determination was made.

b. The sole reason for requesting an independent review is to review the insurer's determination that the benefit trigger was not met.

c. The insured has exhausted all internal appeal procedures provided under the insured's long-term care insurance policy.

d. The written request for independent review was filed by the insured within sixty days from the date of receipt of the insurer's internal appeal decision.

4. NOTICE OF ELIGIBILITY. The commissioner shall provide written notice regarding eligibility of a request for independent review to the insured and the insurer within two business days from the date of receipt of the request.

a. If the commissioner decides that the request is not eligible for independent review, the written notice shall indicate the reasons for that decision.

b. If the commissioner certifies that the request is eligible for independent review, the insurer may appeal that certification by filing a written notice of appeal with the commissioner within three business days from the date of receipt of the notice of certification. If upon further review, the commissioner upholds the certification, the commissioner shall promptly notify the insured and the insurer in writing of the reasons for that decision.

5. QUALIFICATIONS OF INDEPENDENT REVIEW ENTITIES. The commissioner shall maintain a list of qualified independent review entities that are certified by the commissioner. Independent review entities shall be recertified by the commissioner every two years in order to remain on the list. In order to be certified, an independent review entity shall meet all of the following criteria:

a. Have on staff, or contract with, a qualified, licensed health care professional in an appropriate field for determining an insured's functional or cognitive impairment who can conduct an independent review.

(1) In order to be qualified, a licensed health care professional who is a physician shall hold a current certification by a recognized American medical specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

(2) In order to be qualified, a licensed health care professional who is not a physician shall hold a current certification in the specialty in which that person is licensed, by a recognized American specialty board in a specialty appropriate for determining an insured's functional or cognitive impairment.

b. Ensure that any licensed health care professional who conducts an independent review has no history of disciplinary actions or sanctions, including but not limited to the loss of staff privileges or any participation restrictions taken or pending by any hospital or state or federal government regulatory agency.

c. Ensure that the independent review entity or any of its employees, agents, or licensed health care professionals utilized does not receive compensation of any type that is dependent on the outcome of a review.

d. Ensure that the independent review entity or any of its employees, agents, or licensed health care professionals utilized are not in any manner related to, employed by, or affiliated with the insured or with a person who previously provided medical care to the insured.

e. Ensure that an independent review entity or any of its employees, agents, or licensed health care professionals utilized is not a subsidiary of, or owned or controlled by, an insurer or by a trade association of insurers of which the insurer is a member.

f. Have a quality assurance program on file with the commissioner that ensures the timeliness and quality of reviews performed, the qualifications and independence of the licensed health care professionals who perform the reviews, and the confidentiality of the review process.

g. Have on staff or contract with a licensed health care practitioner, as defined in section 514G.103, subsection 3, who is qualified to certify that an individual is chronically ill for purposes of a qualified long-term care insurance contract.

6. INDEPENDENT REVIEW PROCESS. The independent review process shall be conducted as follows:

a. Within three business days of receiving a notice from the commissioner of the certification of a request for independent review or receipt of a denial of an insurer's appeal from such a certification, the insurer shall do all of the following:

(1) Select an independent review entity from the list certified by the commissioner and noti-

fy the insured in writing of the name, address, and telephone number of the independent review entity selected. The independent review entity selected shall utilize a licensed health care professional with qualifications appropriate to the benefit trigger determination that is under review.

(2) Notify the independent review entity that it has been selected to conduct an independent review of a benefit trigger determination and provide sufficient descriptive information to enable the independent review entity to provide licensed health care professionals who will be qualified to conduct the review.

(3) Provide the commissioner with a copy of the notices sent to the insured and to the independent review entity selected.

b. Within three business days of receiving a notice from an insurer that it has been selected to conduct an independent review, the independent review entity shall do one of the following:

(1) Accept its selection as the independent review entity, designate a qualified licensed health care professional to perform the independent review, and provide notice of that designation to the insured and the insurer, including a brief description of the health care professional's qualifications and the reasons that person is qualified to determine whether the insured's benefit trigger has been met. A copy of this notice shall be sent to the commissioner via facsimile. The independent review entity is not required to disclose the name of the health care professional selected.

(2) Decline its selection as the independent review entity or, if the independent review entity does not have a licensed health care professional who is qualified to conduct the independent review available, request additional time from the commissioner to have a qualified licensed health care professional certified, and provide notice to the insured, the insurer, and the commissioner. The commissioner shall notify the review entity, the insured, and the insurer of how to proceed within three business days of receipt of such notice from the independent review entity.

c. An insured may object to the independent review entity selected by the insurer or to the licensed health care professional designated by the independent review entity to conduct the review by filing a notice of objection along with reasons for the objection, with the commissioner within ten days of receipt of a notice sent by the independent review entity pursuant to paragraph "b". The commissioner shall consider the insured's objection and shall notify the insured, the insurer, and the independent review entity of its decision to sustain or deny the objection within two business days of receipt of the objection.

d. Within five business days of receiving a notice from the independent review entity accepting its selection or within five business days of receiving a denial of an objection to the review entity selected, whichever is later, the insured may submit any information or documentation in support of the insured's claim to both the independent review entity and the insurer.

e. Within fifteen days of receiving a notice from the independent review entity accepting its selection or within three business days of receipt of a denial of an objection to the independent review entity selected, whichever is later, an insurer shall do all of the following:

(1) Provide the independent review entity with any information submitted to the insurer by the insured in support of the insured's internal appeal of the insurer's benefit trigger determination.

(2) Provide the independent review entity with any other relevant documents used by the insurer in making its benefit trigger determination.

(3) Provide the insured and the commissioner with confirmation that the information required under subparagraphs (1) and (2) has been provided to the independent review entity, including the date the information was provided.

f. The independent review entity shall not commence its review until fifteen days after the selection of the independent review entity is final including the resolution of any objection made pursuant to paragraph "c". During this time period, the insurer may consider any information provided by the insured pursuant to paragraph "d" and overturn or affirm the insurer's benefit trigger determination based on such information. If the insurer overturns its benefit trigger determination, the independent review process shall immediately cease.

g. In conducting a review, the independent review entity shall consider only the information and documentation provided to the independent review entity pursuant to paragraphs "d" and "e".

h. The independent review entity shall submit its decision as soon as possible, but not later than thirty days from the date the independent review entity receives the information required under paragraphs "d" and "e", whichever is received later. The decision shall include a description of the basis for the decision and the date of the benefit trigger determination to which the decision relates. The independent review entity, for good cause, may request an extension of time from the commissioner to file its decision. A copy of the decision shall be mailed to the insured, the insurer, and the commissioner.

i. All medical records submitted for use by the independent review entity shall be maintained as confidential records as required by applicable state and federal laws. The commissioner shall keep all information obtained during the independent review process confidential pursuant to section 505.8, subsection 6, except that the commissioner may share some information obtained as provided under section 505.8, subsection 6, and as required by this chapter and rules adopted pursuant to this chapter.

j. If an insured dies before completion of the independent review, the review shall continue to completion if there is potential liability of an insurer to the estate of the insured or to a provider for rendering qualified long-term care services to the insured.

7. COSTS. All reasonable fees and costs of the independent review entity incurred in conducting an independent review under this section shall be paid by the insurer.

8. IMMUNITY. An independent review entity that conducts a review under this section is not liable for damages arising from determinations made during the review. Immunity does not apply to any act or omission made by an independent review entity in bad faith or that involves gross negligence.

9. EFFECT OF INDEPENDENT REVIEW DECISION.

a. The review decision by the independent review entity conducting the review is binding on the insurer.

b. The independent review process set forth in this section shall not be considered a contested case under chapter 17A.

c. An insured may appeal the review decision by the independent review entity conducting the review by filing a petition for judicial review in the district court in the county in which the insured resides. The petition for judicial review shall be filed within fifteen business days after the issuance of the review decision. The petition shall name the insured as the petitioner and the insurer as the respondent. The petitioner shall not name the independent review entity as a party. The commissioner shall not be named as a respondent unless the insured alleges action or inaction by the commissioner under the standards articulated under section 17A.19, subsection 10. Allegations made against the commissioner under section 17A.19, subsection 10, must be stated with particularity. The commissioner may, upon motion, intervene in a judicial review proceeding brought pursuant to this paragraph. The findings of fact by the independent review entity conducting the review are conclusive and binding on appeal.

d. An insurer shall not be subject to any penalties, sanctions, or damages for complying in good faith with a review decision rendered by an independent review entity pursuant to this section.

e. Nothing contained in this section or in section 514G.109 shall be construed to limit the right of an insurer to assert any rights an insurer may have under a long-term care insurance policy related to:

(1) An insured's misrepresentation.

(2) Changes in the insured's benefit eligibility.

(3) Terms, conditions, and exclusions contained in the policy, other than failure to meet the benefit trigger.

f. The requirements of this section and section 514G.109 are not applicable to a group long-term care insurance policy that is governed by the federal Employee Retirement Income Security Act of 1974, as codified at 29 U.S.C. § 100 et seq.

g. The provisions of this section and section 514G.109 are in lieu of and supersede any other third-party review requirement contained in chapter 514J or in any other provision of law.

h. The insured may bring an action in the district court in the county in which the insured resides to enforce the review decision of the independent review entity conducting the review or the decision of the court on appeal.

10. RECEIPT OF NOTICE. Notice required by this section shall be deemed received within five days after the date of mailing.

Sec. 12. NEW SECTION. 514G.111 AUTHORITY TO PROMULGATE RULES.

The commissioner may adopt rules pursuant to chapter 17A related to long-term care insurance and to the administration and enforcement of this chapter, including but not limited to the following:

1. Promoting adequate premiums and protecting policyholders in the event of substantial rate increases.

2. Establishing minimum standards for producer education, compensation, and testing; marketing practices; reporting practices; and penalties related to the sale of long-term care insurance in this state.

3. Establishing loss ratio standards for long-term care insurance policies with specific reference to such policies.

4. Providing standards for full and fair disclosure by setting forth the manner and content of disclosures required for the sale of long-term care insurance policies including terms of renewability; initial and subsequent conditions of eligibility; nonduplication of coverage provisions; coverage of dependents; effect of preexisting conditions; termination, continuation, or conversion of policies; probationary periods; limitations, exceptions, and reductions; elimination periods; requirements for replacement; recurrent conditions; and definitions of terms.

5. Requiring certain remedial actions necessitated by changes in the long-term care insurance market to provide fair and reasonable protections for long-term care insurance purchasers and beneficiaries.

6. Ensuring the prompt payment of clean claims.

7. Administering the independent review process of insurers' benefit trigger determinations.

Sec. 13. NEW SECTION. 514G.112 SEVERABILITY.

If any provision of this chapter or the application of this chapter to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of the provision to other persons or circumstances shall not be affected.

Sec. 14. NEW SECTION. 514G.113 PENALTIES.

In addition to any other penalties provided by the laws of this state, any insurer or any producer found to have violated a provision of this chapter or any other requirement of this state relating to the regulation of long-term care insurance or the marketing of such insurance shall be subject to a fine of up to three times the amount of any commission paid for each policy involved in the violation, or up to ten thousand dollars, whichever is greater.

Sec. 15. Section 514H.1, subsection 3, Code 2007, is amended to read as follows:

3. "Long-term care insurance" means long-term care insurance as defined in section ~~514G.4~~ 514G.103 and regulated in section ~~514G.7~~ 514G.105.

Sec. 16. Sections 514G.1 through 514G.8 and section 514G.10, Code 2007, are repealed.

Sec. 17. SENIOR HEALTH INSURANCE INFORMATION PROGRAM — APPROPRIATION. There is appropriated from the general fund of the state to the division of insurance of the department of commerce for the fiscal year beginning July 1, 2008, and ending June 30,

2009, the following amount, or so much thereof as is necessary, for the use of the senior health insurance information program:

.....	$	60,000
.....	FTEs	1.00

Sec. 18. EFFECTIVE DATE. The provision of this Act enacting section 514G.109, subsection 2, paragraph "c", and the section of this Act enacting section 514G.110 take effect on January 1, 2009.

Approved May 15, 2008

CHAPTER 1176

ELECTIONS, VOTING SYSTEMS,
AND INFRASTRUCTURE — FUNDING

S.F. 2347

AN ACT relating to the use of optical scan voting systems in every county, making an appropriation for the cost of purchasing and distributing optical scan voting systems, reducing certain appropriations, providing for continuing education for certain election personnel, and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 47.10 OPTICAL SCAN VOTING SYSTEM FUND.

An optical scan voting system fund is established in the office of the treasurer of state under the control of the secretary of state. Moneys in the fund are appropriated to the office of the secretary of state for purchase and distribution of optical scan voting system equipment to counties to assist county compliance with section 52.2, subsection 2. The secretary of state, in consultation with the department of administrative services, shall establish a procedure for purchasing and distributing the equipment.

Sec. 2. Section 49.124, Code 2007, is amended to read as follows:

49.124 TRAINING COURSE BY COMMISSIONER — CONTINUING EDUCATION PROGRAM.

1. The commissioner shall conduct, not later than the day before each primary and general election, a training course 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.

2. A continuing education program shall be provided to election personnel who are full-time or part-time permanent employees of the commissioner's office. The state commissioner of elections shall adopt rules pursuant to chapter 17A to implement and administer the continuing education program.

Sec. 3. Section 52.2, subsection 2, Code Supplement 2007, is amended by striking the subsection and inserting in lieu thereof the following:

2. Notwithstanding any provision to the contrary, for elections held on or after Novem-

ber 4, 2008, a county shall use an optical scan voting system only. The requirements of the federal Help America Vote Act relating to disabled voters shall be met by a county through the use of electronic ballot marking devices that are compatible with an optical scan voting system.

Sec. 4. Section 52.7, subsection 1, paragraph l, Code Supplement 2007, is amended by striking the paragraph.

Sec. 5. OPTICAL SCAN VOTING SYSTEM FUND — APPROPRIATION. There is appropriated from the rebuild Iowa infrastructure fund to the office of the secretary of state for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit into the optical scan voting system fund, as established in section 47.10, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 4,900,880

1. If any federal funding is received for the same or similar purposes authorized in section 47.10, as enacted by this Act, of the amount appropriated in this section, $61,000 is allocated for matching such federal funding, and an amount equal to the federal funding received shall revert from the amount appropriated to the rebuild Iowa infrastructure fund at the end of the fiscal year.

2. Notwithstanding section 47.9, as of the effective date of this Act, all remaining moneys in the voting machine reimbursement fund established in section 47.9 shall be transferred to the optical scan voting system fund established in section 47.10. Notwithstanding section 8.33, except as otherwise provided in subsection 1, the moneys appropriated and transferred in accordance with this section shall not revert to the fund from which appropriated or transferred.

3. On or before December 31, 2008, the secretary of state shall submit a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration and regulation regarding the expenditures of moneys from the optical scan voting system fund and distribution of equipment to counties appropriated in this section.

Sec. 6. 2006 Iowa Acts, chapter 1179, section 5, as amended by 2007 Iowa Acts, chapter 219, section 22, is amended to read as follows:

SEC. 5. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the rebuild Iowa infrastructure fund to the department of administrative services for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For planning, design, and construction costs associated with the construction of a new approximately 350,000-gross-square-foot state office building, including costs associated with furnishings, employee relocation, and the demolition of the Wallace Building:

FY 2007-2008 . . . . . $ ~~3,600,000~~ 0

FY 2008-2009 . . . . . $ 23,300,000

FY 2009-2010 . . . . . $ 12,657,100

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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

The design specifications of the new state office building shall include, at a minimum, energy efficiency specifications that exceed state building code requirements and have the potential for leadership in energy and environmental design silver certification from the United States green building council.

Sec. 7. 2007 Iowa Acts, chapter 219, section 1, subsection 1, paragraph n, is amended to read as follows:

n. For costs associated with a feasibility study concerning asbestos abatement and related

building renovation work at the Iowa workforce development building located at 1000 E. Grand Avenue in Des Moines, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ ~~1,000,000~~ 0

Sec. 8. Section 47.9, Code Supplement 2007, is repealed.

Sec. 9. EMERGENCY RULES. The secretary of state may adopt emergency rules under section 17A.1,[1] subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act relating to optical scan voting systems, 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. 10. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 1, 2008

CHAPTER 1177

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 2286

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 department of public health for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:
. . . . . $ 13,474,900

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., ch. 6A, subc. XVII, part B, subpart ii, 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, 2007, 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. At least 20 percent of the funds remaining from the appropriation made in subsection 1 shall be allocated for prevention programs.

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[1] See chapter 1191, §139 herein

3. In implementing the federal substance abuse prevention and treatment block grant under 42 U.S.C., ch. 6A, subc. XVII, and any other applicable provisions of the federal Public Health Service Act under 42 U.S.C., ch. 6A, 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 department of human services for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 3,631,173

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., ch. 6A, subc. XVII, part B, subpart i, 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 department 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.

d. Of the amount allocated to eligible services providers under paragraph "c", 70 percent shall be distributed to the state's accredited community mental health centers established or designated by counties in accordance with law or administrative rule. If a county has not established or designated a community mental health center and has received a waiver from the mental health, mental retardation, developmental disabilities, and brain injury commission, the mental health services provider designated by that county is eligible to receive funding distributed pursuant to this paragraph in lieu of a community mental health center. The funding distributed shall be used by recipients of the funding for the purpose of developing and providing evidence-based practices and emergency services to adults with a serious mental illness and children with a serious emotional disturbance. The distribution amounts shall be announced at the beginning of the federal fiscal year and distributed on a quarterly basis according to the formulas used in previous fiscal years. Recipients shall submit quarterly reports containing data consistent with the performance measures approved by the federal substance abuse and mental health services administration.

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 department 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 audits.

Sec. 3. MATERNAL AND CHILD HEALTH SERVICES APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of public health for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 6,579,555

a. 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., ch. 7, subc. 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.

b. 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 10 percent of the funds appropriated in subsection 1 shall be used by the department of public health for administrative expenses.

3. 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.

4. 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 department of public health. Of these funds, $300,291 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.

5. The department of public health shall administer the statewide maternal and child health program and the disabled 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 department of public health for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 1,084,524

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., ch. 6A, subc. XVII, part A, 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.

2. Of the funds appropriated in subsection 1, an amount not more than 10 percent shall be used by the department for administrative expenses.

3. 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.

4. After deducting the funds allocated in subsections 2 and 3, the remaining funds appropriated in subsection 1 may 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.

Sec. 5. STOP VIOLENCE AGAINST WOMEN GRANT PROGRAM APPROPRIATION.

1. There is appropriated from the fund created by section 8.41 to the department of justice for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 1,312,647

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., ch. 46, § 3796gg-1, which provides for grants to combat violent crimes against women. The department of justice 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 department of justice for administrative expenses. From the funds set aside by this subsection for administrative expenses, the department 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. 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, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 74,993

Funds appropriated in this section are the funds anticipated to be received from the federal government for the designated fiscal year under 42 U.S.C., ch. 46, subc. XII-G, 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 federal law making the funds available and in conformance with chapter 17A.

Sec. 7. EDWARD BYRNE JUSTICE ASSISTANCE 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, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 880,209

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., ch. 46, subc. V, which provides for the Edward Byrne memorial justice assistance 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. 8. 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, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 7,040,675

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., ch. 106, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of not less than $100,000. The minimum allocation shall be achieved by redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for ad-

ministrative 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. 9. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 25,642,000

Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under 42 U.S.C., ch. 69, which provides for community development block grants. The department of economic development shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,125,680 for the federal fiscal year beginning October 1, 2008, shall be used by the department of economic development for administrative expenses for the community development block grant. The total amount used for administrative expenses includes $612,840 for the federal fiscal year beginning October 1, 2008, of funds appropriated in subsection 1 and a matching contribution from the state equal to $512,840 from the appropriation of state funds for the community development block grant and state appropriations for related activities of the department of economic development. From the funds set aside for administrative expenses by this subsection, the department of economic development shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the department for the costs of the audit.

Sec. 10. 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, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 36,343,186

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., ch. 94, subc. 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.

3. After subtracting the allocation in subsection 2, up to 10 percent of the remainder is allocated for administrative expenses of the low-income home energy assistance program of which $377,000 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., ch. 94, subc. 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. 11. 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, 2008, and ending September 30, 2009, the following amount:

..... $ 16,832,721

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., ch. 7, subc. 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 $1,074,798 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, 2008, for the following programs within the department of human services:

a. Field operations:

..... $ 6,428,488

b. Child and family services:

..... $ 963,200

c. Local administrative costs and other local services:

..... $ 681,759

d. Volunteers:

..... $ 74,640

e. MH/MR/DD/BI community services (local purchase):

..... $ 7,609,836

Sec. 12. 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. 13. PROJECTS FOR ASSISTANCE IN TRANSITION FROM HOMELESSNESS.

1. 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, 2008, and ending September 30, 2009, 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 have chronic mental illness and are homeless or who are subject to a significant probability of becoming homeless shall do all of the following:

a. Provide community mental health services, diagnostic services, crisis intervention services, and habilitation and rehabilitation services.

b. Refer clients to medical facilities for necessary hospital services, and to entities that provide primary health services and substance abuse services.

c. Provide appropriate training to persons who provide services to persons targeted by the grant.

d. Provide case management to homeless persons.

e. Provide supportive and supervisory services to certain homeless persons living in residential settings which are not otherwise supported.

2. 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.

Sec. 14. 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, 2008, and ending September 30, 2009, the following amount:

. . . . . $ 41,212,320

Funds appropriated in this section are the funds anticipated to be received from the federal government under 42 U.S.C., ch. 105, subc. 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.

Moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall revert to be available for appropriation for purposes of the child care and development block grant in the succeeding fiscal year.

Sec. 15. 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 3, 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 accomplish 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 accomplish 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, and the director of the legislative services agency 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 and ranking members notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

Sec. 16. 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, 7, 9, and 11 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 10 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 8 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 17. 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, 2008, and ending June 30, 2009, 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. 18. DEPARTMENT OF ADMINISTRATIVE SERVICES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part of the fiscal year beginning July 1, 2008, and ending June 30, 2009, are appropriated to the department of administrative services for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

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, 2008, and ending June 30, 2009, are appropriated to the department of agriculture and land stewardship for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

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, 2008, and ending June 30, 2009, 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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

Sec. 27. DEPARTMENT OF ECONOMIC DEVELOPMENT. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 2008, and ending June 30, 2009, are appropriated to the department of economic development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

Sec. 30. OFFICE OF ENERGY INDEPENDENCE. 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, 2008, and ending June 30, 2009, are appropriated to the office of energy independence for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 31. IOWA 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, 2008, and ending June 30, 2009, 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. 32. IOWA FINANCE 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, 2008, and ending June 30, 2009, are appropriated to the Iowa finance authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 33. 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, 2008, and ending June 30, 2009, 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. 34. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. 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, 2008, and ending June 30, 2009, are appropriated to the governor's office of drug control policy for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 35. 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, 2008, and ending June 30, 2009, 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.

Sec. 36. 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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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.

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, 2008, and ending June 30, 2009, 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, 2008, and ending June 30, 2009, 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, 2008, and ending June 30, 2009, are appropriated to the department of natu-

ral resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

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, 2008, and ending June 30, 2009, 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 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, 2008, and ending June 30, 2009, 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.

Sec. 45. 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, 2008, and ending June 30, 2009, 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. 46. 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, 2008, and ending June 30, 2009, are appropriated to the 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.

Sec. 47. 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, 2008, and ending June 30, 2009, 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.

Sec. 48. 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, 2008, and ending June 30, 2009, 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.

Sec. 49. DEPARTMENT OF REVENUE. 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, 2008, and ending June 30, 2009, are appropriated to the department of revenue for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 50. 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, 2008, and ending June 30, 2009, 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. 51. 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, 2008, and ending June 30, 2009, 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. 52. 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, 2008, and ending June 30, 2009, 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. 53. 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, 2008, and ending June 30, 2009, 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. 54. 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, 2008, and ending June 30, 2009, 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.

Sec. 55. 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, 2008, and ending June 30, 2009, are appropriated to the 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.

Sec. 56. DEPARTMENT 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, 2008, and ending June 30, 2009, are appropriated to the department 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. 57. 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, 2008, and ending June 30, 2009, 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.

Approved April 22, 2008

CHAPTER 1178

ECONOMIC ASSISTANCE FOR MICROENTERPRISES,
RIVER AND LAKE ENHANCEMENTS,
AND INDIVIDUAL DEVELOPMENT

S.F. 2430

AN ACT relating to economic development by creating a community microenterprise development organization grant program, a microenterprise development advisory committee, and a river enhancement community attraction and tourism fund, and by making changes to the requirements for individual development accounts and making appropriations, and including effective and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
MICROENTERPRISE DEVELOPMENT

Section 1. Section 15.102, Code Supplement 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Community microenterprise development organization" means a community development, economic development, social service, or nonprofit organization that provides training, access to financing, and technical assistance to microenterprises.

NEW SUBSECTION. 3A. "Microenterprise" means any business with five or fewer employees which generally lacks collateral and has difficulty securing financing from conventional business lending sources. "Microenterprise" includes start-up, home-based, and self-employed businesses.

Sec. 2. Section 15.108, subsection 7, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

To provide assistance to small business, targeted small business, microenterprises, and entrepreneurs creating small businesses to ensure continued viability and growth. To carry out this responsibility, the department shall:

Sec. 3. NEW SECTION. 15.114 COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION GRANTS.

1. The department shall award grants to community microenterprise development organizations. A grant shall not be awarded to a community microenterprise development organization unless the community microenterprise development organization can match at least twenty percent of the funds to be awarded. The matching funds may be from private foundations, federal or local government funds, financial institutions, or individuals.

2. In awarding grants to community microenterprise development organizations, the department shall consider all of the following:

a. The overall geographic diversity of the applicants for grants, including both urban and rural communities.

b. The ability of a community microenterprise development organization to provide services to low-income and moderate-income individuals and underserved communities. In determining the ability to provide services, all of the following shall be considered:

(1) The ability to identify potential microentrepreneurs within a community.

(2) The capacity to perform client assessment and screening.

(3) The ability to provide business training and technical assistance, including information about access to markets, business management, and financial literacy.

(4) The capacity to provide assistance in securing financing.

c. The scope of services offered and the efficient delivery of such services, especially to low-income, moderate-income, and minority individuals.

d. The ability to monitor the progress of clients and to identify those clients in need of additional technical and financial assistance.

e. The ability to build relationships and coordinate resources with other entities supporting microentrepreneurs. These entities may include but are not limited to community colleges, cooperative extension services, small business development centers, chambers of commerce, community economic development organizations, workforce centers, and community nonprofit service providers that serve low-income and moderate-income individuals.

f. The ability to coordinate activities with any targeted small business advocate services operating in the community.

g. The amount and sufficiency of operating funds available.

h. Any other criteria the department deems reasonable.

Sec. 4. NEW SECTION. 15.240 MICROENTERPRISE DEVELOPMENT ADVISORY COMMITTEE.

1. The department shall establish, administer, and regularly convene a microenterprise development advisory committee.

2. The committee shall include at least ten but not more than fifteen members representing government agencies, nonprofit organizations, and private sector entities that have expertise and a demonstrated interest in the development of microenterprises.

3. The committee shall study and make recommendations to the department and the general assembly on the design and implementation of a competitive grant program in support of community efforts to develop microenterprises within communities with low-income and moderate-income residents.

a. The committee shall make recommendations for improving the mechanisms for connecting community grantees with available microenterprise and entrepreneurship resources. The recommendations shall include standardized applications for participation in the community microenterprise development organization grant program and standardized applications for obtaining funding from various state and federal microenterprise and entrepreneurship development programs.

b. The committee shall make recommendations to grantees regarding the development of an entrepreneurship and business education program. The program shall be designed to enhance entrepreneurial skills, develop business acumen, increase marketing skills, and improve financial literacy.

c. In making its recommendations, the committee shall focus on creating a strong network of programs and shall ensure that the needs of both rural and urban communities are being met.

4. The committee shall by January 31 of each year report to the department and the general assembly on the progress of microenterprise development in Iowa and on its recommendations for the community microenterprise development organizations grants program.

DIVISION II
RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM

Sec. 5. Section 15F.202, subsection 1, Code 2007, is amended to read as follows:

1. The board shall establish and the department, subject to direction and approval by the board, shall administer a community attraction and tourism program to assist communities in the development, creation, and regional marketing of multiple-purpose attraction or tourism facilities. Any moneys appropriated to the river enhancement community attraction and tourism fund created pursuant to section 15F.205 shall be used exclusively for the creation and enhancement of community attractions and tourism opportunities along lakes, rivers, and river corridors in cities across the state, but a recipient of moneys from the river enhancement

community attraction and tourism fund shall not be precluded from receiving funds from the community attraction and tourism fund created pursuant to section 15F.204.

Sec. 6. Section 15F.204, subsection 8, Code 2007, is amended to read as follows:

8. a. There is appropriated from the rebuild Iowa infrastructure fund to the community attraction and tourism fund, the following amounts:

(1) For the fiscal year beginning July 1, 2004, and ending June 30, 2005, the sum of twelve million dollars.

(2) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of five million dollars.

(3) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of five million dollars.

(4) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of five million dollars.

(5) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of five million dollars.

(6) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of five million dollars.

(7) For the fiscal year beginning July 1, 2010, and ending June 30, 2011, the sum of five million dollars.

(8) For the fiscal year beginning July 1, 2011, and ending June 30, 2012, the sum of five million dollars.

(9) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the sum of five million dollars.

b. There is appropriated from the franchise tax revenues deposited in the general fund of the state to the community attraction and tourism fund, the following amounts:

(1) For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of seven million dollars.

(2) For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of seven million dollars.

(3) For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of seven million dollars.

(4) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of seven million dollars.

(5) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of seven million dollars.

(6) For the fiscal year beginning July 1, 2010, and ending June 30, 2011, the sum of seven million dollars.

(7) For the fiscal year beginning July 1, 2011, and ending June 30, 2012, the sum of seven million dollars.

(8) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the sum of seven million dollars.

Sec. 7. NEW SECTION. 15F.205 RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM FUND.

1. For purposes of this section, "lake" means a lake of which the state or a political subdivision owns the lake bed up to the ordinary high water line and which is open to the use of the general public.

2. A river enhancement community attraction and tourism fund is created as a separate fund in the state treasury under the control of the board, consisting of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the board for placement in the fund.

3. Payments of interest, repayments of moneys loaned pursuant to this subchapter, and recaptures of grants or loans shall be deposited in the fund.

4. The fund shall be used to provide assistance only from funds, rights, and assets legally available to the board, and the assistance shall be in the form of grants, loans, forgivable loans, and credit enhancements and financing instruments as described in the community attraction and tourism program established in section 15F.202.

5. An applicant for financial assistance from moneys in the river enhancement community attraction and tourism fund for a river or lake enhancement project under the community attraction and tourism program shall receive financial assistance from the fund in an amount not to exceed one third of the total cost of the project.

6. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

7. At the beginning of each fiscal year, the board shall allocate moneys in the fund for financial assistance to projects that promote and enhance recreational opportunities and community attractions on and near rivers or lakes within cities across the state. Such recreational opportunities and community attractions shall be closely connected to a river or lake and may include but is not limited to pedestrian trails and walkways, amphitheaters, bike trails, water trails or whitewater courses for watercraft, and any modifications necessary for the safe mitigation of dams.

8. The board may make a multiyear commitment to an applicant or may award assistance for multiple projects to the same applicant provided the fund contains sufficient moneys. Any moneys remaining in the fund at the end of a fiscal year may be carried over to a subsequent fiscal year, or may be obligated in advance for a subsequent fiscal year.

9. The board is not required to award financial assistance pursuant to this section unless moneys are appropriated to and available from the fund.

DIVISION III
INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 8. Section 422.7, subsection 28, paragraph b, Code Supplement 2007, is amended to read as follows:

b. The amount of any savings refund or state match payments authorized under section 541A.3, subsection 1.

Sec. 9. Section 541A.1, subsection 2, Code 2007, is amended to read as follows:

2. "Administrator" means the division of community action agencies of the department of human ~~services~~ rights.

Sec. 10. Section 541A.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Household income" means the annual household income of an account holder or prospective account holder, as determined in accordance with rules adopted by the administrator.

Sec. 11. Section 541A.2, subsection 4, paragraph a, Code 2007, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (7) A purpose approved in accordance with rule for[1] a refugee individual development account.

NEW SUBPARAGRAPH. (8) Purchase of an automobile.

NEW SUBPARAGRAPH. (9) Purchase of assistive technology, home or vehicle modification, or other device or physical improvement to assist an account holder or family member with a disability.

NEW SUBPARAGRAPH. (10) Other purpose approved in accordance with rule that is intended[2] to move the account holder or a family member toward a higher degree of self-sufficiency.

Sec. 12. Section 541A.2, subsection 10, Code 2007, is amended to read as follows:

10. The total amount of sources of principal which may be in an individual development account shall be limited to ~~fifty~~ thirty thousand dollars.

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[1] According to enrolled Act; the phrase "in accordance with rules providing for" probably intended

[2] According to enrolled Act; the phrase "in accordance with rules that are intended" probably intended

Sec. 13. Section 541A.3, Code 2007, is amended to read as follows:

541A.3 INDIVIDUAL DEVELOPMENT ACCOUNTS — ~~REFUND~~ STATE MATCH AND TAX PROVISIONS.

All of the following state match and tax provisions shall apply to an individual development account:

1. a. Payment by the state of a state savings ~~refund~~ match on amounts of up to two thousand dollars ~~per calendar year~~ that an account holder deposits in the account holder's account. To be eligible to receive a state match an account holder must have a household income that is equal to or less than two hundred percent of the federal poverty level.

b. Moneys transferred to an individual development account from another individual development account and a ~~savings refund~~ state match received by the account holder in accordance with this section shall not be considered an account holder deposit for purposes of determining a ~~savings refund~~ state match.

c. Payment of a ~~savings refund~~ state match either shall be made directly to the account holder or to an operating organization's central reserve account for later distribution to the account holder in the most appropriate manner as determined by the administrator.

d. ~~The~~ Subject to the limitation in paragraph "a", the state ~~savings refund~~ match shall be ~~the indicated percentage of~~ equal to one hundred percent of the amount deposited~~:~~ by the account holder. However, the administrator may limit, reduce, delay, or otherwise revise state match payment provisions as necessary to restrict the payments to the funding available.

~~a. For an account holder with a household income, as defined in section 425.17, subsection 6, which is one hundred fifty percent or less of the federal poverty level, twenty-five percent.~~

~~b. For an account holder with a household income which is more than one hundred fifty percent but less than one hundred seventy-five percent of the federal poverty level, twenty percent.~~

~~c. For an account holder with a household income which is one hundred seventy-five percent or more but not more than two hundred percent of the federal poverty level, fifteen percent.~~

~~d. For an account holder with a household income which is more than two hundred percent of the federal poverty level, zero percent.~~

2. Income earned by an individual development account is not subject to state tax, in accordance with the provisions of section 422.7, subsection 28.

3. Amounts transferred between individual development accounts are not subject to state tax.

~~4. The administrator shall work with the United States secretary of the treasury and the state's congressional delegation as necessary to secure an exemption from federal taxation for individual development accounts and the earnings on those accounts. The administrator shall report annually to the governor and the general assembly concerning the status of federal approval.~~

~~5.~~ 4. The administrator shall coordinate the filing of claims for a state savings ~~refunds~~ match authorized under subsection 1, between account holders~~,~~ and operating organizations~~, and the department of administrative services~~. Claims approved by the administrator may be paid ~~by the department of administrative services~~ to each account holder, for an aggregate amount for distribution to the holders of the accounts in a particular financial institution, or to an operating organization's central reserve account for later distribution to the account holders depending on the efficiency for issuing the ~~refunds~~ state match payments. 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~~ individual development account state match fund.

Sec. 14. Section 541A.5, Code 2007, is amended to read as follows:

541A.5 RULES.

1. The ~~administrator~~ commission on community action agencies created in section 216A.92A, in consultation with the department of administrative services, shall adopt administrative rules to administer this chapter.

2. a. The rules adopted by the ~~administrator~~ commission shall include but are not limited to provision for transfer of an individual development account to a different financial institution than originally approved by the administrator, if the different financial institution has an agreement with the account's operating organization.

b. The rules for determining household income may provide categorical eligibility for prospective account holders who are enrolled in programs with income eligibility restrictions that are equal to or less than the maximum household income allowed for payment of a state match under section 541A.3.

c. Subject to the availability of funding, the commission may adopt rules implementing an individual development account program for refugees. Rules shall identify purposes approved for withdrawals to meet the special needs of refugee families.

3. The administrator shall utilize a request for proposals process for selection of operating organizations and approval of financial institutions.

Sec. 15. Section 541A.6, Code 2007, is amended to read as follows:

541A.6 COMPLIANCE WITH FEDERAL REQUIREMENTS.

The ~~administrator~~ commission on community action agencies shall adopt rules for compliance with federal individual development account requirements under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, § 103, as codified in 42 U.S.C. § 604(h), under the federal Assets for Independence Act, Pub. L. No. 105-285, Title IV, or with any other federal individual development account program requirements~~, as necessary for the state to qualify to use federal temporary assistance for needy families block grant funding or other available~~ for drawing federal funding ~~for allocation to operating organizations~~. Any rules adopted under this section shall not apply the federal individual development account program requirements to an operating organization which does not utilize federal funding for the accounts with which it is connected or to an account holder who does not receive temporary assistance for needy families block grant or other federal funding.

Sec. 16. NEW SECTION. 541A.7 INDIVIDUAL DEVELOPMENT ACCOUNT STATE MATCH FUND.

1. An individual development account state match fund is created in the state treasury under the authority of the administrator. Notwithstanding section 8.33, moneys appropriated to the fund shall not revert to any other fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

2. Moneys available in the fund for a fiscal year are appropriated to the administrator to be used to provide the state match for account holder deposits in accordance with section 541A.3. At least eighty-five percent of the amount appropriated shall be used for state match payments and the remainder may be used for the administrative costs of the operating organization. Administrative costs include but are not limited to accounting services, curriculum costs for financial education or asset-specific training, and costs for technical assistance contractors.

Sec. 17. INDIVIDUAL DEVELOPMENT ACCOUNT RULES — TRANSITION, EFFECTIVE DATE, AND APPLICABILITY.

1. The division of community action agencies of the department of human rights shall administer individual development accounts in accordance with the administrative rules pertaining to the accounts in 441 IAC ch. 10, in place of the department of human services until replacement administrative rules are adopted. The commission on community action agencies 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 a later date is specified in the rules. Any rules adopted in accordance with this subsection shall also be published as a notice of intended action as provided in section 17A.4.

2. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

3. The change from "savings refund" to "state match" as authorized in section 422.7, subsection 28, and section 541A.3, as amended by this Act, is retroactively applicable to January 1, 2008, for the tax year commencing on January 1, 2008.

DIVISION IV
APPROPRIATIONS

Sec. 18. COMMUNITY MICROENTERPRISE DEVELOPMENT ORGANIZATION GRANTS — APPROPRIATION.

1. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding fund to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For competitive grants to community microenterprise development organizations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 475,000
..... FTEs 1.00

2. Of the moneys appropriated in subsection 1, not more than $80,000 shall be expended on any one community microenterprise development organization.

3. From the moneys appropriated in subsection 1, the department shall award grants to at least three community microenterprise development organizations in rural areas of the state that show an economic growth rate lower than the average economic growth rate of the state.

4. From the moneys appropriated in subsection 1, the department shall award grants to at least two community microenterprise development organizations in neighborhoods in urban areas of the state that show high rates of poverty and signs of economic distress.

5. Of the moneys appropriated in subsection 1, not more than $80,000 may be used for a full-time equivalent staff person to administer the community microenterprise development organization grants.

6. Of the moneys appropriated in subsection 1, not more than $20,000 may be used to contract with an expert in microenterprise development for consultation, technical assistance, and recommendations regarding best practices and industry standards for the development of community microenterprises.

Sec. 19. WATER TRAILS AND LOW HEAD DAM PUBLIC HAZARD STATEWIDE PLAN — APPROPRIATION. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding fund to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the establishment and administration of a water trails and low head dam public hazard statewide plan, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 250,000

Sec. 20. RIVER ENHANCEMENT COMMUNITY ATTRACTION AND TOURISM FUND — APPROPRIATION. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding fund for deposit in the river enhancement community attraction and tourism fund created in section 15F.205 for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For financial assistance to applicants under section 15F.205:

..... $ 2,000,000

Sec. 21. INDIVIDUAL DEVELOPMENT ACCOUNTS — STATE MATCH FUND APPROPRIATION. There is appropriated from the federal economic stimulus and jobs holding fund

to the department of human rights for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be credited to the individual development account state match fund created in this Act:
. . . . . $ 150,000
. . . . . FTEs .50

Of the funds appropriated in this section, $50,000 may be used by the department to administer an individual development account program and to contract with the Iowa community action association for the implementation, outreach, and technical assistance to local community organizations engaged in efforts to encourage savings by, and increase the financial literacy of, Iowa families. Any remaining funds shall be utilized to implement the individual development account program as described in section 541A.7.

Approved April 29, 2008

CHAPTER 1179

APPROPRIATIONS —
INFRASTRUCTURE AND CAPITAL PROJECTS

S.F. 2432

AN ACT relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, the endowment for Iowa's health restricted capitals fund, the tax-exempt bond proceeds restricted capital funds account, the technology reinvestment fund, the FY 2009 tax-exempt bond proceeds restricted capital funds account, the environment first fund, and the FY 2009 prison bonding fund, and related matters, and providing effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
REBUILD IOWA INFRASTRUCTURE FUND

Section 1. There is appropriated from the rebuild Iowa infrastructure fund to the following departments and agencies for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

a. For routine maintenance of state buildings and facilities, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 3,000,000

b. For updating the capitol complex master plan, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 250,000

c. To provide funding and related services for capitol complex property acquisition, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 1,000,000

d. For costs associated with developing the request for proposals necessary for the procure-

ment and implementation of a human resources module associated with the integrated information for Iowa system, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 200,000

e. For the state's share of support in conjunction with the city of Des Moines and local area businesses to provide a free shuttle service to the citizens of Iowa visiting the capitol complex that includes transportation between the capitol complex and the downtown Des Moines area, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 170,000

Details for the shuttle service, including the route to be served, shall be determined pursuant to an agreement to be entered into by the department with the Des Moines area regional transit authority (DART) and any other participating entities.

Of the amount appropriated in this lettered paragraph, up to $50,000 shall be used to encourage state employees to utilize transit services provided by the Des Moines area regional transit authority.

f. For distribution to other governmental entities, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 2,000,000

Moneys appropriated in this lettered paragraph shall be separately accounted for in a distribution account and shall be distributed to other governmental entities based upon a formula established by the department to pay for services provided during the fiscal year to such other governmental entities by the department associated with the integrated information for Iowa system, notwithstanding section 8.57, subsection 6, paragraph "c". Additionally, the department may use any unexpended or unencumbered amount in the distribution account for the purchase of an existing license for which the state has made partial payment. Notwithstanding section 8.33, any remaining balance in the distribution account as of June 30, 2009, shall not revert but shall remain available to be used for additional operational expenses related to the integrated information for Iowa system during the subsequent fiscal year.

g. For a contract project manager for the Iowa veterans home, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 200,000

It is the intent of the general assembly that the Iowa veterans home work with the project manager to proceed with the master plan for the Iowa veterans home. The Iowa veterans home shall submit a report to the general assembly on or before December 31, 2008, detailing the progress of the work, the amount of money spent, and the amount of federal funding received.

2. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

For allocation to the Iowa junior Gelbvieh association in connection with the 2009 national junior Gelbvieh heifer show, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 10,000

3. DEPARTMENT OF CORRECTIONS

a. For architecture and engineering costs associated with the building projects at Fort Madison prison and Mitchellville prison, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 1,000,000

b. For project management costs associated with construction projects at the department notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 500,000

c. For a study related to the fifth judicial district department of correctional services, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 200,000

As a condition of receiving the appropriation in this lettered paragraph, the department of corrections shall collaborate with the fifth judicial district department of correctional services, the fifth judicial district board of directors, and providers within the local justice system to study potential locations of residential facilities to add no more than 170 beds. The study may address the infrastructure needs of the district department. The department of corrections and the fifth judicial district department of correctional services shall comply with section

905.13. The funds may be used to secure an option for the potential purchase of land contingent upon state appropriations being made for that specific purpose and architectural and engineering fees.

4. DEPARTMENT OF CULTURAL AFFAIRS

a. For deposit into the Iowa great places program fund created in section 303.3D for Iowa great places program projects that meet the definition of "vertical infrastructure" in section 8.57, subsection 6, paragraph "c":

. . . . . $ 2,000,000

b. For historical site preservation grants to be used for the restoration, preservation, and development of historic sites:

. . . . . $ 1,000,000

In making grants pursuant to this lettered paragraph, the department shall consider the existence and amount of other funds available to an applicant for the designated project. A grant awarded from moneys appropriated in this lettered paragraph shall not exceed $100,000 per project. Not more than two grants may be awarded in the same county.

c. 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 6, paragraph "c":

. . . . . $ 220,000

d. For repairs to the historic Kimball organ located in Clermont, Iowa, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 80,000

5. 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 6, paragraph "c":

. . . . . $ 900,000

The moneys appropriated in this lettered paragraph shall be allocated equally among the community colleges in the state. If any portion of the equal allocation to a community college is not obligated or encumbered by April 1, 2009, the unobligated and unencumbered portions shall be made available by the department for use by other community colleges.

b. For infrastructure expenses to support the development and expansion of targeted industry areas of advanced manufacturing, bioscience, and information technology pursuant to section 15.411, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 900,000

c. For equal distribution to regional sports authority districts certified by the department pursuant to section 15E.321[1]:

. . . . . $ 500,000

d. For deposit into the workforce training and economic development funds created for each community college in section 260C.18A, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 2,000,000

e. For deposit into the river enhancement community attraction and tourism fund created in 2008 Iowa Acts, Senate File 2430,[2] if enacted:

. . . . . $ 10,000,000

f. For the construction of a multiuse community center in Des Moines:

. . . . . $ 100,000

6. DEPARTMENT OF EDUCATION

a. To provide resources for structural and technological improvements to local libraries and for the enrich Iowa program, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 1,000,000

Of the amount of this appropriation, $50,000 shall be allocated equally to each library service area.

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[1] See chapter 1191, §141 herein

[2] Chapter 1178 herein

b. For implementation of the provisions of chapter 280A, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 250,000

c. For allocation to eastern Iowa community college merged area IX with an established agricultural learning center for the construction of an agricultural learning center in Muscatine:

. . . . . $ 80,000

7. DEPARTMENT OF HUMAN SERVICES

a. For the renovation and construction of certain nursing facilities, consistent with the provisions of chapter 249K:

. . . . . $ 600,000

b. For a study of ways to enhance access to health insurance by registered child development home providers in accordance with this section, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 50,000

The study shall be conducted jointly with the collective bargaining organization representing registered child development home providers and the organization shall match the funding provided in this section.

c. For costs associated with the child care workgroup established pursuant to this paragraph, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 30,000

(1) (a) The state child care advisory council established pursuant to section 237A.21 shall serve as a workgroup to address implementation of the provisions of this lettered paragraph and the issues identified in this lettered paragraph.

(b) The workgroup shall submit a report to the governor and general assembly with findings and recommendations on or before December 15, 2008. In addition to addressing the other issues listed in this lettered paragraph, the report shall provide options for revising the regulatory system for home-based child care providers. The options provided shall include but are not limited to mandatory registration, voluntary licensure, and mandatory licensure.

(c) The workgroup shall address the implementation issues associated with a change in child care regulation to mandatory registration or voluntary or mandatory licensure as described in subparagraph subdivision (b). The issues considered shall include but are not limited to planning for the phase-in of and costs for additional inspection visits of child development homes, increased expenses for state child care assistance program slots, revising state child care assistance program reimbursement methodologies to reward quality, and other implementation issues.

(2) (a) The workgroup shall cooperate with early childhood stakeholders and the private sector in addressing the many publicly supported programs and services directed to early childhood and issues involved with redirecting the programs and services to be part of a cohesive child care system.

(b) The issues addressed shall include professional development of workers, improving the workforce, ensuring articulation between programs, meeting the needs of both children and parents, enhancing community engagement to support early childhood, and other efforts to address early childhood needs with a coordinated system.

(3) In addition, the workgroup shall explore other issues, including but not limited to all of the following:

(a) Using the internet to provide information to child care providers, capacity for providers to register with the department of human services via the internet, and training information.

(b) Creating a database of all child care providers.

(c) Streamlining and coordinating inspections of home-based child care providers.

(d) Providing health care insurance for providers and their workers.

(e) Educating the public on the advantages of using a registered child care provider.

(f) Developing possible sanctions for violations at child care facilities other than closing the facilities.

(g) Requiring a state and federal fingerprint-based criminal history record check for all licensed and registered child care providers as well as unregistered child care home providers. Recommendations made for purposes of this subdivision shall include but are not limited to options for the phasing in of required fingerprint-based checks and addressing the frequency with which such checks should be required.

(h) Providing additional opportunities and resources for child care providers and instructing the Iowa state university of science and technology cooperative extension service in agriculture and home economics, child care resource and referral agencies, and community colleges to expand continuing education opportunities offered at times the providers are not providing care.

(i) Implementing an electronic benefit transfer program to pay for state child care assistance.

d. For the construction of a community and family resources drug and gambling center in a seven-county area:

. . . . . $ 15,000

8. IOWA FINANCE AUTHORITY

a. For grants for distribution for water quality improvement projects for the wastewater treatment financial assistance program pursuant to section 16.134:

. . . . . $ 3,000,000

b. For deposit into the housing trust fund created in section 16.181:

. . . . . $ 3,000,000

9. DEPARTMENT OF NATURAL RESOURCES

a. For purposes of supporting a[3] lowhead dam public hazard improvement program, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 1,000,000

The department shall award grants to dam owners including counties, cities, state agencies, cooperatives, and individuals, to support projects approved by the department.

The department shall require each dam owner applying for a project grant to submit a project plan for the expenditure of the moneys, and file a report with the department regarding the project, as required by the department.

The funds can be used for signs, posts, and related cabling, and the department shall only award money on a matching basis, pursuant to the dam owner contributing at least 20 cents for every 80 cents awarded by the department, in order to finance the project. For the remainder of the funds, including any balance of money not awarded for signs, posts, and related cabling, the department shall only award moneys to a dam owner on a matching basis. A dam owner shall contribute one dollar for each dollar awarded by the department in order to finance a project.

b. For lake dredging and related improvements including ongoing dam maintenance and operation on a lake with public access that has the support of a benefited lake district located in a county with a population between 18,015 and 18,050 according to the 2005 population estimate issued by the federal government, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 100,000

c. For a grant to a city with a population of more than 30,500 but less than 31,500, according to the 2006 estimate issued by the United States bureau of the census, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 150,000

The grant shall be used to conduct a study of the feasibility of the use of plasma arc and other related energy technology for disposal of solid waste while generating energy.

10. DEPARTMENT OF PUBLIC DEFENSE

a. For upgrades to the Camp Dodge water distribution system:

. . . . . $ 410,000

b. For major maintenance projects at national guard armories and facilities:

. . . . . $ 1,500,000

[3] See chapter 1191, §142 herein

c. For the renovation and modernization of the national guard armory in Ottumwa:
. . . . . $ 500,000
d. For upgrades to the Camp Dodge electrical distribution system:
. . . . . $ 526,000
e. For construction improvement projects at statewide national guard armories:
. . . . . $ 1,800,000
11. DEPARTMENT OF PUBLIC HEALTH
For a grant to an existing national affiliated volunteer eye organization that has an established program for children and adults and that is solely dedicated to preserving sight and preventing blindness through education, nationally certified vision screening and training, community and patient service programs, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 130,000
12. STATE BOARD OF REGENTS
a. 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 tuition, 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 8.57, subsection 6, paragraph "c":
. . . . . $ 24,305,412
b. For phase II of the construction and renovation of the veterinary medical facilities at Iowa state university of science and technology, specifically the renovation and modernization of the area formerly occupied by the large animal area of the teaching hospital for expanded clinical services:
. . . . . $ 1,800,000
c. For the midwest grape and wine industry institute at Iowa state university of science and technology, notwithstanding section 8.57, subsection 6, paragraph "c":
. . . . . $ 50,000
13. DEPARTMENT OF TRANSPORTATION
a. For acquiring, constructing, and improving recreational trails within the state:
. . . . . $ 3,000,000
Moneys appropriated in this lettered paragraph may be used for purposes of building equestrian or snowmobile trails that run parallel to a recreational trail. It is the intent of the general assembly to promote multiple uses for trails funding in this lettered paragraph and to maximize the number of trail users.
Of the amounts appropriated in this lettered paragraph, the following amounts shall be allocated as follows:
(1) For infrastructure improvements for a river water trail located in a county with a population between 20,000 and 20,250:
. . . . . $ 100,000
(2) For developing and completing a recreational trail beginning at the entrance of Stone state park and continuing south for one and one-eighth miles along, but separate from, state highway 12:
. . . . . $ 100,000
(3) To the area 15 regional planning commission for the development of the American gothic regional trail project:
. . . . . $ 100,000
(4) For the development of the Principal riverwalk in downtown Des Moines:
. . . . . $ 750,000
(5) For the development of the Summerset trail from Indianola to Des Moines to Carlisle:
. . . . . $ 100,000
(6) For general infrastructure improvements for the Crawford county trail:
. . . . . $ 30,000

b. For deposit into the railroad revolving loan and grant fund created in section 327H.20A, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 2,000,000

It is the intent of the general assembly that the moneys appropriated in this lettered paragraph shall be used to generate at least $10,000,000 in vertical infrastructure capital investments.

c. For the construction of a depot and platform to accommodate the future Amtrak service from Dubuque to Chicago:

. . . . . $ 300,000

d. For infrastructure improvements at general aviation airports within the state:

. . . . . $ 750,000

14. TREASURER OF STATE

a. For county fair infrastructure improvements for distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs:

. . . . . $ 1,590,000

Of the amount appropriated in this lettered paragraph, $530,000 shall be deposited into the fairgrounds infrastructure aid fund created pursuant to section 12.101, as enacted in this Act, for fairgrounds infrastructure aid as provided in section 12.102, as enacted in this Act.

b. For deposit in the watershed improvement fund created in section 466A.2, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 5,000,000

15. DEPARTMENT OF VETERANS AFFAIRS

For transfer to the Iowa finance authority for the continuation of the home ownership assistance program for persons who are or were eligible members of the armed forces of the United States, pursuant to section 16.54, as enacted by 2008 Iowa Acts, Senate File 2354,[4] if enacted, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 1,600,000

Of the funds transferred pursuant to this subsection, the Iowa finance authority may retain not more than $20,000 for administrative purposes.

Sec. 2. REVERSION. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2008, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 3. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for the fiscal year beginning July 1, 2007, and ending July 1, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the central Iowa expo for the design and development of a long-term facility for an outdoor farm show:

. . . . . $ 250,000

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2007, and ending June 30, 2008, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 4. STATE BOARD OF REGENTS. There is appropriated from the rebuild Iowa infrastructure fund to the state board of regents for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the following amount, or so much thereof as is necessary, to be used for the purposes 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 tuition, student

[4] Chapter 1120 herein

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 8.57, subsection 6, paragraph "c":

. . . . . $ 24,305,412

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2009, and ending June 30, 2010, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 5. DEPARTMENT OF PUBLIC DEFENSE. There is appropriated from the rebuild Iowa infrastructure fund to the department of public defense for the designated fiscal years the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For construction improvement projects at statewide national guard armories:

FY 2009-2010 . . . . . $ 1,800,000
FY 2010-2011 . . . . . $ 1,800,000

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2009, and ending June 30, 2010, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2010, and ending June 30, 2011, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2013, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 6. DEPARTMENT OF CORRECTIONS. There is appropriated from the rebuild Iowa infrastructure fund to the department of corrections for the designated fiscal years the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For expansion of the Iowa correctional facility for women at Mitchellville:

FY 2010-2011 . . . . . $ 11,700,000
FY 2011-2012 . . . . . $ 8,779,000

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2010, and ending June 30, 2011, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2013, or until the project for which the appropriation was made is completed, whichever is earlier.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2011, and ending June 30, 2012, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2014, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 7. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for the designated fiscal years the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For deposit into the river enhancement community attraction and tourism fund created in 2008 Iowa Acts, Senate File 2430,[5] if enacted:

FY 2009-2010 . . . . . $ 10,000,000
FY 2010-2011 . . . . . $ 10,000,000
FY 2011-2012 . . . . . $ 10,000,000
FY 2012-2013 . . . . . $ 10,000,000

[5] Chapter 1178 herein

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2009, and ending June 30, 2010, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2010, and ending June 30, 2011, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2013, or until the project for which the appropriation was made is completed, whichever is earlier.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2011, and ending June 30, 2012, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2014, or until the project for which the appropriation was made is completed, whichever is earlier.

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2012, and ending June 30, 2013, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2015, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 8. The section of this division of this Act making an appropriation to the department of economic development for a central Iowa expo for the fiscal year beginning July 1, 2007, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
ENDOWMENT FOR IOWA'S HEALTH RESTRICTED CAPITALS FUND

Sec. 9. There is appropriated from the endowment for Iowa's health restricted capitals fund to the following departments and agencies for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

a. For the installation of preheat piping in the Lucas state office building:

..... $ 300,000

b. For costs associated with the capitol complex alternative energy system:

..... $ 200,000

2. DEPARTMENT OF ECONOMIC DEVELOPMENT

For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of "vertical infrastructure" in section 8.57, subsection 6, paragraph "c":

..... $ 4,600,000

Sec. 10. TAX-EXEMPT STATUS — USE OF APPROPRIATIONS. Payment of moneys from the appropriations in this division of this Act shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 11. REVERSION. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2008, and ending June 30, 2009, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION III
TAX-EXEMPT BOND PROCEEDS RESTRICTED
CAPITAL FUNDS ACCOUNT

Sec. 12. There is appropriated from the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund to the following departments and agencies for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

For costs associated with the restoration and renovation, including major repairs and major maintenance, at the governor's mansion at Terrace Hill:

. . . . . $ 186,457

2. DEPARTMENT OF NATURAL RESOURCES

For the construction of the cabins, activity building, picnic shelters, and other costs associated with the opening of the Honey creek premier destination park:

. . . . . $ 3,100,000

The department shall not obligate any funding under this appropriation without approval from the department of management. The department shall give quarterly updates to the Honey creek premier destination park authority and the legislative services agency on the obligation and spending of this appropriation.

In light of this appropriation, the department shall not request additional appropriations for funding the construction of future additional amenities at the Honey creek destination park beyond the fiscal year ending June 30, 2009. In the event that the chairperson of the authority delivers a certificate to the governor, pursuant to section 463C.13, stating the amounts necessary to restore bond reserve funds, it is the general assembly's intent upon consideration of the governor's request to first seek refunding from the department's budget.

Sec. 13. TAX-EXEMPT STATUS — USE OF APPROPRIATIONS. Payment of moneys from the appropriations in this division of this Act shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 14. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act for the fiscal year beginning July 1, 2008, and ending June 30, 2009, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION IV
TECHNOLOGY REINVESTMENT FUND

Sec. 15. There is appropriated from the technology reinvestment fund created in section 8.57C to the following departments and agencies for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

For technology improvement projects:

. . . . . $ 3,980,255

2. DEPARTMENT OF CORRECTIONS

For costs associated with the Iowa corrections offender network data system:

. . . . . $ 500,000

3. DEPARTMENT OF CULTURAL AFFAIRS

For providing a grant to the Grout museum district at the Sullivan brothers veterans mu-

seum for costs associated with the oral history exhibit including but not limited to exhibit information technology, computer connectivity, and interactive display technologies:
. . . . . $ 500,000

4. DEPARTMENT OF EDUCATION

a. For maintenance and lease costs associated with connections for Part III of the Iowa communications network:
. . . . . $ 2,727,000

b. To the public broadcasting division for the purchase and installation of generators at transmitter sites:
. . . . . $ 1,602,437

c. To the public broadcasting division for the replacement and digital conversion of the Keosauqua translator:
. . . . . $ 701,500

d. For the implementation of an educational data warehouse that will be utilized by teachers, parents, school district administrators, area education agency staff, department of education staff, and policymakers:
. . . . . $ 600,000

e. For continuation of the skills Iowa technology grant program in accordance with this lettered paragraph:
. . . . . $ 500,000

The amount appropriated in this lettered paragraph shall be used to continue the skills Iowa technology grant program, previously known as the follow-the-leader technology grant program. The purpose of the program is to provide assessment and remediation tools to classrooms, to enhance teachers' ability to easily assess the skill levels of individual students and prescribe individualized instruction plans based on those assessments, and provide for professional development of teachers. The department shall contract with a not-for-profit entity with at least two years experience with the skills Iowa technology grant program and in providing technical assistance to schools in Iowa. The goals for the contractor shall include minimizing disruption in the use of skills Iowa in schools. Any departmental administrative expenses associated with this appropriation shall not exceed $50,000.

5. DEPARTMENT OF HUMAN RIGHTS

For the cost of equipment and computer software for the implementation of Iowa's criminal justice information system:
. . . . . $ 1,839,852

6. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

a. For replacement of equipment for the Iowa communications network:
. . . . . $ 2,190,123

The commission may continue to enter into contracts pursuant to section 8D.13 for the replacement of equipment and for operations and maintenance costs of the network.

In addition to funds appropriated under this lettered paragraph, the commission may use a financing agreement entered into by the treasurer of state in accordance with section 12.28 for the replacement of equipment for the network. For purposes of this lettered paragraph, the treasurer of state is not subject to the maximum principal limitation contained in section 12.28, subsection 6. Repayment of any amounts financed shall be made from receipts associated with fees charged for use of the network.

b. For addition of network redundancy for continuity of operations for the capitol complex:
. . . . . $ 1,800,000

7. DEPARTMENT OF PUBLIC SAFETY

For continuation of payments on the lease of the automated fingerprint identification system:
. . . . . $ 560,000

Sec. 16. REVERSION. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2008, and ending June 30, 2009, in this division of this Act that remain

unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 17. There is appropriated from the technology reinvestment fund created in section 8.57C to the department of cultural affairs for the fiscal year beginning July 1, 2009, and ending July 1, 2010, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing a grant to the Grout museum district at the Sullivan brothers veterans museum for costs associated with the oral history exhibit:

. . . . . $ 486,250

Notwithstanding section 8.33, moneys appropriated in this section for the fiscal year beginning July 1, 2009, and ending June 30, 2010, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION V
FY 2009 TAX-EXEMPT BOND PROCEEDS
RESTRICTED CAPITAL FUNDS ACCOUNT

Sec. 18. There is appropriated from the FY 2009 tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund pursuant to section 12E.12, subsection 1, paragraph "b", subparagraph (1A), as enacted in this Act, to the following departments and agencies for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF ADMINISTRATIVE SERVICES

a. For the planning, design, and construction of a new state office building, including costs associated with the furnishing of the building:

. . . . . $ 20,000,000

The location, design, plans and specifications, and occupants of the building shall be determined jointly by the executive council and the department of administrative services in consultation with the capitol planning commission following an analysis of space needs to be completed no later than January 1, 2009. Recommendations for design, plans and specifications, and occupants shall be presented to the general assembly and the governor for approval by the start of the 2009 legislative session.

b. For renovations to the capitol complex utility tunnel system:

. . . . . $ 4,763,078

c. For costs associated with capitol interior and exterior restoration:

. . . . . $ 6,900,000

d. For upgrades to the electrical distribution system serving the capitol complex:

. . . . . $ 4,470,000

e. For heating, ventilating, and air conditioning improvements in the Hoover state office building:

. . . . . $ 1,500,000

f. For costs associated with the central energy plant addition and improvements:

. . . . . $ 623,000

g. For building security and firewall protection in the Hoover state office building:

. . . . . $ 165,000

h. For projects related to major repairs and major maintenance for state buildings and facilities under the purview of the department:

. . . . . $ 15,000,000

Of the amount appropriated in this lettered paragraph, up to $1,000,000 may be used for demolition purposes.

i. For the purchase of Mercy capitol hospital:
. . . . . $ 3,400,000
It is the intent of the general assembly that the department will use other appropriations made or other funds available to the department for the acquisition of buildings to complete the purchase of this building.

j. For capital improvements at the civil commitment unit for a sexual offenders facility at Cherokee:
. . . . . $ 829,000

k. For costs associated with the restoration and renovation, including major repairs and major maintenance, at the governor's mansion at Terrace Hill:
. . . . . $ 769,543

2. DEPARTMENT FOR THE BLIND

For costs associated with the renovation of dormitory buildings:
. . . . . $ 869,748

3. DEPARTMENT OF CORRECTIONS

a. For expansion of the community-based corrections facility at Sioux City:
. . . . . $ 5,300,000

b. For expansion of the community-based corrections facility at Ottumwa:
. . . . . $ 4,100,000

c. For expansion of the community-based corrections facility at Waterloo:
. . . . . $ 6,000,000
It is the intent of the general assembly that the funds appropriated in paragraphs "a" through "c" be used to expand the number of beds available through new construction and remodeling and not for replacement of existing facilities.

d. For expansion of the Iowa correctional facility for women at Mitchellville:
. . . . . $ 47,500,000

e. For the remodeling of kitchens at the correctional facilities at Mount Pleasant and Rockwell City:
. . . . . $ 12,500,000

4. DEPARTMENT OF EDUCATION

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 buildings and facilities under the purview of the community colleges:
. . . . . $ 2,000,000
The moneys appropriated in this subsection shall be allocated to the community colleges based upon the distribution formula established in section 260C.18C.

5. DEPARTMENT OF NATURAL RESOURCES

a. For infrastructure improvements for a state river recreation area located in a county with a population between 21,900 and 22,100:
. . . . . $ 750,000

b. For the construction and installation of an angled well, pumps, and piping to connect the existing infrastructure from the new well to a lake located in a county with a population between 87,500 and 88,000:
. . . . . $ 500,000
Moneys appropriated in this lettered paragraph are contingent upon receipt of matching funds from a state taxing authority surrounding such lake.

c. For the construction of the cabins, activity building, picnic shelters, and other costs associated with the opening of the Honey creek premier destination park:
. . . . . $ 4,900,000
The department shall not obligate any funding under this appropriation without approval from the department of management. The department shall provide quarterly updates to the Honey creek premier destination park authority and the legislative services agency on the obligation and spending of this appropriation.

In light of this appropriation, the department shall not request additional appropriations for funding the construction of future additional amenities at the Honey creek destination park beyond the fiscal year ending June 30, 2009. In the event that the chairperson of the authority delivers a certificate to the governor, pursuant to section 463C.13, stating the amounts necessary to restore bond reserve funds, it is the general assembly's intent upon consideration of the governor's request to first seek refunding from the department's budget.

d. For implementation of lake projects that have established watershed improvement initiatives and community support in accordance with the department's annual lake restoration plan and report, notwithstanding section 8.57, subsection 6, paragraph "c":

. . . . . $ 8,600,000

(1) It is the intent of the general assembly that the department of natural resources shall implement the lake restoration annual report and plan submitted to the joint appropriations subcommittee on transportation, infrastructure, and capitals and the legislative services agency on December 26, 2006, pursuant to section 456A.33B. The lake restoration projects that are recommended by the department to receive funding for fiscal year 2007-2008 and that satisfy the criteria in section 456A.33B, including local commitment of funding for the projects, shall be funded in the amounts provided in the report.

Of the amounts appropriated in this lettered paragraph, at least the following amounts shall be allocated as follows:

(a) For clear lake in Cerro Gordo county:

. . . . . $ 3,000,000

(b) For storm lake in Buena Vista county:

. . . . . $ 1,000,000

(c) For carter lake in Pottawattamie county:

. . . . . $ 200,000

(2) Of the moneys appropriated in this lettered paragraph, $200,000 shall be used for the purposes of supporting a low head dam public hazard improvement program. The moneys shall be used to provide grants to local communities, including counties and cities, for projects approved by the department.

(a) The department shall award grants to dam owners including counties, cities, state agencies, cooperatives, and individuals, to support projects approved by the department.

(b) The department shall require each dam owner applying for a project grant to submit a project plan for the expenditure of the moneys, and file a report with the department regarding the project, as required by the department.

(c) The funds can be used for signs, posts, and related cabling, and the department shall only award money on a matching basis, pursuant to the dam owner contributing at least 20 cents for every 80 cents awarded by the department, in order to finance the project. For the remainder of the funds, including any balance of money not awarded for signs, posts, and related cabling, the department shall only award moneys to a dam owner on a matching basis. A dam owner shall contribute one dollar for each dollar awarded by the department in order to finance a project.

6. STATE BOARD OF REGENTS

For infrastructure, deferred maintenance, and equipment related to Iowa public radio:

. . . . . $ 2,000,000

7. IOWA STATE FAIR

For infrastructure improvements to the Iowa state fairgrounds including but not limited to the construction of an agricultural exhibition center on the Iowa state fairgrounds:

. . . . . $ 5,000,000

8. DEPARTMENT OF TRANSPORTATION

a. For deposit into the public transit infrastructure grant fund created in section 324A.6A:

. . . . . $ 2,200,000

b. For infrastructure improvements at the commercial service airports within the state:

. . . . . $ 1,500,000

Fifty percent of the funds appropriated in this lettered paragraph shall be allocated equally between each commercial air service airport, forty percent of the funds shall be allocated based on the percentage that the number of enplaned passengers at each commercial air service airport bears to the total number of enplaned passengers in the state during the previous fiscal year, and ten percent of the funds shall be allocated based on the percentage that the air cargo tonnage at each commercial air service airport bears to the total air cargo tonnage in the state during the previous fiscal year. In order for a commercial air service airport to receive funding under this lettered paragraph, the airport shall be required to submit applications for funding of specific projects to the department for approval by the state transportation commission.

9. DEPARTMENT OF VETERANS AFFAIRS

a. For matching funds for the construction of resident living areas at the Iowa veterans home and related improvements associated with the Iowa veterans home comprehensive plan:
. . . . . $ 20,555,329

b. To build a memorial plaza that honors veterans from the Dubuque area:
. . . . . $ 100,000

Sec. 19. TAX-EXEMPT STATUS — USE OF APPROPRIATIONS. Payment of moneys from the appropriations in this division of this Act shall be made in a manner that does not adversely affect the tax-exempt status of any outstanding bonds issued by the tobacco settlement authority.

Sec. 20. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act for the fiscal year beginning July 1, 2008, and ending June 30, 2009, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION VI
ENVIRONMENT FIRST FUND — RESOURCES ENHANCEMENT AND PROTECTION

Sec. 21. IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. There is appropriated from the environment first fund created in section 8.57A to the Iowa resources enhancement and protection fund for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, to be allocated as provided in section 455A.19:
. . . . . $ 2,000,000

DIVISION VII
PRISON BONDING

Sec. 22. There is appropriated from the FY 2009 prison bonding fund created pursuant to section 12.79, as enacted in this Act, to the department of corrections for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For costs associated with the building of a new Iowa State Penitentiary at Fort Madison:
. . . . . $ 130,677,500

The appropriation made in this section constitutes approval by the general assembly for the issuance of bonds by the treasurer pursuant to section 12.80, as enacted in this Act.

Sec. 23. REVERSION. Notwithstanding section 8.33, moneys appropriated in this division of this Act for the fiscal year beginning July 1, 2008, and ending June 30, 2009, shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the

purposes designated until the close of the fiscal year that begins July 1, 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

DIVISION VIII
CHANGES TO PRIOR APPROPRIATIONS

Sec. 24. 2001 Iowa Acts, chapter 185, section 30, as amended by 2005 Iowa Acts, chapter 178, section 22, 2006 Iowa Acts, chapter 1179, section 27, and 2007 Iowa Acts, chapter 219, section 17, is amended to read as follows:

SEC. 30. REVERSION.

1. Except as provided in subsections 2 and 3 and notwithstanding section 8.33, moneys appropriated in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins 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 in section 25, subsection 3, paragraph "b", of this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purpose 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.

3. Notwithstanding section 8.33, moneys appropriated in section 28 of this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, ~~2007~~ 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 25. 2004 Iowa Acts, chapter 1175, section 290, is amended to read as follows:

SEC. 290. REVERSION.

1. ~~Notwithstanding~~ Except as provided in subsections 2 and 3, and notwithstanding section 8.33, moneys appropriated from the rebuild Iowa infrastructure fund in this division of this Act shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2007, or until the project for which the appropriation was made is completed, whichever is earlier. This ~~section~~ subsection does not apply to the sections in this division of this Act that were previously enacted and are amended in this division of this Act.

2. Notwithstanding section 8.33, moneys appropriated from the rebuild Iowa infrastructure fund in this division of this Act in section 288, subsection 4, paragraph "b", and section 288, subsection 7, paragraph "d", 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, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

3. Notwithstanding section 8.33, moneys appropriated from the rebuild Iowa infrastructure fund in this division of this Act in section 288, subsection 12, paragraph "a", 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, 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 26. 2005 Iowa Acts, chapter 178, section 19, subsection 3, as amended by 2007 Iowa Acts, chapter 219, section 20, is amended to read as follows:

3. REVERSION.

~~1.~~ a. Except as provided in ~~subsection 2~~ paragraphs "b" and "c" and 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.

~~2.~~ b. Notwithstanding section 8.33, moneys appropriated in ~~subsection 1, paragraph "a", subparagraph (1), and~~ subsection 1, paragraph "g", shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.

c. Notwithstanding section 8.33, moneys appropriated in subsection 1, paragraph "a", subparagraph (1), shall not revert at the close of the fiscal year for which they were appropriated but shall remain available for the purpose designated until the close of the fiscal year that begins July 1, 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 27. 2005 Iowa Acts, chapter 178, section 30, is amended to read as follows:

SEC. 30. DEPARTMENT OF ADMINISTRATIVE SERVICES.

1. There is appropriated from the vertical infrastructure fund to the department of administrative services for the designated fiscal years, the following amounts, or so much thereof as ~~if~~ is necessary, to be used for the purposes designated:

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 buildings and facilities under the purview of the department:

FY 2006-2007	$	10,000,000
FY 2007-2008	$	40,000,000
FY 2008-2009	$	~~40,000,000~~ 0

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, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 28. 2005 Iowa Acts, chapter 179, section 13, unnumbered paragraph 2, as amended by 2006 Iowa Acts, chapter 1179, section 32, is amended to read as follows:

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 buildings and facilities under the purview of the community colleges:

FY 2006-2007	$	0
FY 2007-2008	$	2,000,000
FY 2008-2009	$	~~2,000,000~~ 0

Sec. 29. 2006 Iowa Acts, chapter 1179, section 5, as amended by 2007 Iowa Acts, chapter 219, section 22, is amended to read as follows:

SEC. 5. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the rebuild Iowa infrastructure fund to the department of administrative services for the designated fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For planning, design, and construction ~~costs associated with the construction~~ of a new ~~approximately 350,000 gross square foot~~ state office building, including costs associated with ~~furnishings, employee relocation, and the demolition of the Wallace Building~~ furnishing the building:

FY 2007-2008	$	3,600,000
FY 2008-2009	$	~~23,300,000~~ 0
FY 2009-2010	$	12,657,100

The location, design, plans and specifications, and occupants of the building shall be determined jointly by the executive council and the department of administrative services in consultation with the capitol planning commission following an analysis of space needs to be completed no later than January 1, 2009. Recommendations for the design, plans and specifications, and occupants shall be presented to the general assembly and the governor for approval by the start of the 2009 legislative session.

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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.

The design specifications of the new state office building shall include, at a minimum, energy efficiency specifications that exceed state building code requirements and have the potential for leadership in energy and environmental design silver certification from the United States green building council.

Sec. 30. 2006 Iowa Acts, chapter 1179, section 18, is amended to read as follows:

SEC. 18. REVERSION.

1. Except as provided in subsections 2, ~~and~~ 3, and 4, notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal years that begin July 1, 2005, and July 1, 2006, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal year that begins July 1, 2006, and ends June 30, 2007, in this division of this Act to the department of veterans affairs for capital improvement projects at the Iowa veterans home 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, 2010.

3. Notwithstanding section 8.33, moneys appropriated from the endowment for Iowa's health restricted capitals fund for the fiscal year beginning July 1, 2006, and ending June 30, 2007, in this division of this Act to the department of education for major renovation and major repair needs at the community colleges 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 beginning July 1, 2010, or until the project for which appropriated is completed, whichever is earlier.

4. Notwithstanding section 8.33, moneys appropriated in section 16, subsection 3, paragraph "a", that remain unencumbered or unobligated at the close of the fiscal year 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, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 31. 2006 Iowa Acts, chapter 1179, section 22, is amended to read as follows:

SEC. 22. REVERSION.

1. ~~Notwithstanding~~ Except as provided in subsections 2 and 3, and notwithstanding section 8.33, moneys appropriated in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2007, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated from the technology reinvestment fund in this division of this Act in section 21, subsection 1, shall not revert at the close of the fiscal year for which they were appropriated but shall remain available until the close of the fiscal year that begins July 1, 2008, or until the project for which the appropriation was made is completed, whichever is earlier.

3. Notwithstanding section 8.33, moneys appropriated from the technology reinvestment fund in this division of this Act in section 21, subsection 3, paragraph "e", shall not revert at the close of the fiscal year for which they were appropriated but shall remain available until the close of the fiscal year that begins July 1, 2010, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 32. 2006 Iowa Acts, chapter 1179, sections 68 and 69, are amended to read as follows:

SEC. 68. WASTEWATER TREATMENT FINANCIAL ASSISTANCE FUND — IOWA FINANCE AUTHORITY. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding account to the Iowa finance authority for deposit in the wastewater treatment financial assistance fund created in section 16.134, the following amount:

. . . . . $ 4,000,000

Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2008.

SEC. 69. RESOURCE CONSERVATION AND DEVELOPMENT PROJECTS — DEPARTMENT OF NATURAL RESOURCES. There is appropriated from any interest or earnings on moneys in the federal economic stimulus and jobs holding account to the department of natural resources for the development of projects relating to natural resource-based business opportunities, the following amount:

. . . . . $ 300,000

Local resource conservation and development groups sponsored by county governments or sponsored by soil and water conservation districts shall be eligible to receive funding on the condition that such groups receive dollar-for-dollar funding.

Notwithstanding section 8.33, moneys appropriated in this section shall not revert at the close of the fiscal year for which they are appropriated but shall remain available for the purposes designated until the close of the fiscal year that begins July 1, 2008.

Sec. 33. 2007 Iowa Acts, chapter 219, section 1, subsection 2, is amended to read as follows:

~~2.~~ r. For distribution to other governmental entities:

. . . . . $ 2,000,000

Moneys appropriated in this lettered paragraph shall be separately accounted for in a distribution account and shall be distributed to other governmental entities based upon a formula established by the department to pay for services provided during the fiscal year to such other governmental entities by the department associated with the integrated information for Iowa system, notwithstanding section 8.57, subsection 6, paragraph "c"~~.~~. Additionally, the department may use any unexpended or unencumbered amount in the distribution account for the purchase of an existing license for which the state has made partial payment. Any remaining balance in the distribution account as of June 30, 2008, shall not revert but shall remain available to be used for additional operating expenses related to the integrated information for Iowa system during the subsequent fiscal year.

Sec. 34. 2007 Iowa Acts, chapter 219, section 3, is amended to read as follows:

SEC. 3. DEPARTMENT OF ADMINISTRATIVE SERVICES. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For capital improvements at the civil commitment unit for the sexual offenders facility at Cherokee:

. . . . . $ ~~829,000~~ 0

~~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, 2011, or until the project for which the appropriation was made is completed, whichever is earlier.~~

**Sec. 35. 2008 Iowa Acts, Senate File 2420, section 27, is amended to read as follows:*

*SEC. 27. PUBLIC TRANSIT FUNDING STUDY. The department of transportation, in cooperation with the office of energy independence and the department of natural resources, shall review the current revenues available for support of public transit and the sufficiency of those revenues to meet future needs. The review shall include but is not limited to identifying transit improvements needed to meet state energy independence goals and an assessment of how the state's support of public transit is positioned to meet the mobility needs of Iowa's growing senior population. The department shall submit a report to the governor and the general assembly on or before December ~~1, 2009~~ 31, 2008.**

Sec. 36. EFFECTIVE DATE. The sections of this division of this Act amending 2001 Iowa Acts, chapter 185, 2004 Iowa Acts, chapter 1175, 2005 Iowa Acts, chapters 178 and 179, 2006 Iowa Acts, chapter 1179, sections 5, 18, 22, 68, and 69 and 2007 Iowa Acts, chapter 219, sections 1 and 3, being deemed of immediate importance, take effect upon enactment.

DIVISION IX
MISCELLANEOUS CODE CHANGES

Sec. 37. Section 8.57, subsection 6, paragraph c, Code Supplement 2007, is amended to read as follows:

c. Moneys in the fund in a fiscal year shall be used as directed by the general assembly for public vertical infrastructure projects. For the purposes of this subsection, "vertical infrastructure" includes only land acquisition and construction, major renovation and major repair of buildings, all appurtenant structures, utilities, site development, and recreational trails. "Vertical infrastructure" does not include routine, recurring maintenance or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement. ~~However, appropriations may be made for the fiscal years beginning July 1, 1997, and July 1, 1998, for the purpose of funding the completion of Part III of the Iowa communications network.~~

Sec. 38. Section 8.57A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, ~~2007~~ 2008, and for each fiscal year thereafter, the sum of ~~forty~~ forty-two million dollars to the environment first fund, notwithstanding section 8.57, subsection 6, paragraph "c".

Sec. 39. Section 8.57B, Code Supplement 2007, is amended to read as follows:

8.57B VERTICAL INFRASTRUCTURE FUND.

1. A vertical infrastructure fund is created under the authority of the department of management. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

2. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the vertical infrastructure fund shall be credited to the rebuild Iowa infrastructure fund.

3. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly

* Item veto; see message at end of the Act

for public vertical infrastructure projects. For the purposes of this section, "vertical infrastructure" includes only land acquisition and construction, major renovation, and major repair of buildings, all appurtenant structures, utilities, and site development. "Vertical infrastructure" does not include routine, recurring maintenance, debt service, or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement.

4. There is appropriated from the rebuild Iowa infrastructure fund to the vertical infrastructure fund, the following:

a. For the fiscal year beginning July 1, 2005, and ending June 30, 2006, the sum of fifteen million dollars.

b. For the fiscal year beginning July 1, 2006, and ending June 30, 2007, the sum of fifteen million dollars.

c. For the fiscal year beginning July 1, 2007, and ending June 30, 2008, the sum of fifty million dollars.

~~d. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of fifty million dollars.~~

5. Annually, on or before January 15 of each year, a state agency that received an appropriation from the vertical infrastructure fund shall report to the legislative services agency and the department of management the status of all projects completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

6. On July 1, 2008, any unobligated and unencumbered balance in the vertical infrastructure fund shall be transferred to the rebuild Iowa infrastructure fund. This subsection is repealed July 1, 2010.

Sec. 40. Section 8.57C, subsection 3, Code Supplement 2007, is amended to read as follows:

3. a. There is appropriated from the general fund of the state for the fiscal ~~year~~ years beginning July 1, 2006, July 1, 2007, July 1, 2010, and for each subsequent fiscal year thereafter, the sum of seventeen million five hundred thousand dollars to the technology reinvestment fund.

b. There is appropriated from the rebuild Iowa infrastructure fund for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2010, the sum of seventeen million five hundred thousand dollars to the technology reinvestment fund, notwithstanding section 8.57, subsection 6, paragraph "c".

Sec. 41. NEW SECTION. 12.79 FY 2009 PRISON BONDING FUND.

1. An FY 2009 prison bonding fund is created as a separate fund in the state treasury. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the FY 2009 prison bonding fund.

2. Revenue for the fund shall consist of the net proceeds from the bonds issued pursuant to section 12.80.

3. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for prison improvement and prison construction projects.

4. Moneys in the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

5. Annually, on or before January 15 of each year, the department of corrections shall report to the legislative services agency and the department of management the status of all projects completed or in progress. The report shall include a description of the project, the work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

Sec. 42. NEW SECTION. 12.80 GENERAL AND SPECIFIC BONDING POWERS — PRISON INFRASTRUCTURE.

1. The treasurer of state is authorized to issue bonds to provide prison infrastructure financing as provided in this section. Bonds shall be issued in accordance with the provisions of chapter 12A.

2. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the prison infrastructure fund established in section 602.8108A, and other moneys available as provided in this section, all of which may be deposited with trustees or depositories in accordance with bond or security documents, and are not an indebtedness of this state, or a charge against the general credit or general fund of the state, and the state shall not be liable for the bonds except from amounts on deposit in the prison infrastructure fund and other moneys available as provided in this section. Bonds issued under this section shall contain a statement that the bonds do not constitute an indebtedness of the state.

3. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance tax.

4. The net proceeds from the bonds issued under this section shall be deposited into the FY 2009 prison bonding fund.

5. The treasurer of state shall cooperate with the department of corrections in the implementation of this section.

6. In order to assure maintenance of bond reserve funds, an issuer shall, on or before January 1 of each calendar year, make and deliver to the governor the issuer'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 issuer pursuant to this subsection shall be deposited by the issuer in the applicable bond reserve fund.

Sec. 43. NEW SECTION. 12.101 FAIRGROUNDS INFRASTRUCTURE AID FUND.

1. A fairgrounds infrastructure aid fund is created in the state treasury under the control of the treasurer of state. The fund is separate from the general fund of the state. The fund is composed of moneys appropriated by the general assembly and moneys available to and obtained or accepted by the treasurer of state from the United States government or private sources for placement in the fund.

2. Moneys in the fairgrounds infrastructure aid fund are appropriated to the treasurer of state exclusively to support the payment of infrastructure aid as provided in section 12.102. Moneys in the fund shall not be allocated to the treasurer of state to reimburse the treasurer of state for administrative costs.

3. Notwithstanding section 12C.7, interest or earnings on moneys in the fairgrounds infrastructure aid fund shall be credited to the fund. Notwithstanding section 8.33, unencumbered and unobligated moneys remaining in the fund at the close of each fiscal year shall not revert but shall remain available in the fund.

Sec. 44. NEW SECTION. 12.102 PAYMENT OF INFRASTRUCTURE AID.

1. The treasurer of state shall award infrastructure aid to a fair necessary for the fair to make improvements to the permanent infrastructure of its fairgrounds, including the construction, major renovation, or major repair of buildings, appurtenant structures, or utilities.

2. The treasurer of state, in cooperation with the association of Iowa fairs, shall provide criteria for eligibility for infrastructure aid by rule. The treasurer of state must receive an application for an award on or after July 1 and before December 1 of each year. An award of infra-

structure aid to an eligible fair shall be in the form of a grant. The treasurer of state shall meet with representatives of the association of Iowa fairs. The representatives shall be available to advise the treasurer of state when the treasurer of state makes decisions regarding the awarding of infrastructure aid.

3. In order to receive infrastructure aid, the management of an eligible fair must execute a cost-share agreement with the treasurer of state, with the treasurer of state contributing two dollars for each dollar contributed by the fair.

4. The infrastructure aid awarded to a fair cannot be less than five thousand dollars or more than fifty thousand dollars during any fiscal year. The treasurer of state may approve multiple awards to make improvements to a fair's fairgrounds so long as the total amount awarded does not exceed the limitations provided in this subsection.

Sec. 45. Section 12E.10, subsection 1, paragraph a, subparagraphs (2) and (3), Code 2007, are amended to read as follows:

(2) The authority shall issue tax-exempt bonds ~~in an amount that is~~ as necessary in amounts determined by the authority sufficient to provide net proceeds ~~in an amount of not more than five hundred forty million dollars~~ for deposit in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund, to be used for capital projects, certain debt service on outstanding obligations which funded capital projects, and attorney fees related to the master settlement agreement.

(3) The authority may also issue taxable bonds or tax-exempt bonds to provide additional amounts to be used for the purposes specified in section 12.65.

Sec. 46. Section 12E.10, subsection 1, paragraph b, Code 2007, is amended to read as follows:

b. It is the expectation of the state that not less than eighty-five percent of the proceeds ~~deposited in the tax-exempt bond proceeds restricted capital funds account of the tobacco settlement trust fund~~ of any issue of tax-exempt bonds will be expended within five years from the effective date of the sale, consistent with the requirements of federal law, and that the specific capital projects, debt service, and attorney fees payments shall be determined annually through appropriations authorized by a constitutional majority of each house of the general assembly and approved by the governor.

Sec. 47. Section 12E.10, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The authority may issue tax-exempt bonds if the securitization of any remaining tobacco settlement payments will result in the deposit of net proceeds of not less than one hundred eighty-three million dollars for tax-exempt bonds issued after July 1, 2008.

Sec. 48. Section 12E.12, subsection 1, paragraph b, Code 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (1A) The FY 2009 tax-exempt bond proceeds restricted capital funds account. The net proceeds of tax-exempt bonds issued after July 1, 2008, as a result of the securitization of any remaining tobacco settlement payments to provide funds for capital projects which the treasurer of state is authorized and directed to deposit on behalf of the state shall be deposited in the account and shall be used to fund capital projects. With respect to capital projects, it is the intent of the general assembly to fund capital projects that qualify as vertical infrastructure projects as defined in section 8.57, subsection 6, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

Sec. 49. Section 12E.12, subsection 9, Code 2007, is amended to read as follows:

9. Annually, on or before January ~~1~~ 15 of each year, a state agency that received an appropriation from the tobacco settlement trust fund ~~for the preceding fiscal year~~ shall report to the ~~joint transportation, infrastructure, and capitals appropriation subcommittee, the~~ legislative services agency~~,~~ and the department of management~~, and the legislative capital projects committee of the legislative council~~ the status of all ~~ongoing~~ projects ~~for which an appropriation from the fund has been made~~ completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

Sec. 50. Section 15F.204, subsection 8, paragraph a, subparagraphs (5) and (6), Code 2007, are amended to read as follows:

(5) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of ~~five~~ twelve million dollars.

(6) For the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of ~~five~~ twelve million dollars.

Sec. 51. Section 15F.204, subsection 8, paragraph b, subparagraphs (4) and (5), Code 2007, are amended by striking the subparagraphs.

Sec. 52. Section 15G.110, Code 2007, is amended to read as follows:

15G.110 APPROPRIATION.

1. For the fiscal period beginning July 1, 2005, and ending June 30, 2008, and for the fiscal period beginning July 1, 2010, and ending June 30, 2015, there is appropriated to the department of economic development each fiscal year fifty million dollars from the general fund of the state for deposit in the grow Iowa values fund.

2. For the fiscal period beginning July 1, 2008, and ending June 30, 2010, there is appropriated to the department of economic development each fiscal year fifty million dollars from the rebuild Iowa infrastructure fund for deposit in the grow Iowa values fund, notwithstanding section 8.57, subsection 6, paragraph "c".

Sec. 53. Section 15G.111, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The department shall require an applicant for moneys appropriated under this subsection to include in the application a statement regarding the intended return on investment. A recipient of moneys appropriated under this subsection shall annually submit a statement to the department regarding the progress achieved on the intended return on investment stated in the application. A recipient of moneys appropriated under this subsection shall also annually submit a statement to the department regarding the type and amount of funds spent on any major maintenance, repair, or renovation of any new or existing building. The department, in cooperation with the department of revenue, shall develop a method of identifying and tracking each new job created and the leveraging of moneys through financial assistance from moneys appropriated under this subsection. The department of economic development shall identify research and development activities funded through financial assistance from not more than ten percent of the moneys appropriated under this subsection, and, instead of determining return on investment and job creation for the identified funding, determine the potential impact on the state's economy. The department's annual project status report satisfies the reporting requirement contained in this section.

Sec. 54. NEW SECTION. 16.181A HOUSING TRUST FUND — APPROPRIATIONS.

There is appropriated from the rebuild Iowa infrastructure fund to the Iowa finance author-

ity for deposit in the housing trust fund created in section 16.181, for the fiscal year beginning July 1, 2009, and ending June 30, 2010, and for each succeeding fiscal year, the sum of three million dollars.

Sec. 55. Section 303.3D, subsections 2 and 4, Code 2007, are amended to read as follows:

2. Moneys appropriated for a fiscal year to the fund shall be used by the general assembly to fund capital infrastructure projects for identified Iowa great places through the Iowa great places program established in section 303.3C. Moneys appropriated for a fiscal year shall be available for a project identified in an Iowa great places agreement for a period of three years from the time the project is identified.

4. Notwithstanding section 8.33, moneys credited to the great places program fund shall not revert to the fund from which appropriated but shall remain available for expenditure for the purposes designated for subsequent fiscal years.

Sec. 56. Section 428A.8, Code 2007, is amended to read as follows:

428A.8 REMITTANCE TO STATE TREASURER — PORTION RETAINED IN COUNTY.

1. On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit ~~ninety-five percent of the receipts in the general fund of the state~~ and transfer ~~five percent of~~ the receipts ~~to the shelter assistance fund created in section 15.349~~ as provided in subsection 2.

The county recorder shall deposit the remaining seventeen and one-fourth percent of the receipts in the county general fund.

Any tax or additional tax found to be due shall be collected by the county recorder. If the county recorder is unable to collect the tax, the director of revenue shall collect the tax in the same manner as taxes are collected in chapter 422, division III. If collected by the director of revenue, the director shall pay the county its proportionate share of the tax. Section 422.25, subsections 1, 2, 3, and 4, and sections 422.26, 422.28 through 422.30, and 422.73, consistent with this chapter, apply with respect to the collection of any tax or additional tax found to be due, in the same manner and with the same effect as if the deed, instrument, or writing were an income tax return within the meaning of those statutes.

The county recorder shall keep records and make reports with respect to the real estate transfer tax as the director of revenue prescribes.

2. The treasurer of state shall deposit or transfer the receipts paid the treasurer of state pursuant to subsection 1 to either the general fund of the state, the housing trust fund created in section 16.181, or the shelter assistance fund created in section 15.349 as follows:

a. For the fiscal year beginning July 1, 2009, ninety percent of the receipts shall be deposited in the general fund, five percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

b. For the fiscal year beginning July 1, 2010, eighty-five percent of the receipts shall be deposited in the general fund, ten percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

c. For the fiscal year beginning July 1, 2011, eighty percent of the receipts shall be deposited in the general fund, fifteen percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

d. For the fiscal year beginning July 1, 2012, seventy-five percent of the receipts shall be deposited in the general fund, twenty percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

e. For the fiscal year beginning July 1, 2013, seventy percent of the receipts shall be deposited in the general fund, twenty-five percent of the receipts shall be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

f. For the fiscal year beginning July 1, 2014, and each succeeding fiscal year, sixty-five percent of the receipts shall be deposited in the general fund, thirty percent of the receipts shall

be transferred to the housing trust fund, and five percent of the receipts shall be transferred to the shelter assistance fund.

3. Notwithstanding subsection 2, the amount of money that shall be transferred pursuant to this section to the housing trust fund in any one fiscal year shall not exceed three million dollars. Any money that otherwise would be transferred pursuant to this section to the housing trust fund in excess of that amount shall be deposited in the general fund of the state.

Sec. 57. Section 602.8108A, Code Supplement 2007, is amended to read as follows:

602.8108A PRISON INFRASTRUCTURE FUND.

1. The Iowa prison infrastructure fund is created and established as a separate and distinct fund in the state treasury. Notwithstanding any other provision of this chapter to the contrary, the first eight million dollars and, beginning July 1, 1997, the first nine million five hundred thousand dollars, of moneys remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, collected in each fiscal year commencing with the fiscal year beginning July 1, 1995, shall be deposited in the fund. Beginning July 1, 2009, the treasurer of state shall certify to the judicial branch the annual amount of funds necessary to be remitted for deposit into the fund for that fiscal year and such moneys shall be remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, for debt payments expected to be paid from the fund. Interest and other income earned by the fund shall be deposited in the fund. However, beginning with the fiscal year beginning July 1, 1998, all fines and fees attributable to commercial vehicle violation citations issued after July 1, 1998, shall be deposited as provided in section 602.8108, subsection 8. ~~If the treasurer of state determines pursuant to 1994 Iowa Acts, ch. 1196, that bonds can be issued pursuant to this section and section 16.177, then the~~ The moneys in the fund are appropriated ~~to~~ and shall have priority and precedence for the purpose of paying the principal of, premium, if any, and interest on bonds issued by the Iowa finance authority under section 16.177. Any remaining moneys not otherwise appropriated for purposes of paying the principal, premium, and interest on the bonds issued by the Iowa finance authority pursuant to section 16.177 shall be available and appropriated to the treasurer of state pursuant to section 12.80. Except as otherwise provided in subsection 2, amounts in the funds shall not be subject to appropriation for any purpose by the general assembly, but shall be used only for the purposes set forth in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the department of corrections including the automatic disbursement of funds pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund subject to any limitations contained in any applicable bond proceedings. Any amounts remaining in the fund at the end of each fiscal year shall be transferred to the general fund of the state.

2. If the treasurer of state determines that bonds cannot be issued pursuant to this section and ~~section~~ sections 12.80 and 16.177~~,~~ or if there are any remaining moneys at the end of a fiscal year after the appropriations are paid pursuant to sections 12.80 and 16.177 the treasurer of state shall deposit the moneys in the prison infrastructure fund into the general fund of the state.

DIVISION X
MISCELLANEOUS

Sec. 58. IOWA VETERANS HOME DESIGN SERVICES CONTRACT. The department of administrative services is authorized to contract for design services related to the planned expansion project to be completed at the Iowa veterans home as provided in section 8A.311, subsection 3. It is the intent of the general assembly that this authorization is necessary to secure the award of federal funding recently made and to eliminate the uncertainty of securing such funding in the future.

Sec. 59. The section of this division of this Act, relating to the Iowa veterans home design services contract, being deemed of immediate importance, takes effect upon enactment.

Approved May 9, 2008, with exception noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2432, an Act relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, the endowment for Iowa's health restricted capitals fund, the tax-exempt bond proceeds restricted capital funds account, the technology reinvestment fund, the FY 2009 tax-exempt bond proceeds restricted capital funds account, the environment first fund, and the FY 2009 prison bond fund, and related matters, and providing effective and retroactive applicability date provisions. Senate File 2432 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve section 35 of this bill in its entirety. This section changes the due date of the Public Transit Funding Study report called for in Senate File 2420 that the Department of Transportation must submit to the Governor and General Assembly from December 1, 2009 to December 31, 2008. The shortened deadline does not provide adequate time to conduct an effective and comprehensive study that will assure the provision of useful data and meaningful recommendations. This disapproval action will provide the Department of Transportation with adequate time to complete this statewide study by maintaining the original deadline of December 1, 2009.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2432 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1180

APPROPRIATIONS — JUSTICE SYSTEM

H.F. 2660

AN ACT relating to and making appropriations to the justice system.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. DEPARTMENT OF JUSTICE.

1. There is appropriated from the general fund of the state to the department of justice for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the general office of attorney general for salaries, support, maintenance, and miscellaneous purposes, including the prosecuting attorneys training program, victim assistance grants, office of drug control policy (ODCP) prosecuting attorney program, and odometer fraud enforcement, and for not more than the following full-time equivalent positions:

..... $ 9,437,720
..... FTEs 226.50

It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph, the department of justice shall maintain a record of the estimated time incurred representing each agency or department.

b. For victim assistance grants:

..... $ 150,000

The funds appropriated in this lettered paragraph 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.

It is the intent of the general assembly to appropriate from the general fund of the state to the department of justice for victim assistance grants the following amount: $1,000,000 for the fiscal year beginning July 1, 2009, and ending June 30, 2010.

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 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

As a condition of receiving the appropriation in this lettered paragraph, the department of justice shall transfer at least $3,200,000 from the victim compensation fund established in section 915.94 to the victim assistance grant program.

As a condition of receiving the appropriation in this lettered paragraph, the department of justice shall transfer at least $850,000 from the proceeds of forfeited property delivered to the department pursuant to section 809A.17 to be used for the victim assistance grant program.

c. For legal services for persons in poverty grants as provided in section 13.34:

..... $ 2,000,000

d. For the purpose of funding farm mediation services and other farm assistance program provisions in accordance with sections 13.13 through 13.24:

..... $ 300,000

2. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2009, 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 also report actual reimbursements for the fiscal year commencing July 1, 2007, and actual and expected reimbursements for the fiscal year commencing July 1, 2008.

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 services agency. The department of justice shall submit the report on or before January 15, 2009.

Sec. 2. 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, 2008, and ending June 30, 2009, 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:

..... $ 3,101,884
..... FTEs 27.00

Sec. 3. DEPARTMENT OF CORRECTIONS — FACILITIES.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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, and miscellaneous purposes:

. . . . . $ 44,756,586

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 31,428,054

As a condition of the funds appropriated in this lettered paragraph, the department of corrections shall replace expired federal funding by expending at least $238,252 for continuation of a treatment program that prepares offenders for on-going therapeutic treatment programs offered by the department and maintaining at least 4.75 full-time equivalent positions for the program.

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, and miscellaneous purposes:

. . . . . $ 58,128,271

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 27,978,941

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 27,290,452

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 9,262,685

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 25,207,465

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, and miscellaneous purposes:

. . . . . $ 15,935,768

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 29,823,711

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:

. . . . . $ 967,983

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

. . . . . $ 241,293

2. The department of corrections shall use funds appropriated in subsection 1 to continue to contract for the services of a Muslim imam.

Sec. 4. DEPARTMENT OF CORRECTIONS — ADMINISTRATION.

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For general administration, including salaries, support, maintenance, employment of an education director to administer a centralized education program for the correctional system, and miscellaneous purposes:

. . . . . $ 5,050,732

(1) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph the department of corrections shall not, except as otherwise provided in subparagraph (3), 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, 2008, for the privatization of services performed by the department using state employees as of July 1, 2008, 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 co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system.

(2) 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.

(3) It is the intent of the general assembly that as a condition of receiving the appropriation provided in this lettered paragraph 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.

b. For educational programs for inmates at state penal institutions:

. . . . . $ 1,570,358

As a condition of receiving the appropriation in this lettered paragraph, the department of corrections shall transfer at least $300,000 from the canteen operating funds established pursuant to section 904.310 to be used for correctional educational programs funded in this lettered paragraph. In addition, as a condition of receiving the appropriation made in this lettered paragraph, the department of corrections shall expend, from the funds available to the department, at least $300,000 more in the fiscal year beginning July 1, 2008, and ending June 30, 2009, than was expended in the previous fiscal year, for correctional education programs.

It is the intent of the general assembly that moneys appropriated in this lettered paragraph 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 lettered paragraph 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 lettered paragraph 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 lettered paragraph until the close of the succeeding fiscal year.

c. For the development of the Iowa corrections offender network (ICON) data system:
..... $ 427,700

d. For offender mental health and substance abuse treatment:
..... $ 25,000

e. For viral hepatitis prevention and treatment:
..... $ 188,000

2. 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, 2008; 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, 2008, 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.

3. The department of corrections shall provide a smoking cessation program to offenders committed to the custody of the director or who are otherwise detained by the department, that complies with legislation enacted restricting or prohibiting smoking on the grounds of correctional institutions.

4. As a condition of receiving the appropriations made in this section, the department of corrections shall develop and implement offender reentry centers in Black Hawk and Polk counties to provide transitional planning and release primarily for offenders released from the Iowa correctional institution for women at Mitchellville and the Fort Dodge correctional facility. Programming shall include minority and gender-specific responsivity, employment, substance abuse treatment, mental health services, housing, and family reintegration. The department of corrections shall collaborate with the first and fifth judicial district departments of correctional services, Iowa department of workforce development, department of human services, community-based providers and faith-based organizations, and local law enforcement.

Sec. 5. 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, 2008, and ending June 30, 2009, for the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, 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:
..... $ 13,103,903

As a condition of the funds appropriated in this lettered paragraph, the department of corrections shall replace expired federal funding by expending at least $140,000 for the dual diagnosis program and maintaining 1.25 full-time equivalent positions for the program.

b. For the second judicial district department of correctional services:
..... $ 10,835,021

c. For the third judicial district department of correctional services:
..... $ 5,914,624

d. For the fourth judicial district department of correctional services:
..... $ 5,435,240

e. For the fifth judicial district department of correctional services, including funding for electronic monitoring devices for use on a statewide basis:
..... $ 18,813,816

f. For the sixth judicial district department of correctional services:
. . . . . $ 13,991,982

The sixth judicial district department of correctional services shall maintain a youth leadership model program to help at-risk youth. As a part of the program, the district department may recruit college or high school students in the judicial district to work with at-risk youth. The student workers shall be recruited regardless of gender and be recommended by their respective schools as good role models, including but not limited to students who possess capabilities in one or more of the following areas of ability: intellectual capacity, athletics, visual arts, or performing arts.

g. For the seventh judicial district department of correctional services:
. . . . . $ 7,053,660

h. For the eighth judicial district department of correctional services:
. . . . . $ 7,066,926

2. Each judicial district department of correctional services, within the funding available, 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. Each judicial district department of correctional services shall provide alternatives to prison consistent with chapter 901B. The alternatives to prison shall ensure public safety while providing maximum rehabilitation to the offender. A judicial district department of correctional services may also establish a day program.

4. 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.

5. 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.

Sec. 6. DEPARTMENT OF CORRECTIONS — REALLOCATION OF APPROPRIATIONS. Notwithstanding section 8.39, within the funds appropriated in this Act to the department of corrections, the department may reallocate the funds appropriated and allocated as necessary to best fulfill the needs of the correctional institutions, administration of the department, and the judicial district departments of correctional services. However, in addition to complying with the requirements of sections 904.116 and 905.8 and providing notice to the legislative services agency, the department of corrections shall also provide notice to the department of management, prior to the effective date of the revision or reallocation of an appropriation made pursuant to this section. The department shall not reallocate an appropriation or allocation for the purpose of eliminating any program.

Sec. 7. INTENT — REPORTS.

1. The department in cooperation with townships, the Iowa cemetery associations, and other nonprofit or governmental entities may use inmate labor during the fiscal year beginning July 1, 2008, to restore or preserve rural cemeteries and historical landmarks. The department in cooperation with the counties may also use inmate labor to clean up roads, major water sources, and other water sources around the state.

2. Each month the department shall provide a status report regarding private-sector employment to the legislative services agency beginning on July 1, 2008. The report shall include the number of offenders employed in the private sector, the combined number of hours worked by the offenders, and the total amount of allowances, and the distribution of allowances pursuant to section 904.702, including any moneys deposited in the general fund of the state.

Sec. 8. ELECTRONIC MONITORING REPORT. The department of corrections shall submit a report on electronic monitoring to the general assembly, to the co-chairpersons and the ranking members of the joint appropriations subcommittee on the justice system, and to the

legislative services agency by January 15, 2009. The report shall specifically address the number of persons being electronically monitored and break down the number of persons being electronically monitored by offense committed. The report shall also include a comparison of any data from the prior fiscal year with the current year.

Sec. 9. 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. State agencies shall obtain bids from Iowa state industries for purchases of office furniture during the fiscal year beginning July 1, 2008, exceeding $5,000 or in accordance with applicable administrative rules related to purchases for the agency.

Sec. 10. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be allocated as follows for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 21,749,296
..... FTEs 203.00

2. For the fees of court-appointed attorneys for indigent adults and juveniles, in accordance with section 232.141 and chapter 815:

..... $ 31,282,538

Sec. 11. IOWA LAW ENFORCEMENT ACADEMY.

1. There is appropriated from the general fund of the state to the Iowa law enforcement academy for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

..... $ 1,283,115
..... FTEs 30.05

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.

The Iowa law enforcement academy may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

2. The Iowa law enforcement academy may select at least five automobiles of the department of public safety, division of state patrol, prior to turning over the automobiles to the department of administrative services 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 state patrol.

Sec. 12. 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, 2008, and ending June 30, 2009, 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:

.....	$	1,249,992
.....	FTEs	18.50

Sec. 13. 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, 2008, and ending June 30, 2009, 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:

.....	$	6,404,798
.....	FTEs	306.43

The military division may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables of federal funds equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

2. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION

a.[1] For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,271,581
.....	FTEs	35.10

The homeland security and emergency management division may temporarily exceed and draw more than the amount appropriated and incur a negative cash balance as long as there are receivables of federal funds equal to or greater than the negative balance and the amount appropriated in this subsection is not exceeded at the close of the fiscal year.

It is the intent of the general assembly that the homeland security and emergency management division work in conjunction with the department of public safety, to the extent possible, when gathering and analyzing information related to potential domestic or foreign security threats, and when monitoring such threats.

Sec. 14. 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, 2008, and ending June 30, 2009, 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:

.....	$	4,455,581
.....	FTEs	39.00

2. For the division of criminal investigation, including the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of the state's normal contribution rate, as defined in section 97A.8, multiplied by 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:

.....	$	21,121,120
.....	FTEs	286.50

If any of the Indian tribes fail to pay for one full-time equivalent position pursuant to the agreements or compacts entered into between the state and the Indian tribes pursuant to section 10A.104, subsection 10, the number of full-time equivalent positions authorized under this subsection is reduced by one full-time equivalent position.

[1] Section 13, subsection 2 of the enrolled Act does not include a paragraph b

The department shall employ one additional special agent and one additional criminalist for the purpose of investigating cold cases. Prior to employing the additional special agent and criminalist authorized in this paragraph, the department shall provide a written statement to prospective employees that states to the effect that the positions are being funded by a temporary federal grant and there are no assurances that funds from other sources will be available after the federal funding expires. If the federal funding for the additional positions expires during the fiscal year, the number of full-time equivalent positions authorized in this subsection is reduced by two full-time equivalent positions.

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 or gambling structure regulated after July 1, 2008, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2008. One additional gaming enforcement officer, up to a total of four per riverboat or gambling structure, may be employed for each riverboat or gambling structure 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. For the criminalistics laboratory fund created in section 691.9:

..... $ 342,000

4. 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 the state's normal contribution rate, as defined in section 97A.8, multiplied by 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:

..... $ 6,302,046
..... FTEs 82.00

b. For the division of narcotics enforcement for undercover purchases:

..... $ 123,343

5. For the division of state fire marshal, for fire protection services as provided through the state fire service and emergency response council as created in the department, and for the state's contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of the state's normal contribution rate, as defined in section 97A.8, multiplied by the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 3,991,394
..... FTEs 59.00

6. For the division of state patrol, 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 the state's normal contribution rate, as defined in section 97A.8, multiplied by the salaries for which the funds are appropriated, and for not more than the following full-time equivalent positions:

..... $ 50,353,777
..... FTEs 536.00

As a condition of receiving the appropriation made in this subsection, the department of public safety shall increase expenditures for overtime paid to peace officer members of the state patrol by $350,000 and increase expenditures for fuel used by the motor vehicles of such members by $227,000. In addition as a condition of receiving the appropriation made in this subsection, the department shall hire and employ one additional peace officer member of the state patrol.

It is the intent of the general assembly that members of the state patrol be assigned to patrol the highways and roads in lieu of assignments for inspecting school buses for the school districts.

7. For deposit in the sick leave benefits fund established under section 80.42 for all depart-

mental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

. . . . . $ 316,179

8. For costs associated with the training and equipment needs of volunteer fire fighters:

. . . . . $ 669,587

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 only for the purpose designated in this subsection until the close of the succeeding fiscal year.

Notwithstanding section 8.39, within the funds appropriated in this section the department of public safety may reallocate funds as necessary to best fulfill the needs provided for in the appropriation. However, the department shall not reallocate an appropriation made to the department in this section unless notice of the reallocation is given to the legislative services agency and the department of management prior to the effective date of the reallocation. The notice shall include information about the rationale for reallocating the appropriation. The department shall not reallocate an appropriation made in this section for the purpose of eliminating any program.

Sec. 15. 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, 2008, and ending June 30, 2009, 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:

. . . . . $ 1,504,036
. . . . . FTEs 29.00

The Iowa state civil rights commission may enter into a contract with a nonprofit organization to provide legal assistance to resolve civil rights complaints.

Sec. 16. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DIVISION. There is appropriated from the wireless E911 emergency communications fund created in section 34A.7A to the administrator of the homeland security and emergency management division of the department of public defense for the fiscal year beginning July 1, 2008, and ending June 30, 2009, an amount not exceeding $200,000 to be used for implementation, support, and maintenance of the functions of the administrator and program manager under chapter 34A and to employ the auditor of the state to perform an annual audit of the wireless E911 emergency communications fund.

Sec. 17. IOWA LAW ENFORCEMENT ACADEMY — FEES. Notwithstanding section 80B.11B, the Iowa law enforcement academy may charge more than one-half the cost of providing the basic training course if a majority of the Iowa law enforcement academy council authorizes charging more than one-half of the cost of providing basic training. This section is repealed on June 30, 2009.

Sec. 18. INTERIM REPORTING — IMPLEMENTATION. The board of parole shall develop and implement the certificate of employability program as provided in section 906.19, as enacted by this Act, by July 1, 2009. The board shall file an interim status report regarding the certificate of employability program development with the general assembly and the legislative services agency by January 1, 2009.

Sec. 19. CENTRAL WAREHOUSE AND SUPPLY DEPOT OF DEPARTMENT OF HUMAN SERVICES. It is the intent of the general assembly that upon completion of the central warehouse and supply depot of the department of corrections established pursuant to section

904.118A, as enacted by this Act, the department of human services shall cease utilizing the central warehouse and supply depot of the department of human services established pursuant to section 218.100.

Sec. 20. Section 135.11, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 32. In consultation with the department of corrections, the antibiotic resistance task force, and the American federation of state, county and municipal employees, develop educational programs to increase awareness and utilization of infection control practices in institutions listed in section 904.102.

**Sec. 21. Section 822.2, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:*

*Any person who has been convicted of, or sentenced for, a public offense and who claims any of the following may institute~~, without paying a filing fee,~~ a proceeding under this chapter to secure relief:**

Sec. 22. Section 904.108, subsection 4, Code 2007, is amended to read as follows:

4. The director may expend moneys from the support allocation of the department as reimbursement for replacement or repair of personal items of the department's employees damaged or destroyed by clients of the department during the employee's tour of duty. However, the reimbursement shall not exceed ~~one~~ three hundred ~~fifty~~ dollars for each item. The director shall establish rules in accordance with chapter 17A to carry out the purpose of this subsection.

Sec. 23. NEW SECTION. 904.118A CENTRAL WAREHOUSE FUND.

The department shall establish a fund for maintaining and operating a central warehouse and supply depot and distribution facility for surplus government products, canned goods, paper products, other staples, and for such other items as determined by the department. A department or agency of the state or a political subdivision of this state may purchase such products, goods, staples, or other items from the central warehouse and supply depot. The fund shall be permanent and shall be composed of the receipts from the sales of merchandise and the recovery of handling, operating, and delivery charges for such merchandise. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund. Notwithstanding section 12C.7, interest and earnings on moneys deposited in the fund shall be credited to the fund.

Sec. 24. NEW SECTION. 906.19 CERTIFICATES OF EMPLOYABILITY.

1. As used in this section, "person" means a person on parole or a person who is no longer on parole but is currently unemployed or underemployed.

2. The board shall develop and implement a certificate of employability program. The certificate program shall be developed to maximize the opportunities for rehabilitation and employability of a person and provide protection of the community, while considering the needs of potential employers.

3. Issuance of a certificate of employability pursuant to the program shall be based upon the successful completion of designated programs and other relevant factors determined by the board.

4. A person required to register under chapter 692A shall be ineligible for the certificate of employability program.

5. The board shall develop and adopt rules pursuant to chapter 17A for the implementation and administration of this section.

Approved May 9, 2008, with exception noted.

CHESTER J. CULVER, *Governor*

* Item veto; see message at end of the Act

Dear Mr. Secretary:

I hereby transmit House File 2660, an Act relating to and making appropriations to the justice system. House File 2660 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve Section 21 in its entirety. This section requires payment of a filing fee for all persons seeking post-conviction relief under Code Chapter 822.

Post-conviction relief actions may be brought based on various legal grounds, including challenges to convictions with constitutional and statutory implications and challenges to prison discipline, which may be less substantial. By requiring a filing fee in every case, this legislation could eliminate a small number of potentially frivolous lawsuits challenging, for instance, prison discipline, but would have a chilling effect on those indigent persons unjustly convicted whose only recourse may be post-conviction relief.

The potential diminishment such persons' fundamental right of access to our courts is of special concern to this Administration, in light of the disturbing fact that our State is now stung with an unfortunate reputation for incarcerating a higher percentage of our minority citizens than any other state in our nation.

While it may be true that most people who file for post-conviction relief are incarcerated, are most likely indigent and may be able to have the filing fees waived, it is also the case that obtaining such a waiver comes with a cost both in court-time, necessary to consider the application to proceed without paying the filing fee, and in indigent defense costs, arising from fees payable to a court-appointed attorney for preparing the papers to obtain the filing fee waiver.

While this Administration is intolerant of frivolous lawsuits, it is also of the belief that the serious costs and consequences in denying or inhibiting court access to those who are wrongfully convicted or incarcerated far out-weigh the benefits derived from any potential reduction in the number of frivolous law suits that this provision may well have been aimed to achieve.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 2660 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1181

APPROPRIATIONS — EDUCATION

H.F. 2679

AN ACT relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of education, and the state board of regents, providing for related matters and including effective date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
EDUCATION APPROPRIATIONS
DEPARTMENT FOR THE BLIND

Section 1. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 2,484,953
..... FTEs 92.24

COLLEGE STUDENT AID COMMISSION

Sec. 2. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 390,685
..... FTEs 4.30

The commission shall renegotiate all agreements with student loan lenders who signed agreements with the commission on or before September 15, 2007. Such renegotiated agreements shall implement the most current regulations adopted as of November 1, 2007, by the United States Department of Education pursuant to the federal Higher Education Act of 1965. By July 1, 2008, the commission shall provide to lenders educational materials and training describing lender responsibilities.

2. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program:

..... $ 1,070,976

3. DES MOINES UNIVERSITY — OSTEOPATHIC MEDICAL CENTER

a. For forgivable loans to Iowa students attending Des Moines university — osteopathic medical center under the forgivable loan program pursuant to section 261.19:

..... $ 100,000

To receive funds appropriated pursuant to this paragraph, Des Moines university — osteopathic medical center shall match the funds with institutional funds on a dollar-for-dollar basis.

b. For Des Moines university — osteopathic medical center for an initiative in primary health care to direct primary care physicians to shortage areas in the state:

..... $ 346,451

4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

. . . . . $ 3,800,000

5. TEACHER SHORTAGE LOAN FORGIVENESS PROGRAM

For the teacher shortage loan forgiveness program established in section 261.112:

. . . . . $ 485,400

6. ALL IOWA OPPORTUNITY ASSISTANCE PROGRAM

For purposes of the all Iowa opportunity assistance program, which includes the all Iowa opportunity foster care grant program established pursuant to section 261.6, and the all Iowa opportunity scholarship program established pursuant to section 261.87:

. . . . . $ 4,000,000

From the funds appropriated pursuant to this subsection, up to $500,000 shall be used for purposes of the all Iowa opportunity foster care grant program established pursuant to section 261.6, and at least $500,000 shall be used for purposes of the all Iowa opportunity scholarship program as established in section 261.87.

If the funds appropriated by the general assembly to the college student aid commission for the 2008-2009 fiscal year for purposes of the all Iowa opportunity scholarship program exceed $500,000, "eligible institution" as defined in section 261.87, shall, during the 2008-2009 fiscal year, include accredited private institutions as defined in section 261.9, subsection 1.

7. REGISTERED NURSE AND NURSE EDUCATOR LOAN FORGIVENESS PROGRAM

For purposes of the registered nurse and nurse educator loan forgiveness program established pursuant to section 261.23:

. . . . . $ 100,000

a. It is the intent of the general assembly that the commission continue to consider funds allocated pursuant to this subsection as funds that meet the state matching funds requirements of the federal leveraging educational assistance program and the federal supplemental leveraging educational assistance program established under the Higher Education Act of 1965, as amended.

b. It is the intent of the general assembly that appropriations made for purposes of the registered nurse and nurse educator loan forgiveness program for the fiscal year beginning July 1, 2008, and each succeeding fiscal year, be distributed under the program created pursuant to section 261.23, for registered nurses and nurse educators.

8. BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT PROGRAM

For purposes of the barber and cosmetology arts and sciences tuition grant program established pursuant to section 261.18, if enacted by this Act:

. . . . . $ 50,000

9. WASHINGTON, D.C., INTERNSHIP GRANT

For a grant to a national nonprofit organization with over 30 years experience of assisting college students to serve internships in Washington, D.C., helping place during the 2006-2007 academic year over 1,400 students from across the world in internships, including over 40 students from Iowa colleges and universities, in order to provide students enrolled in Iowa accredited higher education institutions, as defined in section 261.92, subsection 1, and is participating in a one-semester internship opportunity in Washington, D.C., with financial aid to offset costs related to the internship:

. . . . . $ 100,000

Up to 50 percent of the funds shall be dedicated to students participating in the two-to-one federal and state matching agricultural biofuels from biomass internship pilot program if the program is contained in federal legislation enacted and funded by Congress during the 2008-2009 fiscal year.

Sec. 3. WORK-STUDY APPROPRIATION FOR FY 2008-2009. Notwithstanding section 261.85, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the amount appropriated from the general fund of the state to the college student aid commission for the work-

study program under section 261.85 shall be $995,000, and from the moneys appropriated in this section, $484,972 shall be allocated to institutions of higher education under the state board of regents and community colleges and the remaining dollars appropriated in this section shall be allocated by the college student aid commission on the basis of need as determined by the portion of the federal formula for distribution for work-study funds that relates to the current need of institutions.

Sec. 4. CHIROPRACTIC LOAN FUNDS. Notwithstanding section 261.72, from the funds deposited in the chiropractic loan revolving fund created pursuant to section 261.72, $100,000 shall be used for purposes of the chiropractic loan forgiveness program established in section 261.73, if enacted by this Act.

DEPARTMENT OF EDUCATION

Sec. 5. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 8,720,341
..... FTEs 89.37

a. From the funds appropriated in this subsection, $225,000 shall be allocated for purposes of conducting, supporting, and managing the accreditation of school districts and for purposes of various other duties such as conducting reorganization feasibility studies.

*b. *Of the full-time equivalent positions authorized in this subsection, 10.00 full-time equivalent positions are allocated to support management of the community college management information system; for the expansion of the state board of education model core curriculum; for the development and implementation of strategic educational goals; for the collection and dissemination of resources related to human growth and development curriculum; for district sharing incentive purposes; and for the senior year plus program study.**

c. Of the full-time equivalent positions authorized in this subsection, 1.00 full-time equivalent position is allocated for district sharing incentive purposes and 4.00 full-time equivalent positions are allocated for purposes of the student achievement and teacher quality program.

d. The director of the department of education shall ensure that all school districts are aware of the state education resources available on the state web site for listing teacher job openings and shall make every reasonable effort to enable qualified practitioners to post their resumes on the state web site. The department shall administer the posting of job vacancies for school districts, accredited nonpublic schools, and area education agencies on the state web site. The department may coordinate this activity with the Iowa school board association or other interested education associations in the state. The department shall strongly encourage school districts to seek direct claiming under the medical assistance program for funding of school district nursing services for students.

e. The department shall compile a list of state-funded, competitive grant programs administered by the department. The department shall provide specific but nonidentifying information regarding the children served, money spent per program, and the use and availability of private funds to support the programs. The department shall submit the list and information to the general assembly by January 15, 2009.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 576,613
..... FTEs 13.50

* Item veto; see message at end of the Act

3. VOCATIONAL REHABILITATION SERVICES DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,667,575
..... FTEs 281.50

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, 2009, 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:

..... $ 55,145
..... 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.

c. For the entrepreneurs with disabilities program pursuant to section 259.4, subsection 9, if enacted by 2008 Iowa Acts, House File 2214:[1]

..... $ 200,000

d. For a grant to a center for independent living established in accordance with the federal Rehabilitation Act of 1973, that is designed and operated within a local community by individuals with disabilities and provides an array of independent living services, and which adheres to the state plan for independent living required in order to receive federal Part B dollars for independent living services for Iowans with disabilities:

..... $ 250,000

By October 1, 2009, the grant recipient shall submit a written report to the division and the state board of education regarding the expenditure of moneys received from the state under this lettered paragraph.

4. STATE LIBRARY

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,879,827
..... FTEs 19.00

b. For the enrich Iowa program:

..... $ 1,823,432

5. LIBRARY SERVICE AREA SYSTEM

For state aid:

..... $ 1,586,000

6. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 8,804,620
..... FTEs 84.00

[1] Not enacted; but see chapter 1007 herein

The number of full-time equivalent positions authorized for the division pursuant to this subsection reflects a reduction to account for the transfer of four individuals currently providing Iowa communications network classroom maintenance from the division to the Iowa communications network.

7. REGIONAL TELECOMMUNICATIONS COUNCILS

For state aid:

. . . . . $ 1,364,525

The regional telecommunications councils established in section 8D.5 shall use the funds appropriated in this subsection to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

8. VOCATIONAL EDUCATION TO SECONDARY SCHOOLS

For reimbursement for vocational education expenditures made by secondary schools:

. . . . . $ 2,936,904

Funds appropriated in this subsection shall be used for expenditures made by school districts to meet the standards set in sections 256.11, 258.4, and 260C.14 as a result of the enactment of 1989 Iowa Acts, chapter 278. Funds shall be used as reimbursement for vocational education expenditures made by secondary schools in the manner provided by the department of education for implementation of the standards set in 1989 Iowa Acts, chapter 278.

9. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that shall be disbursed according to federal regulations, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 2,509,683
. . . . . FTEs 17.43

10. IOWA EMPOWERMENT FUND

For deposit in the school ready children grants account of the Iowa empowerment fund created in section 28.9:

. . . . . $ 22,302,006

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2008, and ending June 30, 2009, not more than $300,000 is allocated for the community empowerment office and other technical assistance activities, and of that amount not more than $50,000 shall be used to administer the early childhood coordinator's position pursuant to section 28.3, subsection 7, and not more than $50,000 shall be used to promote and provide ongoing support to the parent web site and to support and coordinate a network of web sites that provide support and resources to parents and the general public. 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, the university of northern Iowa, 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. The Iowa empowerment board shall conduct a study of the role that community empowerment can play in strengthening family, friend, and neighbor care to help achieve empowerment goals. In conducting the study, the board may do any or all of the following:

(1) Review national models and identify best practices in providing information, networking, and learning opportunities and activities for family, friend, and neighbor caregivers.

(2) Examine and highlight current efforts of local empowerment boards to strengthen family, friend, and neighbor caregiving.

(3) Convene a working group, including representatives from child care resource and referral centers, libraries, community centers, and family, friend, and neighbor caregivers, to provide advice to the board on family, friend, and neighbor care.

(4) Articulate the ways that community empowerment boards can use school ready children grants account funds to support family, friend, and neighbor care.

(5) Host a state summit on family, friend, and neighbor care.

(6) Examine potential public and private partnerships to provide information, networking, and learning opportunities for family, friend, and neighbor caregivers.

The Iowa empowerment board shall submit its findings and recommendations in a report to the governor and general assembly by January 15, 2009. For purposes of this paragraph, "family, friend, and neighbor care" means child care, usually provided without cost and on a voluntary basis, by a family member, a friend, or a neighbor whose reason for providing that care is a strong existing personal relationship with the parent and the parent's child or children. Particular attention shall be given to grandparents providing such care, including grandparents who may be the primary caregivers for their grandchildren.

c. As a condition of receiving funding appropriated in this subsection, each community empowerment area board shall report to the Iowa empowerment board progress on each of the state indicators approved by the state board, as well as progress on local indicators. The community empowerment area board must also submit a written plan amendment extending by one year the area's comprehensive school ready children grant plan developed for providing services for children from birth through five years of age and provide other information specified by the Iowa empowerment board. The amendment may also provide for changes in the programs and services provided under the plan. The Iowa empowerment board shall establish a submission deadline for the plan amendment that allows a reasonable period of time for preparation of the plan amendment and for review and approval or request for modification of the plan amendment by the Iowa empowerment board. In addition, the community empowerment board must continue to comply with reporting provisions and other requirements adopted by the Iowa empowerment board in implementing section 28.8.

d. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund that is used for distribution to community empowerment areas, $4,650,000 shall be used to assist low-income parents with preschool tuition; for other supportive services for children ages three, four, and five who are not attending kindergarten, in order to increase the basic family income eligibility requirement to not more that[2] 200 percent of the federal poverty level; and for preschool program expenses not covered under chapter 256C. In addition, if sufficient funding is available after addressing the needs of those who meet the basic income eligibility requirement, a community empowerment area board may provide for eligibility for those with a family income in excess of the basic income eligibility requirement through use of a sliding scale or other copayment provision.

e. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund, $1,000,000 shall be used for support of professional development and training activities for persons working in early care, health, and education by the Iowa empowerment board in collaboration with representation from the Iowa state university of science and technology cooperative extension service in agriculture and home economics, the university of northern Iowa, area education agencies, community colleges, child care resource and referral services, and community empowerment area boards. Expenditures shall be limited to professional development and training activities agreed upon by the parties participating in the collaboration.

f. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the Iowa empowerment fund, $100,000 shall be allocated to the public broadcasting division of the department of education for support of community empowerment as a ready-to-learn coordinator.

g. Grant amount award reductions for the 2008-2009 fiscal year resulting from the Iowa empowerment board's restriction on carryforward of grant funding may be applied to categorical funding requirements at the discretion of each community empowerment area, regardless of the categorical sources of the area's fiscal year 2006-2007 ending balance.

h. The Iowa empowerment board shall develop and implement a plan to strengthen the fiscal accountability of local areas. The plan shall not include hiring additional staff. The plan shall address fiscal accountability for community empowerment area boards, including but

[2] According to enrolled Act; the word "than" probably intended

not limited to training for board members and coordinators, and shall address contractual arrangements with and fiscal oversight of program providers. The plan shall provide for assistance to the community empowerment office and the community empowerment assistance team to improve state fiscal oversight of local boards and ongoing training for community empowerment area boards and coordinators. The Iowa empowerment board and the community empowerment office shall submit a report to the general assembly and the legislative services agency by January 1, 2009.

11. BIRTH TO AGE THREE SERVICES

For expansion of the federal Individuals With Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446, as amended to January 1, 2008, birth through age three services due to increased numbers of children qualifying for those services:

. . . . . $ 1,721,400

From the funds appropriated in this subsection, $421,400 shall be allocated to the child health specialty clinic at the state university of Iowa to provide additional support for infants and toddlers who are born prematurely, drug-exposed, or medically fragile.

12. FOUR-YEAR-OLD PRESCHOOL PROGRAM

For allocation to eligible school districts for the four-year-old preschool program under chapter 256C, and for not more than the following full-time equivalent positions:

. . . . . $ 15,000,000
. . . . . FTEs 3.00

From the moneys appropriated pursuant to this subsection, not more than $330,000 shall be used by the department for administration of the four-year-old preschool program established pursuant to chapter 256C.

13. 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:

. . . . . $ 690,165

Funding under this subsection is limited to $20 per pupil and shall not exceed the comparable services offered to resident public school pupils.

14. 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:

. . . . . $ 600,000

15. BEGINNING ADMINISTRATOR MENTORING AND INDUCTION PROGRAM

For purposes of administering the beginning administrator mentoring and induction program established pursuant to chapter 284A:

. . . . . $ 250,000

16. CORE CURRICULUM AND CAREER INFORMATION AND DECISION-MAKING SYSTEM

For purposes of implementing the statewide core curriculum for school districts and accredited nonpublic schools and a state-designated career information and decision-making system as provided in 2008 Iowa Acts, Senate File 2216,[3] if enacted:

. . . . . $ 2,192,351

17. IOWA SENIOR YEAR PLUS PROGRAM

For purposes of implementing the senior year plus program established pursuant to section 261E.1, if enacted by this Act:

. . . . . $ 1,900,000

18. COMMUNITY COLLEGES

For general state financial aid to merged areas as defined in section 260C.2 in accordance with chapters 258 and 260C:

. . . . . $ 183,062,414

Notwithstanding the allocation formula in section 260C.18C, the funds appropriated in this subsection shall be allocated as follows:

[3] Chapter 1127 herein

a.	Merged Area I	$	9,074,424
b.	Merged Area II	$	9,840,581
c.	Merged Area III	$	9,045,521
d.	Merged Area IV	$	4,449,263
e.	Merged Area V	$	9,992,314
f.	Merged Area VI	$	8,656,370
g.	Merged Area VII	$	12,826,359
h.	Merged Area IX	$	15,963,828
i.	Merged Area X	$	27,662,970
j.	Merged Area XI	$	27,602,009
k.	Merged Area XII	$	10,522,547
l.	Merged Area XIII	$	10,685,790
m.	Merged Area XIV	$	4,505,374
n.	Merged Area XV	$	14,147,609
o.	Merged Area XVI	$	8,087,455

Sec. 6. COMMUNITY COLLEGE SALARIES. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to community colleges to supplement faculty salaries:

..... $ 1,500,000

Sec. 7. STUDY OF POSTSECONDARY RIGOR. The legislative council shall commission a study by an independent entity to evaluate and compare the rigor of the first two years of study at community colleges and institutions of higher education governed by the state board of regents. The legislative council shall make the commission's report available to the public by July 1, 2009.

Sec. 8. BOARD OF EDUCATIONAL EXAMINERS LICENSING FEES. Notwithstanding section 272.10, subsection 2, in addition to the percentage of licensing fees required to be deposited with the treasurer of state and credited to the general fund of the state pursuant to section 272.10, subsection 2, the executive director of the board of educational examiners shall, at the close of the fiscal year beginning July 1, 2007, transfer the amount of $300,000 to the department of education. The department shall use the transferred funds during the fiscal year beginning July 1, 2008, for implementation of early head start projects addressing the comprehensive cognitive, social, emotional, and developmental needs of children from birth to age three, including prenatal support for qualified families. The early head start projects shall promote healthy prenatal outcomes, healthy family functioning, and strengthen the development of infants and toddlers in low-income families.

Sec. 9. SCHOOL DISTRICT TEACHER BACKGROUND CHECKS — FY 2007-2008. A school district that requested a background check of a teacher applicant in the fiscal year beginning July 1, 2007, in accordance with section 279.13, subsection 1, paragraph "b", from an entity other than the division of criminal investigation shall meet the requirements of section 279.13, subsection 1, paragraph "b", as amended by this Act, if enacted, for the teacher applicant for whom the background check was conducted in the fiscal year beginning July 1, 2007.

Sec. 10. DEPARTMENT OF EDUCATION — COMMUNITY COLLEGE ACCREDITATION AND ACCOUNTABILITY REVIEW PROCESS.

1. The department of education shall review the community college accreditation process and the compliance requirements contained in the accreditation criteria. The review shall consider measures to ensure consistency in program quality statewide, adequate oversight of community college programming by the state board of education and, in consultation with the

community college management information system standing committee, consistency in definitions for information and data requirements; and identify barriers to providing quality programming, methods to improve compensation of community college faculty, and system performance measures that adequately respond to identified needs and concerns. The review shall include an examination of community college accreditation processes and system performance measures from other states and regions.

2. In conducting the review, the department shall collaborate with community college accreditation and quality faculty plan committees and the division of community colleges and workforce preparation's accreditation advisory committee, and shall ensure that the advisory committee includes members appointed by the director of the department in consultation with the executive director of the Iowa association of community college trustees.

3. The department shall submit a progress report to the general assembly by January 15, 2009, and shall submit its findings and recommendations in a final report to the general assembly by January 15, 2010.

Sec. 11. DEPARTMENT OF EDUCATION — LIAISON ADVISORY COMMITTEE ON TRANSFER STUDENTS. The department of education shall convene a liaison advisory committee on transfer students to study articulation and transferability issues, measures, and agreements. The advisory committee shall be comprised of three persons representing the community colleges and a representative from each of the institutions of higher learning governed by the state board of regents. The department shall provide staffing assistance to the committee. The advisory committee shall submit a progress report to the general assembly by January 15, 2009. The progress report shall include a history of articulation between the community college and regents universities, the number of statewide and institution-to-institution articulation agreements in place currently, and the advisory committee's recommendations.

STATE BOARD OF REGENTS

Sec. 12. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 1,263,437
..... FTEs 16.00

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 services agency.

The state board of regents shall not circumvent the requirements of section 270.10 and, as the board develops any plan regarding the Iowa braille and sight saving school, it shall comply with the requirements of section 270.10.

b. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 108,698

c. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 80,467

d. For funds to be allocated to the quad-cities graduate studies center:

..... $ 160,806

e. For funds to be distributed to the midwestern higher education compact to pay Iowa's member state annual obligation:

..... $ 90,000

f. For funds to be distributed to Iowa public radio for public radio operations:

..... $ 500,000

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:

	$	258,011,947
	FTEs	5,058.55

b. Center for disabilities and development

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	6,726,227
	FTEs	130.37

From the funds appropriated in this lettered paragraph, $200,000 shall be allocated for purposes of the employment policy group.

c. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	2,726,485
	FTEs	38.25

d. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	4,182,151
	FTEs	102.50

e. 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 the provisions of chapter 148D for the family practice program, including salaries and support, and for not more than the following full-time equivalent positions:

	$	2,179,043
	FTEs	190.40

f. 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:

	$	732,388
	FTEs	57.97

g. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

	$	184,578
	FTEs	2.10

h. 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 position:

	$	67,877
	FTEs	1.00

i. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

	$	902,687
	FTEs	6.28

j. 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:

..... $ 793,920
..... FTEs 5.89

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.

k. Birth defects registry

For the birth defects registry, and for not more than the following full-time equivalent position:

..... $ 46,685
..... FTEs 1.00

l. Larned A. Waterman Iowa nonprofit resource center

For the Larned A. Waterman Iowa nonprofit resource center:

..... $ 200,000

m. Agricultural health and safety programs

For a program for farmers with disabilities:

..... $ 130,000

Funds appropriated for purposes of this lettered paragraph shall be used for a grant to a national nonprofit organization with over 80 years of experience in assisting children and adults with disabilities and special needs. The funds shall be used for a nationally recognized program that began in 1986 and has been replicated in at least 30 other states, but which is not available through any other entity in this state, that provides assistance to farmers with disabilities in all 99 counties to allow the farmers to remain in their own homes and be gainfully engaged in farming through provision of agricultural worksite and home modification consultations, peer support services, services to families, information and referral, and equipment loan services.

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:

..... $ 204,145,406
..... FTEs 3,647.42

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 34,493,006
..... FTEs 546.98

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 21,900,084
..... FTEs 383.34

d. Leopold center

For agricultural research grants at Iowa state university of science and technology under section 266.39B, and for not more than the following full-time equivalent positions:

..... $ 490,572
..... FTEs 11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8:

..... $ 220,708

f. Veterinary diagnostic laboratory

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:

..... $ 1,000,000

(1) Iowa state university shall not reduce the amount that it allocates to support the college of veterinary medicine from any other source due to the appropriation made in this lettered paragraph.

(2) If by the end of the fiscal year Iowa state university fails to allocate the moneys appropriated in this lettered paragraph to the college of veterinary medicine in accordance with this lettered paragraph, the moneys appropriated in this lettered paragraph for that fiscal year shall revert to the general fund.

(3) It is the intent of the general assembly that a future general assembly appropriate moneys to Iowa state university of science and technology for the designated fiscal year, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:

FY 2009-2010 ..... $ 4,000,000

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:

..... $ 92,495,485
..... FTEs 1,449.48

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

..... $ 219,279
..... FTEs 3.00

c. Science, technology, engineering, and mathematics (STEM) collaborative initiative

For purposes of establishing a science, technology, engineering, and mathematics (STEM) collaborative initiative:

..... $ 4,000,000

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 10,077,191
..... FTEs 126.60

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,674,351
..... FTEs 62.87

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, prescription, and transportation costs for students at these schools pursuant to section 270.5:

..... $ 15,020

Sec. 13. BOARD OF REGENTS MATHEMATICS AND SCIENCE COLLABORATIVE STUDY — WOMEN AND MINORITIES IN STEM PROGRAMS.

1. The state board of regents shall conduct a mathematics and science collaborative study. The purpose of the study shall be to collect data and report on the number and proportion of

women and minorities enrolled in science, technology, engineering, and mathematics programs, including high school programs such as project lead the way. The study shall develop and submit to the board recommendations for science, technology, engineering, and technology-related programming measures for improving the number and proportion of women and minorities in science, technology, engineering, and mathematics university programs. The state board of regents shall submit the data and its findings and recommendations in a report to the general assembly by January 15, 2009.

2. The state board of regents shall direct the universities it governs to take every reasonable measure to improve the number and proportion of women and minorities in university science, technology, engineering, and mathematics programs and colleges.

Sec. 14. BABY BOOM GENERATION WORKFORCE STUDY. If sufficient funding is approved or appropriated by the general assembly, or if a local political subdivision provides sufficient funding, or if sufficient private funding becomes available to the state board of regents for such purpose, the department of sociology at Iowa state university of science and technology, in coordination with Iowa state university extension, shall conduct a study regarding current and potential efforts to retain Iowans of the baby boom generation and attract those who have emigrated from the state as well as potential new Iowans of the baby boom generation. Such efforts may include but are not limited to community attractions, recreation, health and wellness opportunities, and other quality of life measures. The study shall also consider those who reside in other states for part of the year, the career opportunities available to baby boomers, the educational needs of baby boomers and the career experiences and productivity benefits that baby boomers bring to Iowa's workforce. For purposes of this section, "baby boom generation" and "baby boomers" includes people born no earlier than 1946 and no later than 1964. The results of the study shall be made available in a report to the governor and the general assembly by January 15, 2009.

Sec. 15. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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. 16. Notwithstanding section 270.7, the department of administrative services 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, 2008, 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. 17. Section 28.8, subsection 5, paragraphs a and e, Code 2007, are amended to read as follows:

a. A school ready children grant shall be awarded to a community board ~~for a three-year period, with annual payments made to the community board~~ annually. The Iowa empowerment board may grant an extension from the award date and any application deadlines based upon the award date, to allow for a later implementation date in the initial year in which a community board submits a comprehensive school ready grant plan to the Iowa empowerment board. However, receipt of continued funding is subject to submission of the required annual report and the Iowa board's determination that the community board is measuring, through the use of performance and results indicators developed by the Iowa board with input from community boards, progress toward and is achieving the desired results identified in the grant plan. If progress is not measured through the use of performance and results indicators toward achieving the identified results, the Iowa board may request a plan of corrective action, withhold any increase in funding, or withdraw grant funding.

e. The amount of school ready children grant funding the Iowa empowerment board ~~shall identify and apply limitations on the carryforward of school ready children grant funding~~ may

carry forward annually shall not exceed twenty percent. ~~The limitations shall address an unusually high percentage of a grant being carried forward, the number of years a grant has been carried forward which shall not exceed three years, and other objective criteria. The limitations shall make allowances for special circumstances such as the carryforward of funding that is designated for a particular purpose and is scheduled in the grant plan. The board may provide for redistribution or other redirection of the funding that meets the criteria.~~ School ready children grant funds received by a community empowerment board in a fiscal year shall be carried forward to the following fiscal year. However, any funds which remain unencumbered and unobligated in excess of twenty percent of the funds received in a fiscal year shall be subtracted by the Iowa empowerment board from the allocation to the community empowerment board for the following fiscal year.

Sec. 18. Section 28.8, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. It is the intent of the general assembly that community empowerment areas consider whether support services to prevent the spread of infectious diseases, prevent child injuries, develop health emergency protocols, help with medication, and care for children with special health needs are being provided to child care facilities registered or licensed under chapter 237A.

Sec. 19. Section 256.26, subsection 1, Code Supplement 2007, is amended to read as follows:

1. There is established a before and after school grant program to provide competitive grants to school districts and other public and private organizations to expand the availability of before and after school programs, including but not limited to summer programs. The amount of a grant awarded in accordance with this section shall be not less than thirty thousand dollars nor more than fifty thousand dollars.

Sec. 20. Section 256.26, subsection 2, paragraph e, Code Supplement 2007, is amended to read as follows:

e. Provides for not less than ~~a twenty percent~~ an equal match of any state funds received for purposes of the program. The local match shall be in cash or in kind contributions.

Sec. 21. Section 256.26, subsection 6, Code Supplement 2007, is amended by striking the subsection and inserting in lieu thereof the following:

6. An applicant serving middle and high school-age youth is eligible for funding under this section if the applicant demonstrates that the applicant is serving youth at least once a week or a minimum of two hours per week.

Sec. 22. Section 256.26, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Grant funding may be used for programming for multiple fiscal years as proposed by the applicant and approved by the department.

Sec. 23. Section 256B.15, subsection 7, Code 2007, is amended to read as follows:

7. ~~a. The treasurer of the state shall credit receipts received under this section to the department of human services to pay contractual fees incurred by the department to maximize federal funding for special education services. All remaining receipts in excess of the amount necessary to pay contractual fees shall be credited to the department of human services medical assistance account.~~

~~b.~~ The area education agencies shall~~, after determining the administrative costs associated with the implementation of medical assistance reimbursement for the eligible services, be permitted to retain up to twenty-five percent of the federal portion of the total amount reimbursed to pay for the administrative costs~~ transfer to the department of education an amount equal to eighty-four percent of the payments received from the medical assistance program provided

pursuant to chapter 249A. This ~~limitation~~ requirement does not apply to medical assistance reimbursement for services provided by an area education agency under part C of the federal Individuals With Disabilities Education Act. Funds received under this section shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year.

Sec. 24. Section 257B.1B, subsection 1, Code 2007, is amended to read as follows:

1. For the fiscal year beginning July 1, ~~2004~~ 2008 and each succeeding fiscal year, fifty-five percent of the moneys deposited in the fund to the ~~department of education for allocation to the Iowa reading recovery council~~ university of northern Iowa to assist school districts in developing reading recovery and literacy programs. ~~The Iowa reading recovery council shall use the area education agency unified budget as its fiscal agent for grant moneys and for other moneys administered by the council.~~

Sec. 25. Section 260C.18C, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

As used in this section and section 260C.18D, unless the context otherwise requires:

Sec. 26. NEW SECTION. 260C.18D INSTRUCTOR SALARY DISTRIBUTION FORMULA.

1. DISTRIBUTION FORMULA. Moneys appropriated by the general assembly to the department for community college instructor salaries shall be distributed among each community college based on the proportion that the number of full-time equivalent instructors employed by a community college bears to the sum of the number of full-time equivalent eligible instructors who are employed by all community colleges in the state for the base year. The state board shall define "eligible full-time equivalent instructor" by rule.

2. BASE FUNDING ALLOCATION. Moneys distributed to each community college under subsection 1 shall be included in the base funding allocation for all future years. The use of the funds shall remain as described in this section for all future years.

3. PURPOSES SUPPLEMENTAL. Moneys appropriated and distributed to community colleges under this section shall be used to supplement and not supplant any approved faculty salary increases or negotiated agreements, excluding the distribution of the funds in this section.

4. ELIGIBLE INSTRUCTORS. Moneys distributed to a community college under this section shall be allocated to all full-time, nonadministrative instructors and part-time instructors covered by a collective bargaining agreement. The moneys shall be allocated by negotiated agreements according to chapter 20. If no language exists, the moneys shall be allocated equally to all full-time, nonadministrative instructors with part-time instructors covered by a collective bargaining agreement receiving a prorated share of the fund.

Sec. 27. Section 260C.36, subsection 1, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Determination of the faculty that will be included in the plan including but not limited to all instructors, counselors, and media specialists. The plan requirements may be differentiated for each type of employee.

Sec. 28. Section 260C.36, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of education shall establish the following committees:

a. An ad hoc accreditation quality faculty plan protocol committee to advise the department in the development of protocols related to the quality faculty planning process to be used by the accreditation teams during site visits. The committee shall, at a minimum, determine what types of evidence need to be provided, develop interview procedures and visit goals, and propose accreditation protocol revisions.

b. An ongoing quality faculty plan professional development committee. The committee shall, at a minimum, do the following:

(1) Develop systemic, ongoing, and sustainable statewide professional development opportunities that support institutional development as well as individual development and support of the quality faculty plans. The opportunities may include web-based systems to share promising practices.

(2) Determine future professional development needs.

(3) Develop or identify training and assistance relating to the quality faculty plan process and requirements.

(4) Assist the department and community colleges in developing professional development consortia.

(5) Review and identify best practices in each community college quality faculty plan, including best practices regarding adjunct faculty.

c. A community college faculty advisory committee consisting of one member and one alternate from each community college, appointed by the committee established pursuant to subsection 1. The committee membership shall be equally represented by individuals from the liberal arts and sciences faculty and the career and technical faculty. The committee shall, at a minimum, keep faculty informed of higher education issues, facilitate communication between the faculty and the department on an ongoing basis, and serve as an advisory committee to the department and community colleges on faculty issues.

Sec. 29. Section 260C.48, subsection 1, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The state board shall develop standards and rules for the accreditation of community college programs. 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 community college instructors who are under contract for at least half-time or more, and by July 1, 2011, all instructors, meet the following requirements:

Sec. 30. Section 260C.48, subsection 1, paragraph b, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) ~~Has~~ Have 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. 31. Section 261.2, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Submit by January 15 annually a report to the general assembly which provides, by program, the number of individuals who received loan forgiveness in the previous fiscal year, the amount paid to individuals under section[4] 261.23, 261.73, and 261.112, and the institutions from which individuals graduated, and that includes any proposed statutory changes and the commission's findings and recommendations.

Sec. 32. NEW SECTION. 261.18 BARBER AND COSMETOLOGY ARTS AND SCIENCES TUITION GRANT PROGRAM.

1. A barber and cosmetology arts and sciences tuition grant may be awarded to any resident of Iowa who establishes financial need and is admitted and in attendance as a full-time or part-time student in a course of study at an eligible school.

2. All classes identified by the barber school or school of cosmetology arts and sciences as required for completion of a course of study required for licensure as provided in section 158.8 or required for licensure as provided in section 157.10, shall be considered a part of the student's barber or cosmetology course of study for the purpose of determining the student's eli-

[4] According to enrolled Act; the word "sections" probably intended

gibility for a grant. Notwithstanding subsection 3, if a student is making satisfactory academic progress but the student cannot complete the course of study in the time frame allowed for a student to receive a barber and cosmetology arts and sciences tuition grant as provided in subsection 3 because additional classes are required to complete the course of study, the student may continue to receive a barber and cosmetology arts and sciences tuition grant for not more than one additional enrollment period.

3. A qualified full-time student may receive a barber and cosmetology arts and sciences tuition grant for not more than four semesters or the trimester or quarter equivalent of two full years of study. A qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent may receive barber and cosmetology arts and sciences tuition grants for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study. However, if a student resumes study after at least a two-year absence, the student may again be eligible for the specified amount of time, except that the student shall not receive assistance for courses for which credit was previously received.

4. a. The amount of a barber and cosmetology arts and sciences tuition grant to a qualified full-time student shall not exceed the lesser of one thousand two hundred dollars per year or the amount of the student's established financial need.

b. The amount of a barber and cosmetology arts and sciences tuition grant to a qualified part-time student enrolled in a course of study including at least three semester hours but fewer than twelve semester hours or the trimester or quarter equivalent shall be equal to the amount of a barber and cosmetology arts and sciences tuition grant that would be paid to a full-time student, except that the commission shall prorate the amount in a manner consistent with the federal Pell grant program proration.

5. A barber and cosmetology arts and sciences tuition grant shall be awarded on an annual basis, requiring reapplication by the student for each year. Payments under the grant shall be allocated equally among the semesters or quarters of the year upon certification by the institution that the student is in full-time or part-time attendance in a course of study at a licensed barber school or school of cosmetology arts and sciences. If the student discontinues attendance before the end of any term after receiving payment of the grant, the entire amount of any refund due that student, up to the amount of any payments made under the annual grant, shall be paid by the institution to the state.

6. If a student receives financial aid under any other program, the full amount of that financial aid shall be considered part of the student's financial resources available in determining the amount of the student's financial need for that period.

7. The commission shall administer this program and shall:

a. Provide application forms for distribution to students by Iowa high schools, licensed barber schools and schools of cosmetology arts and sciences, and community colleges.

b. Adopt rules for determining financial need, defining residence for the purposes of this section, processing and approving applications for grants and determining priority for grants.

c. Approve and award grants on an annual basis.

d. Make an annual report to the governor and general assembly. The report shall include the number of students receiving assistance under this section.

8. Each applicant, in accordance with the rules established by the commission, shall:

a. Complete and file an application for a barber and cosmetology arts and sciences tuition grant.

b. Be responsible for the submission of the financial information required for evaluation of the applicant's need for a grant, on forms determined by the commission.

c. Report promptly to the commission any information requested.

d. Submit a new application and financial statement for reevaluation of the applicant's eligibility to receive a second-year renewal of the grant.

9. For purposes of this section, "eligible school" means a barber school licensed under section 158.7 or a school of cosmetology arts and sciences licensed under chapter 157. An eligible school shall be accredited by a national accrediting agency recognized by the United States

department of education and shall meet the criteria in section 261.9, subsection 1, paragraphs "d" through "g". An eligible school shall report promptly to the commission any information requested.

Sec. 33. Section 261.25, subsections 1 and 2, Code Supplement 2007, 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~~ fifty million ~~three hundred~~ seventy-three thousand seven hundred eighteen dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of five million ~~three~~ five hundred ~~seventy-four~~ twenty-four thousand eight hundred fifty-eight dollars for tuition grants for students attending for-profit accredited private institutions located in Iowa. A for-profit institution which, effective March 9, 2005, purchased an accredited private institution that was exempt from taxation under section 501(c) of the Internal Revenue Code, shall be an eligible institution under the tuition grant program. In the case of a qualified student who was enrolled in such accredited private institution that was purchased by the for-profit institution effective March 9, 2005, and who continues to be enrolled in the eligible institution in succeeding years, the amount the student qualifies for under this subsection shall be not less than the amount the student qualified for in the fiscal year beginning July 1, 2004. For purposes of the tuition grant program, "for-profit accredited private institution" means an accredited private institution which is not exempt from taxation under section 501(c)(3) of the Internal Revenue Code but which otherwise meets the requirements of section 261.9, subsection 1, paragraph "b", and whose students were eligible to receive tuition grants in the fiscal year beginning July 1, 2003.

Sec. 34. NEW SECTION. 261.73 CHIROPRACTIC LOAN FORGIVENESS PROGRAM.

1. A chiropractic loan forgiveness program is established to be administered by the commission. A chiropractor is eligible for the program if the chiropractor is a resident of this state, is licensed to practice under chapter 151, and is engaged in the practice of chiropractic in this state.

2. Each applicant for loan forgiveness shall, in accordance with the rules of the commission, do the following:

a. Complete and file an application for chiropractic loan forgiveness. The individual shall be responsible for the prompt submission of any information required by the commission.

b. File a new application and submit information as required by the commission annually on the basis of which the applicant's eligibility for the renewed loan forgiveness will be evaluated and determined.

c. Complete and return on a form approved by the commission an affidavit of practice verifying that the applicant meets the eligibility requirements of subsection 1.

3. The annual amount of chiropractic loan forgiveness shall not exceed the resident tuition rate established for institutions of higher learning governed by the state board of regents for the first year following the chiropractor's graduation from a college of chiropractic approved by the board of chiropractic in accordance with section 151.4, or twenty percent of the chiropractor's total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest, whichever amount is less. A chiropractor shall be eligible for the loan forgiveness program for not more than five consecutive years.

4. A chiropractic loan forgiveness repayment fund is created for deposit of moneys appropriated to or received by the commission for use under the program. Notwithstanding section 8.33, moneys deposited in the fund shall not revert to any fund of the state at the end of any fiscal year but shall remain in the chiropractic loan forgiveness repayment fund and be continuously available for loan forgiveness under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the fund shall be credited to the fund.

5. The commission shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 35. Section 279.13, subsection 1, paragraph b, subparagraphs (1) and (2), Code Supplement 2007, are amended by striking the subparagraphs and inserting the following:

(1) Prior to entering into an initial contract with a teacher who holds a license other than an initial license issued by the board of educational examiners under chapter 272, the school district shall initiate a state criminal history record check of the applicant through the division of criminal investigation of the department of public safety, submit the applicant's fingerprints to the division for submission to the federal bureau of investigation for a national criminal history record check, and review the sex offender registry information under section 692A.13, the central registry for child abuse information established under section 235A.14, and the central registry for dependent adult abuse information established under section 235B.5 for information regarding applicants for employment as a teacher.

(2) The school district may charge the applicant a fee not to exceed the actual cost charged the school district for the state and national criminal history checks and registry checks conducted pursuant to subparagraph (1).

Sec. 36. Section 279.13, subsection 1, paragraph b, subparagraphs (3) and (4), Code Supplement 2007, are amended by striking the subparagraphs.

Sec. 37. Section 331.653, subsection 27, Code 2007, is amended to read as follows:

27. Give notice of the time and place of making an appraisement of unneeded school land as provided in ~~sections~~ section 297.17 ~~and 297.28~~.

Sec. 38. 2006 Iowa Acts, chapter 1157, section 18, as amended by 2007 Iowa Acts, chapter 214, section 41, is amended to read as follows:

SEC. 18. EARLY CARE, HEALTH, AND EDUCATION PROGRAMS — FY 2007-2008 AND 2008-2009.

1. There is appropriated from the general fund of the state to the department of education for deposit in the school ready children grants account of the Iowa empowerment fund for each fiscal year of the fiscal period beginning July 1, 2007, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For early care, health, and education and preschool programs, to continue programs and initiatives developed pursuant to the appropriation made in this division of this Act for this purpose for the fiscal year beginning July 1, 2006:

. . . . . $ 10,000,000

2. Funds appropriated in this section shall be allocated in the same manner as provided in section 17 except as provided in subsection 3.

3. The amount allocated under section 17, subsection 4, paragraph "a", for the fiscal year beginning July 1, 2008, shall be distributed as follows:

a. For deposit in the community empowerment gifts and grants account created in section 28.9, subsection 5, as enacted in this Act, the sum of $250,000.

b. For purposes of the before and after school grant program established pursuant to section 256.26, as enacted by 2007 Iowa Acts, chapter 214, section 19, the sum of $595,000.

c. For implementation of early head start projects addressing the comprehensive cognitive, social, emotional, and developmental needs of children from birth to age three, including prenatal support for qualified families, the sum of $100,000.

Early head start projects shall promote healthy prenatal outcomes, healthy family functioning, and strengthen the development of infants and toddlers in low-income families.

d. To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization and for other youth activities, the sum of $50,000. Funds appropriated in this paragraph shall be allocated only to the extent that the state moneys are matched from other sources by the organization on a dollar-for-dollar basis.

e. For purposes of the work-study program established pursuant to section 261.81, the sum of $5,000.

Sec. 39. 2006 Iowa Acts, chapter 1180, section 6, subsection 14, as amended by 2007 Iowa Acts, chapter 214, section 42, is amended to read as follows:

14. READING INSTRUCTION PILOT PROJECT GRANT PROGRAM

For the implementation of the reading instruction pilot project grant program, if enacted by this Act:

. . . . . $ 250,000

From the funds appropriated pursuant to this subsection, ~~$62,500~~ $12,500 shall be allocated equally amongst five pilot projects for purposes of teacher training in descubriendo la lectura, the reconstruction of reading recovery in Spanish, including books and materials for teaching, travel expenses, and professional development; $50,000 shall be allocated to the university of northern Iowa for reading recovery; and $187,500 shall be allocated to the Iowa empowerment fund for implementation of the business community investment advisory council report and recommendations. Notwithstanding section 8.33, moneys allocated to the university of northern Iowa 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 purpose designated until the close of the following fiscal year.

Sec. 40. Section 279.65, Code Supplement 2007, is repealed.

Sec. 41. EFFECTIVE DATE. The section of this division of this Act amending 2006 Iowa Acts, chapter 1180, section 6, subsection 14, as amended by 2007 Iowa Acts, chapter 214, section 42, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
SENIOR YEAR PLUS PROGRAM

Sec. 42. Section 11.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The financial condition and transactions of all cities and city offices, counties, county hospitals organized under chapters 347 and 347A, memorial hospitals organized under chapter 37, entities organized under chapter 28E having gross receipts in excess of one hundred thousand dollars in a fiscal year, merged areas, area education agencies, and all school offices in school districts, shall be examined at least once each year, except that cities having a population of seven hundred or more but less than two thousand shall be examined at least once every four years, and cities having a population of less than seven hundred may be examined as otherwise provided in this section. The examination shall cover the fiscal year next preceding the year in which the audit is conducted. The examination of school offices shall include an audit of all school funds including categorical funding provided by the state, the certified annual financial report, the certified enrollment as provided in section 257.6, supplementary weighting as provided in section 257.11, and the revenues and expenditures of any nonprofit school organization established pursuant to section 279.62. Differences in certified enrollment shall be reported to the department of management. The examination of school offices shall include at a minimum a determination that the laws of the state are being followed, that categorical funding is not used to supplant other funding except as otherwise provided, that supplementary weighting is pursuant to an eligible sharing condition, and that postsecondary courses provided in accordance with section 257.11 and chapter 261E supplement, rather than supplant, school district courses. The examination of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include an audit of the city's compliance with section 388.10. The examination of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include an audit of the city's compliance with section 388.10.

Sec. 43. Section 85.61, subsection 2, unnumbered paragraph 2, Code Supplement 2007, is amended to read as follows:

"Employer" also includes and applies to an eligible postsecondary institution as defined in

section ~~261C.3, subsection 1~~ 261E.2, a school corporation, or an accredited nonpublic school if a student enrolled in the eligible postsecondary institution, school corporation, or accredited nonpublic school is providing unpaid services under a school-to-work program that includes, but is not limited to, the components provided for in section 258.10, subsection 2, paragraphs "a" through "f". However, if a student participating in a school-to-work program is participating in open enrollment under section 282.18, "employer" means the receiving district. "Employer" also includes and applies to a community college as defined in section 260C.2, if a student enrolled in the community college is providing unpaid services under a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs "a" through "f", and that is offered by the community college pursuant to a contractual agreement with a school corporation or accredited nonpublic school to provide the program. If a student participating in a school-to-work program that includes but is not limited to the components provided for in section 258.10, subsection 2, paragraphs "a" through "f", is paid for services provided under the program, "employer" means any entity otherwise defined as an employer under this subsection which pays the student for providing services under the program.

Sec. 44. NEW SECTION. 256.17 POSTSECONDARY COURSE AUDIT COMMITTEE.

1. The department shall establish and facilitate a postsecondary course audit committee which shall annually audit postsecondary courses offered to high school students in accordance with chapter 261E.

2. The committee shall include but not be limited to representatives from the kindergarten through grade twelve education community, community colleges, and regents universities.

3. The committee shall establish a sampling technique that randomly selects courses for audit. The audit shall include but not be limited to a review of the course syllabus, teacher qualifications, examples of student products, and results of student assessments. Standards for review shall be established by the committee and approved by the department. Audit findings shall be submitted to the institutions providing the classes audited and shall be posted on the department's internet site.

4. If the committee determines that a postsecondary course offered to high school students in accordance with chapter 261E does not meet the standards established by the committee pursuant to subsection 3, the course shall not be eligible for future supplementary weighting under section 257.11. If the institution makes changes to the course sufficient to cause the course to meet the standards of the committee, the committee may reinstate the eligibility of the course for future supplementary weighting under section 257.11.

Sec. 45. Section 257.6, subsection 1, paragraph a, Code Supplement 2007, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) A student attending an accredited nonpublic school or receiving competent private instruction under chapter 299A, who is participating in a program under chapter 261E, shall be counted as a shared-time student in the school district in which the nonpublic school of attendance is located for state foundation aid purposes.

Sec. 46. Section 257.6, subsection 6, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

For the school year beginning July 1, ~~2001~~ 2008, and each succeeding school year, a student shall not be included in a district's enrollment for purposes of this chapter or considered an eligible pupil under ~~chapter 261C~~ section 261E.5 if the student meets all of the following:

Sec. 47. Section 257.6, subsection 6, paragraph b, Code Supplement 2007, is amended to read as follows:

b. Continues enrollment in the district to take courses either provided by the district, offered by community colleges under the provisions of section 257.11, or to take courses under the provisions of ~~chapter 261C~~ section 261E.5.

Sec. 48. Section 257.11, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A school district which hosts a regional academy shall be eligible to assign its resident students attending classes at the academy a weighting of one-tenth of the percentage of the student's school day during which the student attends classes at the regional academy. The maximum amount of additional weighting for which a school district hosting a regional academy shall be eligible is an amount corresponding to thirty additional students. The minimum amount of additional weighting for which a school district establishing a regional academy shall be eligible is an amount corresponding to fifteen additional students if the academy provides both advanced-level courses and career and technical courses.

Sec. 49. Section 257.11, subsection 3, Code Supplement 2007, is amended to read as follows:

3. DISTRICT-TO-COMMUNITY COLLEGE SHARING AND CONCURRENT ENROLLMENT PROGRAMS.

a. In order to provide additional funds for school districts which send their resident high school pupils to a community college for college-level classes, a supplementary weighting plan for determining enrollment is adopted.

b. 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 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 instructor of seventy hundredths for career and technical courses and forty-six hundredths for liberal arts and sciences courses. 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:

(1) Supplementing, not supplanting, high school courses required to be offered pursuant to section 256.11, subsection 5.

(2) Included in the community college catalog or an amendment or addendum to the catalog.

(3) Open to all registered community college students, not just high school students. The class may be offered in a high school attendance center.

(4) For college credit and the credit must apply toward an associate of arts or associate of science degree, or toward an associate of applied arts or associate of applied science degree, or toward completion of a college diploma program.

(5) Taught by ~~a community college-employed~~ an instructor employed or contracted by a community college who meets the requirements of section 261E.3, subsection 2.

(6) Taught utilizing the community college course syllabus.

(7) ~~Of the same quality as a course offered on a community college campus~~ Taught in such a manner as to result in student work and student assessment which meet college-level expectations.

Sec. 50. Section 260C.14, subsection 2, Code 2007, is amended to read as follows:

2. Have authority to determine tuition rates for instruction. Tuition for residents of Iowa shall not exceed the lowest tuition rate per semester, or the equivalent, charged by an institution of higher education under the state board of regents for a full-time resident student. However, except for students enrolled under ~~chapter 261C~~ section 261E.5, if a local school district pays tuition for a resident pupil of high school age, the limitation on tuition for residents of Iowa shall not apply, the amount of tuition shall be determined by the board of directors of the community college with the consent of the local school board, and the pupil shall not be included in the full-time equivalent enrollment of the community college for the purpose of computing general aid to the community college. Tuition for nonresidents of Iowa shall not be less

than the marginal cost of instruction of a student attending the college. A lower tuition for nonresidents may be permitted under a reciprocal tuition agreement between a merged area and an educational institution in another state, if the agreement is approved by the director. The board may designate that a portion of the tuition moneys collected from students be used for student aid purposes.

Sec. 51. NEW SECTION. 261E.1 SENIOR YEAR PLUS PROGRAM.

1. A senior year plus program is established to be administered by the department of education to provide Iowa high school students increased access to college credit or advanced placement coursework. The program shall consist of the following elements:

a. Advanced placement classes, including on-site, consortium, and online opportunities and courses delivered via the Iowa communications network.

b. Community college credit courses offered through written agreements between school districts and community colleges.

c. College and university credit courses offered to individual high school students through the postsecondary enrollment options program in accordance with section 261E.5.

d. Courses offered through regional and career academies for college credit.

e. Internet-based courses offered for college credit, including but not limited to courses within the Iowa learning online initiative.

2. The senior year plus programming provided by a school district pursuant to sections 261E.4 and 261E.5 may be available to students on a year-round basis.

Sec. 52. NEW SECTION. 261E.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Concurrent enrollment" means any course offered to students in grades nine through twelve during the regular school year approved by the board of directors of a school district through a contractual agreement between a community college and the school district that meets the provisions of section 257.11, subsection 3.

2. "Department" means the department of education.

3. "Director" means the director of the department of education.

4. "Eligible postsecondary institution" means an institution of higher learning under the control of the state board of regents, a community college established under chapter 260C, or an accredited private institution as defined in section 261.9.

5. "Institution" means a school district or eligible postsecondary institution delivering the instruction in a given program as authorized by this chapter.

6. "School board" means the board of directors of a school district or a collaboration of boards of directors of school districts.

7. "State board" means the state board of education.

8. "Student" means any individual enrolled in grades nine through twelve in a school district who meets the criteria in section 261E.3, subsection 1. "Student" includes an individual attending an accredited nonpublic school or the Iowa school for the deaf or the Iowa braille and sight saving school for purposes of sections 261E.4 and 261E.5.

Sec. 53. NEW SECTION. 261E.3 ELIGIBILITY.

1. STUDENT ELIGIBILITY. In order to ensure student readiness for postsecondary coursework, the student shall meet the following criteria:

a. The student shall meet the enrollment requirements established by the eligible postsecondary institution providing the course credit.

b. The student shall meet or exceed the minimum performance measures on any academic assessments that may be required by the eligible postsecondary institution.

c. The student shall have taken the appropriate course prerequisites, if any, prior to enrollment in the eligible postsecondary course, as determined by the eligible postsecondary institution delivering the course.

d. The student shall have attained the approval of the school board or its designee and the eligible postsecondary institution to register for the postsecondary course.

e. The student shall have demonstrated proficiency in reading, mathematics, and science as evidenced by achievement scores on the latest administration of the state assessment for which scores are available and as defined by the department. If a student is not proficient in one or more of the content areas listed in this paragraph, the school board may establish alternative but equivalent qualifying performance measures including but not limited to additional administrations of the state assessment, portfolios of student work, student performance rubric, or end-of-course assessments.

f. The student shall meet the definition of eligible student under section 261E.5, subsection 6, in order to participate in the postsecondary enrollment options program.

2. TEACHER AND INSTRUCTOR ELIGIBILITY.

a. A teacher or instructor employed to provide instruction under this chapter shall meet the following criteria:

(1) The teacher shall be appropriately licensed to teach the subject the institution is employing the teacher to teach and shall meet the standards and requirements set forth which other full-time instructors teaching within the academic department are required to meet and which are approved by the appropriate postsecondary administration.

(2) The teacher shall collaborate, as appropriate, with other secondary and postsecondary faculty in the subject area.

(3) The district, in collaboration with the teacher or instructor, shall provide ongoing communication about course expectations, including a syllabus that describes the content, teaching strategies, performance measures, and resource materials used in the course, and academic progress to the student and in the case of students of minor age, to the parent or legal guardian of the student.

(4) The teacher or instructor shall provide curriculum and instruction that is accepted as college-level work as determined by the institution.

(5) The teacher or instructor shall use valid and reliable student assessment measures, to the extent available.

(6) If the instruction for any program authorized by this chapter is provided at a school district facility or a neutral site, the teacher or instructor shall have successfully passed a background investigation conducted in accordance with section 272.2, subsection 17, prior to providing such instruction. For purposes of this section, "neutral site" means a facility that is not owned or operated by an institution.

b. The teacher or instructor shall be provided with appropriate orientation and training in secondary and postsecondary professional development related to curriculum, pedagogy, assessment, policy implementation, technology, and discipline issues.

c. The eligible postsecondary institution shall provide the teacher or instructor with ongoing communication and access to instructional resources and support, and shall encourage the teacher or instructor to participate in the postsecondary institution's academic departmental activities.

d. The teacher or instructor shall receive adequate notification of an assignment to teach a course under this chapter and shall be provided adequate preparation time to ensure that the course is taught at the college-level.

e. An individual under suspension or revocation of an educational license or statement of professional recognition issued by the board of educational examiners shall not be allowed to provide instruction for any program authorized by this chapter.

3. INSTITUTIONAL ELIGIBILITY. An institution providing instruction pursuant to this chapter shall meet the following criteria:

a. The institution shall ensure that students or in the case of minor students, parents or legal guardians, receive appropriate course orientation and information, including but not limited to a summary of applicable policies and procedures, the establishment of a permanent transcript, policies on dropping courses, a student handbook, information describing student responsibilities, and institutional procedures for academic credit transfer.

b. The institution shall ensure that students have access to student support services, including but not limited to tutoring, counseling, advising, library, writing and math labs, and computer labs, and student activities, excluding postsecondary intercollegiate athletics.

c. The institution shall ensure that students are properly enrolled in courses that will carry college credit.

d. The institution shall ensure that teachers and students receive appropriate orientation and information about the institution's expectations.

e. The institution shall ensure that the courses provided achieve the same learning outcomes as similar courses offered in the subject area and are accepted as college-level work.

f. The institution shall review the course on a regular basis for continuous improvement, shall follow up with students in order to use information gained from the students to improve course delivery and content, and shall share data on course progress and outcomes with the collaborative partners involved with the delivery of the programming and with the department, as needed.

g. The school district shall certify annually to the department that the course provided to a high school student for postsecondary credit in accordance with this chapter does not supplant a course provided by the school district in which the student is enrolled.

h. The institution shall not require a minimum or a maximum number of postsecondary credits to be earned by a high school student under this chapter.

i. The institution shall not place restrictions on participation in senior year plus programming beyond that which is specified in statute or administrative rule.

j. All eligible postsecondary institutions providing programming under this chapter shall include the unique student identifier assigned to students while in the kindergarten through grade twelve system as a part of the institution's student data management system. Eligible postsecondary institutions providing programming under this chapter shall cooperate with the department on data requests related to the programming. All eligible postsecondary institutions providing programming under this chapter shall collect data and report to the department on the proportion of females and minorities enrolled in science, technology, engineering, and mathematics-oriented educational opportunities provided in accordance with this chapter. The department shall submit the programming data and the department's findings and recommendations in a report to the general assembly annually by January 15.

k. The school district shall ensure that the background investigation requirement of subsection 2, paragraph "a", subparagraph (6), is satisfied. The school district shall pay for the background investigation conducted in accordance with subsection 2, paragraph "a", subparagraph (6), but may charge the teacher or instructor a fee not to exceed the actual cost charged the school district for the background investigation conducted.

Sec. 54. NEW SECTION. 261E.4 ADVANCED PLACEMENT PROGRAM.

1. A school district shall make available advanced placement courses to its resident students through direct instruction on-site, collaboration with another school district, or by using the online Iowa advanced placement academy.

2. A school district shall provide descriptions of the advanced placement courses available to students using a course registration handbook.

3. A school district shall ensure that advanced placement course teachers or instructors are appropriately licensed by the board of educational examiners in accordance with chapter 272 and meet the minimum certification requirements of the national organization that administers the advanced placement program.

4. A school district shall establish prerequisite coursework for each advanced placement course offered and shall describe the prerequisites in the course registration handbook, which shall be provided to every junior high school or middle school student prior to the development of a core curriculum plan pursuant to section 279.61.

Sec. 55. NEW SECTION. 261E.4A ADVANCED PLACEMENT COURSES — ACCESS — EXAMINATION FEE PAYMENT.

1. A student enrolled in a school district or accredited nonpublic school shall be provided access to advanced placement examinations at a rate of one-half of the cost of the regular examination fee the student or the student's parents or guardians would normally pay for the examination.

2. The board of directors of a school district and the authorities in charge of an accredited nonpublic school shall ensure that any student enrolled who is interested in taking an advanced placement examination is properly registered for the examination. An accredited nonpublic school shall provide a list of students registered for advanced placement examinations to the school district in which the accredited nonpublic school is located. The school district and the accredited nonpublic school shall also ensure that any student enrolled in the school district or school, as applicable, who is interested in taking an advanced placement examination and qualifies for a reduced fee for the examination is properly registered for the fee reduction. The school district shall provide the college board with a list of all students enrolled in the school district and the accredited nonpublic schools located in the school district who are properly registered for advanced placement examinations administered by the college board.

3. From the funds allocated pursuant to section 261E.12, subsection 1, paragraph "d", the department shall remit amounts to the college board for advanced placement examinations administered by the college board for students enrolled in school districts and accredited nonpublic schools pursuant to subsection 2 and shall distribute an amount per student to a school district submitting a list of students properly registered for the advanced placement examinations pursuant to subsection 2. The remittance rates to the college board and distribution amounts to the school districts in accordance with this subsection for the fiscal year beginning July 1, 2008, are as follows: thirty-eight dollars for each school district or accredited nonpublic school student who does not qualify for fee reduction; twenty-seven dollars for each school district or accredited nonpublic school student who qualifies for fee reduction; and eight dollars to the school district for each school district or accredited nonpublic school student who was listed by the school district and who takes an advanced placement examination in accordance with this section.

Sec. 56. NEW SECTION. 261E.5 POSTSECONDARY ENROLLMENT OPTIONS PROGRAM.

1. PROGRAM ESTABLISHED. The postsecondary enrollment options program is established to promote rigorous academic or career and technical pursuits and to provide a wider variety of options to high school students by enabling ninth and tenth grade students who have been identified by the school district as gifted and talented, and eleventh and twelfth grade students, to enroll in eligible courses at an eligible postsecondary institution of higher learning as a part-time student.

2. NOTIFICATION. The availability and requirements of this program shall be included in each school district's student registration handbook. Information about the program shall be provided to the student and the student's parent or guardian prior to the development of the student's core curriculum plan under section 279.61. The school district shall establish a process by which students may indicate interest in and apply for enrollment in the program.

3. AUTHORIZATION. To participate in this program, an eligible student shall make application to an eligible postsecondary institution to allow the eligible student to enroll for college credit in a nonsectarian course offered at the institution. A comparable course, as defined in rules adopted by the board of directors of the school district consistent with department administrative rule, must not be offered by the school district or accredited nonpublic school the student attends. If the postsecondary institution accepts an eligible student for enrollment under this section, the institution shall send written notice to the student, the student's parent or legal guardian in the case of a minor child, and the student's school district or accredited nonpublic school and the school district in the case of a nonpublic school student, or the Iowa school for the deaf or the Iowa braille and sight saving school. The notice shall list the course, the clock hours the student will be attending the course, and the number of hours of college credit that the eligible student will receive from the eligible postsecondary institution upon successful completion of the course.

4. CREDITS.

a. A school district, the Iowa school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school shall grant high school credit to an eligible student enrolled in

a course under this chapter if the eligible student successfully completes the course as determined by the eligible postsecondary institution. The board of directors of the school district, the board of regents for the Iowa school for the deaf and the Iowa braille and sight saving school, or authorities in charge of an accredited nonpublic school shall determine the number of high school credits that shall be granted to an eligible student who successfully completes a course. Eligible students may take up to seven semester hours of credit during the summer months when school is not in session and receive credit for that attendance, if the student pays the cost of attendance for those summer credit hours.

b. The high school credits granted to an eligible student under this section shall count toward the graduation requirements and subject area requirements of the school district of residence, the Iowa school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school of the eligible student. Evidence of successful completion of each course and high school credits and college credits received shall be included in the student's high school transcript.

5. TRANSPORTATION. The parent or legal guardian of an eligible student who has enrolled in and is attending an eligible postsecondary institution under this chapter shall furnish transportation to and from the postsecondary institution for the student.

6. DEFINITION. For purposes of this section and section 261E.6, unless the context otherwise requires, "eligible student" means a student classified by the board of directors of a school district, by the state board of regents for pupils of the Iowa school for the deaf and the Iowa braille and sight saving school, or by the authorities in charge of an accredited nonpublic school as a ninth or tenth grade student who is identified according to the school district's gifted and talented criteria and procedures, pursuant to section 257.43, as a gifted and talented child, or an eleventh or twelfth grade student, during the period the student is participating in the postsecondary enrollment options program.

Sec. 57. NEW SECTION. 261E.6 POSTSECONDARY ENROLLMENT OPTIONS PROGRAM PAYMENTS — CLAIMS — REIMBURSEMENTS.

1. Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to a postsecondary institution that has enrolled its resident eligible students under this chapter, unless the eligible student 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 date specified in section 257.6, subsection 1, or the district in which the child was counted under section 257.6, subsection 1, paragraph "a", subparagraph (6). For students enrolled at the Iowa 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:

a. The actual and customary costs of tuition, textbooks, materials, and fees directly related to the course taken by the eligible student.

b. Two hundred fifty dollars.

2. A student participating in the postsecondary enrollment options act program is not eligible to enroll on a full-time basis in an eligible postsecondary institution. A student enrolled on such a full-time basis shall not receive any payments under this section.

3. An eligible postsecondary institution that enrolls an eligible student under this section shall not charge that student for tuition, textbooks, materials, or fees directly related to the course in which the student is enrolled except that the student may be required to purchase equipment that becomes the property of the student. For the purposes of this subsection, equipment shall not include textbooks. However, if the student fails to complete and receive credit for the course, the student is responsible for all district costs directly related to the course as provided in subsection 1 and shall reimburse the school district for its costs. If the student is under eighteen years of age, the student's parent or legal guardian shall sign the student registration form indicating that the parent or legal guardian is responsible for all costs

directly related to the course if the student fails to complete and receive credit for the course. If documentation is submitted to the school district that verifies the student was unable to complete the course for reasons including but not limited to the student's physical incapacity, a death in the student's immediate family, or the student's move to another school district, that verification shall constitute a waiver to the requirement that the student or parent or legal guardian pay the costs of the course to the school district.

4. An eligible postsecondary institution shall make pro rata adjustments to tuition reimbursement amounts based upon federal guidelines established pursuant to 20 U.S.C. § 1091b.

Sec. 58. NEW SECTION. 261E.7 DISTRICT-TO-COMMUNITY COLLEGE SHARING OR CONCURRENT ENROLLMENT PROGRAM.

1. A district-to-community college sharing or concurrent enrollment program is established to be administered by the department to promote rigorous academic or career and technical pursuits and to provide a wider variety of options to high school students to enroll part-time in eligible nonsectarian courses at or through community colleges established under chapter 260C. The program shall be made available to all resident students in grades nine through twelve. Notice of the availability of the program shall be included in a school district's student registration handbook and the handbook shall identify which courses, if successfully completed, generate college credit under the program. A student and the student's parent or legal guardian shall also be made aware of this program as a part of the development of the student's core curriculum plan in accordance with section 279.61.

2. Students from accredited nonpublic schools and students receiving competent private instruction under chapter 299A may access the program through the school district in which the accredited nonpublic school or private institution is located.

3. A student may make application to a community college and the school district to allow the student to enroll for college credit in a nonsectarian course offered by the community college. A comparable course, as defined in rules adopted by the board of directors of the school district, must not be offered by the school district or accredited nonpublic school which the student attends. The school board shall annually approve courses to be made available for high school credit using locally developed criteria that establishes which courses will provide the student with academic rigor and will prepare the student adequately for transition to a postsecondary institution. If an eligible postsecondary institution accepts a student for enrollment under this section, the school district, in collaboration with the community college, shall send written notice to the student, the student's parent or legal guardian in the case of a minor child, and the student's school district. The notice shall list the course, the clock hours the student will be attending the course, and the number of hours of college credit that the student will receive from the community college upon successful completion of the course.

4. A school district shall grant high school credit to a student enrolled in a course under this chapter if the student successfully completes the course as determined by the community college and the course was previously approved by the school board pursuant to subsection 3. The board of directors of the school district shall determine the number of high school credits that shall be granted to a student who successfully completes a course.

5. The parent or legal guardian of a student who has enrolled in and is attending a community college under this section shall furnish transportation to and from the community college for the student.

6. District-to-community college sharing agreements or concurrent enrollment programs that meet the requirements of section 257.11, subsection 3, are eligible for funding under that provision.

7. Community colleges shall comply with the data collection requirements of 2006 Iowa Acts, chapter 1180, section 17.

8. The state board, in collaboration with the board of directors of each community college, shall adopt rules that clearly define data and information elements to be collected related to the senior year plus programming, including concurrent enrollment courses. The data elements shall include but not be limited to the following:

a. The course title and whether the course supplements, rather than supplants, a school district course.

b. An unduplicated enrollment count of eligible students participating in the program.

c. The actual costs and revenues generated for concurrent enrollment. An aligned unique student identifier system shall be established by the department for students in kindergarten through grade twelve and community college.

d. Degree, certifications, and other qualifications to meet the minimum hiring standards.

e. Salary information including regular contracted salary and total salary.

f. Credit hours and laboratory contact hours and other data on instructional time.

g. Other information comparable to the data regarding teachers collected in the basic education data survey.

Sec. 59. NEW SECTION. 261E.8 REGIONAL ACADEMIES.

1. A regional academy is a program established by a school district to which multiple school districts send students in grades nine through twelve, and which may include internet-based coursework and courses delivered via the Iowa communications network. A regional academy shall include in its curriculum advanced level courses and may include in its curriculum career and technical courses.

2. A regional academy course shall not qualify as a concurrent enrollment course.

3. School districts participating in regional academies are eligible for supplementary weighting as provided in section 257.11, subsection 2.

4. Information regarding regional academies shall be provided to a student and the student's parent or guardian prior to the development of the student's core curriculum plan under section 279.61.

Sec. 60. NEW SECTION. 261E.9 CAREER ACADEMIES.

1. As used in this section, "career academy" means the same as defined in section 260C.18A, subsection 2, paragraph "c".

2. A career academy course may qualify as a concurrent enrollment course if it meets the requirements of section 261E.7.

3. The school district providing secondary education under this section shall be eligible for supplementary weighting under section 257.11, subsection 2, and the community college shall be eligible for funds allocated pursuant to section 260C.18A.

4. Information regarding career academies shall be provided by the school district to a student and the student's parent or guardian prior to the development of the student's core curriculum plan under section 279.61.

Sec. 61. NEW SECTION. 261E.10 INTERNET-BASED AND IOWA COMMUNICATIONS NETWORK COURSEWORK.

1. The Iowa communications network may be used to deliver coursework for the programming provided under this chapter subject to an appropriation by the general assembly for that purpose. A school district that provides courses delivered via the Iowa communications network shall receive supplemental funding as provided in section 257.11, subsection 7.

2. The programming in this chapter may be delivered via internet-based technologies including but not limited to the Iowa learning online program. An internet-based course may qualify for additional supplemental weighting if it meets the requirements of section 261E.7 or section 261E.9.

3. To qualify as a senior year plus course, an internet-based course or course offered through the Iowa communications network must comply with the appropriate provisions of this chapter.

Sec. 62. NEW SECTION. 261E.11 INTERNET-BASED CLEARINGHOUSE.

The department shall develop and make available to secondary and postsecondary students, parents or legal guardians, school districts, accredited nonpublic schools, and eligible postsecondary institutions an internet-based clearinghouse of information that allows students to

identify participation options within the senior year plus program and transferability between educational systems, subject to an appropriation by the general assembly for this purpose. The internet-based resource shall provide links to other similar resources available through various Iowa postsecondary institution systems. The internet-based resource shall also identify course transferability and articulation between the secondary and postsecondary systems in Iowa and between the various Iowa postsecondary systems.

Sec. 63. NEW SECTION. 261E.12 STATE PROGRAM ALLOCATION.

1. For each fiscal year in which moneys are appropriated by the general assembly for purposes of the senior year plus program, the moneys shall be allocated as follows in the following priority order:

a. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department to implement the internet-based clearinghouse pursuant to section 261E.11.

b. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department for the development of a data management system, including the development of a transcript repository, for senior year plus programming provided under this chapter. The data management system shall include information generated by the provisions of section 279.61, data on courses taken by Iowa's students, and the transferability of course credit.

c. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to four hundred thousand dollars to the department for the development of additional internet-based educational courses that comply with the provisions of this chapter.

d. For the fiscal year beginning July 1, 2008, and succeeding fiscal years, an amount up to five hundred thousand dollars to the department to provide advanced placement course examination fee remittance pursuant to section 261E.4A. If the funds appropriated for purposes of section 261E.5 are insufficient to distribute the amounts set out in section 261E.5, subsection 3, to school districts, the department shall prorate the amount distributed to school districts based on the amount appropriated.

2. Notwithstanding section 8.33, any moneys remaining unencumbered or unobligated from the moneys allocated under this section shall not revert but shall remain available in the succeeding fiscal year for expenditure for the purposes designated. The department shall annually inform the general assembly of the amount of moneys allocated, but unspent. The provisions of section 8.39 shall not apply to the funds allocated pursuant to this section.

Sec. 64. Section 282.18, subsection 7, Code 2007, 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. If the pupil participating in open enrollment is also an eligible pupil under ~~chapter 261C~~ section 261E.5, the receiving district shall pay the tuition reimbursement amount to an eligible postsecondary institution as provided in section ~~261C.6~~ 261E.6.

Sec. 65. Chapter 261C, Code and Code Supplement 2007, is repealed.

Sec. 66. DEPARTMENT OF EDUCATION — SENIOR YEAR PLUS PROGRAM STUDY. Subject to an appropriation of sufficient funds by the general assembly, the department of education, in collaboration with representatives of regents universities, accredited private institutions, community colleges, and school districts, shall conduct a study of the measures necessary for the successful implementation of the senior year plus program in accordance with the provisions of this division of this Act. The study shall include a review of provisions of the Code or administrative rules for purposes of implementing the core curriculum adopted pursu-

ant to section 256.7, subsection 26. The study shall also address barriers to the transfer of credit between secondary schools and the postsecondary system and its institutions. The department shall submit its findings and recommendations, including recommendations for statutory and administrative rule changes necessary, to the general assembly by November 14, 2008.

DIVISION III
STATEWIDE PRESCHOOL PROGRAM

Sec. 67. Section 256C.3, subsection 1, Code Supplement 2007, is amended to read as follows:

1. ELIGIBLE CHILDREN. A child who is a resident of Iowa and is four years of age ~~by~~ on or before September 15 of a school year shall be eligible to enroll in the preschool program under this chapter. If space and funding are available, a school district approved to participate in the preschool program may enroll a younger or older child in the preschool program; however, the child shall not be counted for state funding purposes.

Sec. 68. Section 256C.4, subsection 1, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The receipt of funding by a school district for the purposes of this chapter, the need for additional funding for the purposes of this chapter, or the enrollment count of eligible students under this chapter, shall not be considered to be unusual circumstances, create an unusual need for additional funds, or qualify under any other circumstances that may be used by the school budget review committee to grant supplemental aid to or establish modified allowable growth for a school district under section 257.31.

Sec. 69. Section 256C.5, subsection 2, paragraph b, Code Supplement 2007, is amended to read as follows:

b. For budget years subsequent to the initial school year for which a school district approved to participate in the preschool program receives that initial approval and implements the preschool program, the funding for the preschool foundation aid payable to that school district shall be paid from the appropriation made in section 257.16. Continuation of a school district's participation in the preschool program for a second or subsequent budget year is subject to the approval of the department based upon the school district's compliance with accountability provisions and the department's on-site review of the school district's implementation of the preschool program.

Sec. 70. Section 256C.6, subsection 1, Code Supplement 2007, is amended to read as follows:

1. PHASE-IN. For the initial fiscal year in which a school district participates in the preschool program pursuant to an appropriation provided in subsection 2, the department shall apply a modified set of the requirements of the provisions of this chapter relating to preschool program implementation, preschool enrollment reporting, and distribution of funding as necessary to begin the distribution in that fiscal year and additional program implementation in the next fiscal year. ~~For each month after September 1, in the initial fiscal year that a school district approved to participate in the preschool program begins programming, the department shall reduce the preschool foundation aid payable to the school district by one-tenth of the amount that would otherwise have been payable to the school district for the full school year.~~

Sec. 71. Section 256C.6, subsection 2, Code Supplement 2007, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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.

Sec. 72. 2007 Iowa Acts, chapter 214, section 6, subsection 13, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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.

Sec. 73. STATEWIDE EARLY CHILDHOOD PROFESSIONAL DEVELOPMENT SYSTEM. It is the intent of the general assembly that if funding is designated or is otherwise made available for purposes of implementing a statewide early childhood professional development system during the fiscal year beginning July 1, 2007, or the succeeding fiscal year, that the system shall be implemented by the department of education through the area education agencies and shall be designed to support the statewide preschool program for four-year-old children offered in accordance with chapter 256C. The department of education shall collaborate with early childhood Iowa and its public and private member agencies to ensure that the system complements existing programs and resources committed by the agencies to professional development. To the extent possible, the system shall support professionals engaged in other early childhood programs.

Sec. 74. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM

Sec. 75. Section 282.10, subsection 4, Code 2007, is amended to read as follows:

4. A whole grade sharing agreement shall be signed by the boards of the districts involved in the agreement not later than February 1 of the school year preceding the school year for which the agreement is to take effect. The boards of the districts shall negotiate as part of the new or existing agreement the disposition of teacher quality funding provided under chapter 284.

Sec. 76. Section 284.2, subsection 11, Code Supplement 2007, is amended to read as follows:

11. "Teacher" means an individual who holds a practitioner's license issued under chapter 272, or a statement of professional recognition issued under chapter 272 who is employed 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. 77. Section 284.7, subsection 1, paragraph a, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) Beginning July 1, ~~2007~~ 2008, the minimum salary for a beginning teacher shall be ~~twenty-six~~ twenty-eight thousand ~~five hundred~~ dollars.

Sec. 78. Section 284.7, subsection 1, paragraph b, subparagraph (2), Code Supplement 2007, is amended to read as follows:

(2) Beginning July 1, ~~2007~~ 2008, the minimum salary for a first-year career teacher shall be ~~twenty-seven~~ thirty thousand ~~five hundred~~ dollars ~~and the minimum salary for all other career teachers shall be twenty-eight thousand five hundred dollars~~.

Sec. 79. Section 284.7, subsection 5, paragraph b, Code Supplement 2007, is amended to read as follows:

b. If, once the minimum salary requirements of this section have been met by the school district or area education agency, and the school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "h" or "i", for purposes of this section, and the certified bargaining representative for the licensed employees have not reached an agreement for distribution of the funds remaining, in accordance with paragraph "a", the board of directors shall divide the funds remaining among full-time teachers employed by the district or area education agency whose regular compensation is equal to or greater than the minimum salary specified in this section. The payment amount for teachers employed on less than a full-time basis shall be prorated. For purposes of this paragraph, regular compensation means base salary plus any salary provided under chapter 294A.

Sec. 80. Section 284.7, subsection 5, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A school district or area education agency receiving funds pursuant to section 284.13, subsection 1, paragraph "h" or "i", shall determine the amount to be paid to teachers in accordance with this subsection and the amount determined to be paid to an individual teacher shall be divided evenly and paid in each pay period of the fiscal year beginning with the October payroll.

Sec. 81. Section 284.8, subsection 1, Code Supplement 2007, is amended to read as follows:

1. A 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 professional development plan, subject to the level of ~~funding~~ resources provided to implement the plan; and shall include supporting documentation from parents, students, and other ~~evaluators,~~ teachers~~, parents, and students~~.

Sec. 82. Section 284.13, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. For ~~each~~ the fiscal year ~~of the fiscal period~~ beginning July 1, ~~2007~~ 2008, and ending June 30, 2009, to the department of education, the amount of one million ~~eighty-seven~~ seven hundred seven thousand five hundred dollars for the issuance of national board certification awards in accordance with section 256.44.

~~(1)~~ Of the amount allocated under this paragraph ~~"a"~~, not less than eighty-five thousand dollars shall be used to administer the ambassador to education position in accordance with section 256.45.

~~(2) Of the amount allocated under this paragraph "a", for the fiscal year beginning July 1, 2007, and ending June 30, 2008, not less than one million dollars shall be used to supplement the allocation of funds for market factor teacher incentives made pursuant to paragraph "f", subparagraph (1).~~

Sec. 83. Section 284.13, subsection 1, paragraphs d and e, Code Supplement 2007, are amended to read as follows:

d. (1) For the fiscal year beginning July 1, ~~2007~~ 2008, and ending June 30, ~~2008~~ 2009, up to ~~twenty~~ twenty-eight million five hundred thousand dollars to the department for use by school districts for professional development as provided in section 284.6. Of the amount allocated under this paragraph, up to eight million five hundred thousand dollars shall be provided to school districts for professional development related to the infusion and implementation of the model core curriculum prescribed in section 256.7, subsection 26. The department shall distribute funds allocated for the purpose of this paragraph based on the average per diem contract salary for each district as reported to the department for the school year beginning

July 1, ~~2006~~ 2007, multiplied by the total number of full-time equivalent teachers in the base year. The department shall adjust each district's average per diem salary by the allowable growth rate established under section 257.8 for the fiscal year beginning July 1, ~~2007~~ 2008. The contract salary amount shall be the amount paid for their regular responsibilities but shall not include pay for extracurricular activities. These funds shall not supplant existing funding for professional development activities. Notwithstanding any provision to the contrary, moneys received by a school district under this paragraph shall not revert but shall remain available for the same purpose in the succeeding fiscal year. A school district shall submit a report to the department in a manner determined by the department describing its use of the funds received under this paragraph. The department shall submit a report on school district use of the moneys distributed pursuant to this paragraph to the general assembly and the legislative services agency not later than January 15 of the fiscal year for which moneys are allocated for purposes of this paragraph.

(2) From moneys available under subparagraph (1) for the fiscal year beginning July 1, ~~2007~~ 2008, and ending June 30, ~~2008~~ 2009, the department shall allocate to area education agencies an amount per teacher employed by an area education agency that is approximately equivalent to the average per teacher amount allocated to the districts. The average per teacher amount shall be calculated by dividing the total number of teachers employed by school districts and the teachers employed by area education agencies into the total amount of moneys available under subparagraph (1).

(3) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, up to nine hundred fifteen thousand dollars to the department for implementation of a statewide early childhood professional development system through the area education agencies that is designed to support the statewide preschool program for four-year-old children under chapter 256C and to the extent possible, other early childhood programs.

e. For ~~the~~ each fiscal year ~~beginning July 1, 2007, and ending June 30, 2008~~ in which funds are appropriated for purposes of this chapter, an amount up to one million eight hundred forty-five thousand dollars to the department for the establishment of teacher development academies in accordance with section 284.6, subsection 10. A portion of the funds allocated to the department for purposes of this paragraph may be used for administrative purposes.

Sec. 84. Section 284.13, subsection 1, paragraph f, Code Supplement 2007, is amended by striking the paragraph and inserting in lieu thereof the following:

f. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, to the department of education, the amount of two hundred fifty thousand dollars for distribution to the institute for tomorrow's workforce created pursuant to section 7K.1.

Sec. 85. Section 284.13, subsection 1, paragraph g, subparagraph (3), Code Supplement 2007, is amended to read as follows:

(3) For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of ~~two million five~~ three hundred thirty-five thousand dollars. From the amount allocated for the fiscal year under this subparagraph, an amount up to ten thousand dollars shall be used for purposes of the pay-for-performance commission's expenses, an amount up to one hundred thousand dollars shall be used by the department for oversight and administration of the implementation pilots as provided in sections 284.14 and 284.14A, and an amount up to two hundred thousand dollars shall be used for the employment of an external evaluator.

Sec. 86. Section 284.11, Code Supplement 2007, is repealed.

DIVISION V
STATE SCHOOL AID FORMULA CHANGES

Sec. 87. Section 256D.2, Code 2007, is amended to read as follows:

256D.2 PROGRAM EXPENDITURES.

1. A school district shall expend funds received pursuant to section 256D.4 at the kindergarten through grade three levels to reduce class sizes to the state goal of seventeen students for

every one teacher and to achieve a higher level of student success in the basic skills, especially reading. In order to support these efforts, school districts may expend funds received pursuant to section 256D.4 at the kindergarten through grade three level on programs, instructional support, and materials that include, but are not limited to, the following: additional licensed instructional staff; additional support for students, such as before and after school programs, tutoring, and intensive summer programs; the acquisition and administration of diagnostic reading assessments; the implementation of research-based instructional intervention programs for students needing additional support; the implementation of all-day, everyday kindergarten programs; and the provision of classroom teachers with intensive training programs to improve reading instruction and professional development in best practices, including but not limited to training programs related to instruction to increase students' phonemic awareness, reading abilities, and comprehension skills.

2. This section is repealed June 30, 2009.

Sec. 88. NEW SECTION. 256D.2A PROGRAM FUNDING.

Beginning July 1, 2009, and each succeeding year, a school district shall expend funds received pursuant to section 257.10, subsection 11, at the kindergarten through grade three levels to reduce class sizes to the state goal of seventeen students for every one teacher and to achieve a higher level of student success in the basic skills, especially reading. In order to support these efforts, school districts may expend funds received pursuant to section 257.10, subsection 11, at the kindergarten through grade three level on programs, instructional support, and materials that include but are not limited to the following: additional licensed instructional staff; additional support for students, such as before and after school programs, tutoring, and intensive summer programs; the acquisition and administration of diagnostic reading assessments; the implementation of research-based instructional intervention programs for students needing additional support; the implementation of all-day, everyday kindergarten programs; and the provision of classroom teachers with intensive training programs to improve reading instruction and professional development in best practices including but not limited to training programs related to instruction to increase students' phonemic awareness, reading abilities, and comprehension skills.

Sec. 89. Section 256D.4, subsection 3, Code 2007, is amended to read as follows:

3. For each year in which an appropriation is made to the Iowa early intervention block grant program, the department of education shall notify the department of administrative services of the amount of the allocation to be paid to each school district as provided in subsections 1 and 2. The allocation to each school district shall be made in one payment on or about October 15 of the fiscal year for which the appropriation is made, taking into consideration the relative budget and cash position of the state resources. Moneys received under this section shall not be commingled with state aid payments made under section 257.16 to a school district and shall be accounted for by the local school district separately from state aid payments. Payments made to school districts under this section are miscellaneous income for purposes of chapter 257. ~~A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section. A school district shall certify to the department of education that moneys received under this section were used to supplement, not supplant, moneys otherwise received and used by the school district.~~

Sec. 90. Section 256D.4, subsection 4, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

4. This section is repealed June 30, 2009.

Sec. 91. NEW SECTION. 256D.4A PROGRAM REQUIREMENTS.

A school district shall maintain a separate listing within its budget for payments received and expenditures made pursuant to this section.[5] A school district shall certify to the depart-

[5] According to enrolled Act; the word "chapter" probably intended

ment of education that moneys received under this section[6] were used to supplement, not supplant, moneys otherwise received and used by the school district.

Sec. 92. Section 256D.5, subsection 4, Code Supplement 2007, is amended to read as follows:

4. For each fiscal year of the fiscal period beginning July 1, 2004, and ending June 30, ~~2012~~ 2009, the sum of twenty-nine million two hundred fifty thousand dollars.

Sec. 93. Section 257.1, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

For the budget year commencing July 1, 1999, and for each succeeding budget year the regular program foundation base per pupil is eighty-seven and five-tenths percent of the regular program state cost per pupil. For the budget year commencing July 1, 1991, and for each succeeding budget year the special education support services foundation base is seventy-nine percent of the special education support services state cost per pupil. The combined foundation base is the sum of the regular program foundation base, ~~and~~ the special education support services foundation base, the total teacher salary supplement district cost, the total professional development supplement district cost, the total early intervention supplement district cost, the total area education agency teacher salary supplement district cost, and the total area education agency professional development supplement district cost.

Sec. 94. Section 257.1, subsection 3, Code 2007, is amended to read as follows:

3. COMPUTATIONS ROUNDED. In making computations and payments under this chapter, except in the case of computations relating to funding of special education support services, media services, and educational services provided through the area education agencies, and the teacher salary supplement, the professional development supplement, and the early intervention supplement, the department of management shall round amounts to the nearest whole dollar.

Sec. 95. Section 257.4, subsection 1, paragraph a, Code 2007, is amended to read as follows:

a. A school district shall cause an additional property tax to be levied each year. The rate of the additional property tax levy in a school district shall be determined by the department of management and shall be calculated to raise the difference between the combined district cost for the budget year and the sum of ~~the products~~ the following:

(1) The product of the regular program foundation base per pupil times the weighted enrollment in the district. ~~and the~~

(2) The product of special education support services foundation base per pupil times the special education support services weighted enrollment in the district.

(3) The total teacher salary supplement district cost.

(4) The total professional development supplement district cost.

(5) The total early intervention supplement district cost.

(6) The total area education agency teacher salary supplement district cost.

(7) The total area education agency professional development supplement district cost.

Sec. 96. Section 257.8, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. CATEGORICAL STATE PERCENT OF GROWTH. The categorical state percent of growth for each 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 categorical state percent of growth for a budget year shall be the only subject matter of the bill which enacts the categorical state percent of growth for a budget year. The categorical state percent of growth may include state

[6] According to enrolled Act; the word "chapter" probably intended

percents of growth for the teacher salary supplement, the professional development supplement, and the early intervention supplement.

Sec. 97. Section 257.9, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 6. TEACHER SALARY SUPPLEMENT STATE COST PER PUPIL. For the budget year beginning July 1, 2009, for the teacher salary supplement state cost per pupil, the department of management shall add together the teacher compensation allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "h", and the phase II allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The teacher salary supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus an allowable growth amount that is equal to the teacher salary supplement categorical state percent of growth, pursuant to section 257.8, subsection 1A, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

NEW SUBSECTION. 7. PROFESSIONAL DEVELOPMENT SUPPLEMENT STATE COST PER PUPIL. For the budget year beginning July 1, 2009, for the professional development supplement state cost per pupil, the department of management shall add together the professional development allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "d", and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The professional development supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus an allowable growth amount that is equal to the professional development supplement categorical state percent of growth, pursuant to section 257.8, subsection 1A, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

NEW SUBSECTION. 8. EARLY INTERVENTION SUPPLEMENT STATE COST PER PUPIL. For the budget year beginning July 1, 2009, for the early intervention supplement state cost per pupil, the department of management shall add together the early intervention allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 256D.4, and divide that sum by the statewide total budget enrollment for the fiscal year beginning July 1, 2009. The early intervention supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus an allowable growth amount that is equal to the early intervention supplement categorical state percent of growth, pursuant to section 257.8, subsection 1A, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

NEW SUBSECTION. 9. AREA EDUCATION AGENCY TEACHER SALARY SUPPLEMENT STATE COST PER PUPIL. For the budget year beginning July 1, 2009, for the area education agency teacher salary supplement state cost per pupil, the department of management shall add together the teacher compensation allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "i", and the phase II allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, and divide that sum by the statewide special education support services weighted enrollment for the fiscal year beginning July 1, 2009. The area education agency teacher salary supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus an allowable growth amount that is equal to the teacher salary supplement categorical state percent of growth, pursuant to section 257.8, subsection 1A, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

NEW SUBSECTION. 10. AREA EDUCATION AGENCY PROFESSIONAL DEVELOPMENT SUPPLEMENT STATE COST PER PUPIL. For the budget year beginning July 1, 2009, for the area education agency professional development supplement state cost per pupil, the department of management shall add together the professional development allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "d", and divide that sum by the statewide special education support services weighted enrollment for the fiscal year beginning July 1, 2009. The area education agency professional development supplement state cost per pupil for the budget year beginning July 1, 2010, and succeeding budget years, shall be the amount calculated by the department of management under this subsection for the base year plus an allowable growth amount that is equal to the professional development supplement categorical state percent of growth, pursuant to section 257.8, subsection 1A, for the budget year, multiplied by the amount calculated by the department of management under this subsection for the base year.

Sec. 98. Section 257.10, subsection 8, unnumbered paragraph 1, Code 2007, is amended to read as follows:

Combined district cost is the sum of the regular program district cost per pupil multiplied by the weighted enrollment, ~~and~~ the special education support services district cost, the total teacher salary supplement district cost, the total professional development supplement district cost, and the total early intervention supplement district cost, plus the sum of the additional district cost allocated to the district to fund media services and educational services provided through the area education agency, the area education agency total teacher salary supplement district cost and the area education agency total professional development supplement district cost.

Sec. 99. Section 257.10, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 9. TEACHER SALARY SUPPLEMENT COST PER PUPIL AND DISTRICT COST.

a. For the budget year beginning July 1, 2009, the department of management shall add together the teacher compensation allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "h", and the phase II allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, and divide that sum by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the teacher salary supplement district cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the teacher salary supplement district cost per pupil for each school district for a budget year is the teacher salary supplement program district cost per pupil for the base year plus the teacher salary supplement state allowable growth amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted teacher salary supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted teacher salary supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted teacher salary supplement district cost is the teacher salary supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total teacher salary supplement district cost is the sum of the unadjusted teacher salary supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with the requirements of chapters 284 and 294A and shall be distributed to teachers pursuant to section 284.7.

NEW SUBSECTION. 10. PROFESSIONAL DEVELOPMENT SUPPLEMENT COST PER PUPIL AND DISTRICT COST.

a. For the budget year beginning July 1, 2009, the department of management shall divide the professional development allocation made to each district for the fiscal year beginning

July 1, 2008, pursuant to section 284.13, by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the professional development supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the professional development supplement district cost per pupil for each school district for a budget year is the professional development supplement district cost per pupil for the base year plus the professional development supplement state allowable growth amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted professional development supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted professional development supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted professional development supplement district cost is the professional development supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total professional development supplement district cost is the sum of the unadjusted professional development supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with the requirements of chapter 284.

NEW SUBSECTION. 11. EARLY INTERVENTION SUPPLEMENT COST PER PUPIL AND DISTRICT COST.

a. For the budget year beginning July 1, 2009, the department of management shall divide the early intervention allocation made to each district for the fiscal year beginning July 1, 2008, pursuant to section 256D.4, by the district's budget enrollment in the fiscal year beginning July 1, 2009, to determine the early intervention supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the early intervention supplement district cost per pupil for each school district for a budget year is the early intervention supplement district cost per pupil for the base year plus the early development supplement state allowable growth amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted early intervention supplement district cost of a school district for a budget year is less than one hundred percent of the unadjusted early intervention supplement district cost for the base year for the school district, the school district shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted early intervention supplement district cost is the early intervention supplement district cost per pupil for each school district for a budget year multiplied by the budget enrollment for that school district.

(2) The total early intervention supplement district cost is the sum of the unadjusted early intervention supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with the requirements of chapter 256D.

Sec. 100. Section 257.35, subsection 1, Code Supplement 2007, is amended to read as follows:

1. The department of management shall deduct the amounts calculated for special education support services, media services, area education agency teacher salary supplement district cost, area education agency professional development supplement district cost, 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 defi-

ciency to the area education agency from other moneys received by the district, on a quarterly basis during each school year.

Sec. 101. NEW SECTION. 257.37A AREA EDUCATION AGENCY SALARY SUPPLEMENT FUNDING.

1. AREA EDUCATION AGENCY TEACHER SALARY SUPPLEMENT COST PER PUPIL AND DISTRICT COST.

a. For the budget year beginning July 1, 2009, the department of management shall add together the teacher compensation allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, subsection 1, paragraph "i", and the phase II allocation made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 294A.9, and divide that sum by the special education support services weighted enrollment in the fiscal year beginning July 1, 2009, to determine the area education agency teacher salary supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the area education agency teacher salary supplement district cost per pupil for each area education agency for a budget year is the area education agency teacher salary supplement district cost per pupil for the base year plus the area education agency teacher salary supplement state allowable growth amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted area education agency teacher salary supplement district cost of an area education agency for a budget year is less than one hundred percent of the unadjusted area education agency teacher salary supplement district cost for the base year for the area education agency, the area education agency shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted area education agency teacher salary supplement district cost is the area education agency teacher salary supplement district cost per pupil for each area education agency for a budget year multiplied by the special education support services weighted enrollment for that area education agency.

(2) The total area education agency teacher salary supplement district cost is the sum of the unadjusted area education agency teacher salary supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with requirements of chapters 284 and 294A and shall be distributed to teachers pursuant to section 284.7.

2. AREA EDUCATION AGENCY PROFESSIONAL DEVELOPMENT SUPPLEMENT COST PER PUPIL AND DISTRICT COST.

a. For the budget year beginning July 1, 2009, the department of management shall divide the area education agency professional development supplement made to each area education agency for the fiscal year beginning July 1, 2008, pursuant to section 284.13, by the special education support services weighted enrollment in the fiscal year beginning July 1, 2009, to determine the professional development supplement cost per pupil. For the budget year beginning July 1, 2010, and succeeding budget years, the area education agency professional development supplement district cost per pupil for each area education agency for a budget year is the area education agency professional development supplement district cost per pupil for the base year plus the area education agency professional development supplement state allowable growth amount for the budget year.

b. For the budget year beginning July 1, 2010, and succeeding budget years, if the department of management determines that the unadjusted area education agency professional development supplement district cost of an area education agency for a budget year is less than one hundred percent of the unadjusted area education agency professional development supplement district cost for the base year for the area education agency, the area education agency shall receive a budget adjustment for that budget year equal to the difference.

c. (1) The unadjusted area education agency professional development supplement district cost is the area education agency professional development supplement district cost per pupil for each area education agency for a budget year multiplied by the special education support services weighted enrollment for that area education agency.

(2) The total area education agency professional development supplement district cost is the sum of the unadjusted area education agency professional development supplement district cost plus the budget adjustment for that budget year.

d. The use of the funds calculated under this subsection shall comply with requirements of chapter 284.

Sec. 102. NEW SECTION. 257.51 CATEGORICAL STATE APPROPRIATIONS.

For the budget year beginning July 1, 2009, and succeeding budget years, if the general assembly makes an appropriation pursuant to section 284.13, subsection 1, paragraph "h" or "i", or for the phase II allocation pursuant to section 294A.9, or for professional development pursuant to section 284.13, subsection 1, paragraph "d", or for early intervention pursuant to section 256D.4, the department of management shall recalculate the formulas in section 257.9, subsections 6 through 10; section 257.10, subsections 9, 10, and 11; and section 257.37A.

Sec. 103. Section 294A.9, Code 2007, is amended to read as follows:

294A.9 PHASE II PROGRAM.

1. Phase II is established to improve the salaries of teachers.

2. For each fiscal year beginning on or after July 1, 1992, the per pupil amount upon which the phase II moneys are based is equal to the per pupil allocation plus supplemental allocations for the immediately preceding fiscal year.

3. The department of education shall certify the amounts of the allocations for each school district and area education agency to the department of administrative services and the department of administrative services shall make the payments to school districts and area education agencies.

4. If a school district has discontinued grades under section 282.7, subsection 1, or students attend school in another school district, under an agreement with the board of the other school district, the board of directors of the district of residence either shall transmit the phase II moneys allocated to the district for those students based upon the full-time equivalent attendance of those students to the board of the school district of attendance of the students or shall transmit to the board of the school district of attendance of the students a portion of the phase II moneys allocated to the district of residence based upon an agreement between the board of the resident district and the board of the district of attendance.

5. If a school district uses teachers under a contract between the district and the area education agency in which the district is located, the school district shall transmit to the employing area education agency a portion of its phase II allocation based upon the portion that the salaries of teachers employed by the area education agency and assigned to the school district for a school year bears to the total teacher salaries paid in the district for that school year, including the salaries of the teachers employed by the area education agency.

6. If the school district or area education agency is organized under chapter 20 for collective bargaining purposes, the board of directors and certified bargaining representative for the licensed employees shall mutually agree upon a formula for distributing the phase II allocation among the teachers.

7. For the school year beginning July 1, 1987, only, the parties shall follow the 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 phase II allocation shall be divided as provided in section 294A.10. Negotiations under this section are subject to the scope of negotiations specified in section 20.9. If a board of directors and certified bargaining representative for licensed employees have not reached mutual agreement by July 15, 1987, for the distribution of the phase II payment, section 294A.10 will apply.

8. If the school district or area education agency is not organized for collective bargaining purposes, the board of directors shall determine the method of distribution.

9. Subsections 2, 3, 4, and 7 are repealed June 30, 2009.

Sec. 104. Section 294A.10, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section is repealed June 30, 2009.

Sec. 105. Section 294A.22, Code 2007, is amended to read as follows:

294A.22 PAYMENTS.

1. Payments for each phase of the educational excellence program shall be made by the department of administrative services on a monthly basis commencing on October 15 and ending on June 15 of each fiscal year, taking into consideration the relative budget and cash position of the state resources. The payments shall be separate from state aid payments made pursuant to sections 257.16 and 257.35. The payments made under this section to a school district or area education agency may be combined and a separate accounting of the amount paid for each program shall be included.

2. Any payments made to school districts or area education agencies under this chapter are miscellaneous income for purposes of chapter 257.

3. Payments made to a teacher by a school district or area education agency under this chapter are wages for the purposes of chapter 91A.

4. If funds appropriated are insufficient to pay phase II allocations in full, the department of administrative services shall prorate payments to school districts and area education agencies.

This subsection is repealed June 30, 2009.

Sec. 106. Section 294A.25, subsection 1, Code 2007, is amended to read as follows:

1. For the fiscal ~~year~~ period beginning July 1, 2003, and ~~for each succeeding year~~ ending June 30, 2009, there is appropriated each fiscal year from the general fund of the state to the department of education the amount of fifty-six million eight hundred ninety-one thousand three hundred thirty-six dollars to be used to improve teacher salaries. The moneys shall be distributed as provided in this section.

Sec. 107. Section 294A.25, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. For the fiscal year beginning July 1, 2009, and for each succeeding year, there is appropriated from the general fund of the state to the department of education an amount not to exceed fifteen million six hundred thirty-three thousand two hundred forty-five dollars. The moneys shall be distributed as provided in this section.

Sec. 108. Section 294A.25, subsection 6, Code 2007, is amended to read as follows:

6. Except as otherwise provided in this section, for the fiscal ~~year~~ period beginning July 1, 2003, and ~~succeeding fiscal years~~ ending June 30, 2009, the remainder of moneys appropriated in subsection 1 to the department of education shall be deposited each fiscal year in the educational excellence fund to be allocated in an amount to meet the requirements of this chapter for phase I and phase II.

Sec. 109. Section 294A.25, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Except as otherwise provided in this section, for the fiscal year beginning July 1, 2009, and succeeding fiscal years, the remainder of moneys appropriated in subsection 1 to the department of education shall be deposited in the educational excellence fund to be allocated in an amount to meet the requirements of this chapter for phase I.

Approved May 9, 2008, with exception noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2679, an Act relating to the funding of, the operation of, and appropriation of moneys to the college student aid commission, the department for the blind, the department of education, and the state board of regents, providing for related matters and in-

cluding effective date provisions. House File 2679 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the designated portion of section 5, subsection 1, paragraph b, of this bill. This paragraph specifies that the Department of Education will allocate 10 full-time equivalent positions to support management of the community college management information system, expansion of the State Board of Education's model core curriculum, development and implementation of strategic educational goals, collection and dissemination of resources related to the human growth and development curriculum, district sharing purposes, and the senior year plus program study.

This language was added to last year's appropriations bill for the Department of Education to correspond with the addition of new staff to perform the above-referenced functions. The Department of Education is currently performing all of the functions identified in the bill and understands that they are responsible to provide staff to support these purposes within the full-time equivalent limit assigned by the legislature. Therefore, this language is unnecessary, and, consistent with efforts to eliminate extraneous bill language, I am unable to approve it.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 2679 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1182

APPROPRIATIONS — JUDICIAL BRANCH

H.F. 2647

AN ACT relating to and making appropriations to the judicial branch.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. JUDICIAL BRANCH.

1. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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, 2008; and maintenance, equipment, and miscellaneous purposes:

. . . . . $ 144,745,322

2. 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 admin-

istration of programs and payments for services, and shall not duplicate the state payroll, accounting, and budgeting systems.

3. The judicial branch shall submit monthly financial statements to the legislative services agency 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 administrative services. 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.

4. The judicial branch shall focus efforts upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts.

5. It is the intent of the general assembly that the offices of the clerks of the district court operate in all 99 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.

6. The judicial branch shall continue studying the best practices and efficiencies of each judicial district. In identifying the most efficient judicial districts and the districts using best practices, the judicial branch shall consider the average cost to the judicial branch for processing each classification of criminal offense or civil action and the overall number of cases filed. In addition, and as part of the best practices and efficiencies study, the judicial branch shall study the number of judicial officers needed throughout the state to manage current caseloads and anticipated caseloads in the future, and shall make recommendations, if any, as to changes in judgeship and magistrate apportionment formulas in sections 602.6201, 602.6301, and 602.6401. The judicial branch shall file a report regarding the study made, recommendations presented, and actions taken pursuant to this subsection with the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and to the legislative services agency by January 1, 2009.

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 judicial branch in this Act, unless notice of the revisions is given prior to their effective date to the legislative services agency. The notice shall include information on the branch's rationale for making the changes and details concerning the workload and performance measures upon which the changes are based.

8. The judicial branch shall submit a semiannual update to the legislative services agency 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, 2009, 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 7, during the fiscal year beginning July 1, 2007, and ending June 30, 2008, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2008, and ending June 30, 2009. A copy of the report shall be provided to the legislative services agency.

10. The judicial branch is 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. The judicial branch shall obtain bids from Iowa state industries for purchases of office furniture during the fiscal year beginning July 1, 2008, exceeding $5,000.

Sec. 2. JUDICIAL RETIREMENT FUND.

1. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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 30.6 percent of the basic salaries of the judges covered under chapter 602, article 9:

. . . . . $ 3,450,963

2. There is appropriated from the revolving fund created in section 602.1302 to the judicial retirement fund for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

As part of the state's contribution to the judicial retirement fund in accordance with the conditions specified in subsection 1:

. . . . . $ 2,500,000

3. There is appropriated from the court technology and modernization fund established in section 602.8108, subsection 7, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

As part of the state's contribution to the judicial retirement fund in accordance with the conditions specified in subsection 1:

. . . . . $ 1,674,663

Sec. 3. POSTING OF REPORTS IN ELECTRONIC FORMAT — LEGISLATIVE SERVICES AGENCY. All reports or copies of reports required to be provided by the judicial branch for fiscal year 2008-2009 to the legislative services agency shall be provided in an electronic format. The legislative services agency shall post the reports on its internet web 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.

Approved May 10, 2008

CHAPTER 1183

GRANTS ENTERPRISE MANAGEMENT
OFFICE APPROPRIATION — CONTINUATION

H.F. 2674

AN ACT concerning appropriations to the office of grants enterprise management and including an effective date provision.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8A.505, subsection 2, Code 2007, is amended to read as follows:

2. There is appropriated annually from indirect cost reimbursements to the office of grants enterprise management of the department of management the sum of up to one hundred twenty-five thousand dollars for the expenses of the office, and annually for the fiscal period beginning July 1, 2006, and ending June 30, ~~2008~~ 2010, the sum of thirty-five thousand dollars to provide grant identification and writing assistance to state agencies. The director shall transfer the funds appropriated to the department of management as provided in this subsection and shall make the funds available during the fiscal year to the department of management on a monthly basis.

Sec. 2. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 2008

CHAPTER 1184

APPROPRIATIONS — ADMINISTRATION AND REGULATION

S.F. 2400

AN ACT relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters and providing an effective and retroactive applicability date.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
ADMINISTRATION AND REGULATION APPROPRIATIONS

Section 1. DEPARTMENT OF ADMINISTRATIVE SERVICES.

1. There is appropriated from the general fund of the state to the department of administrative services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,389,186
..... FTEs 457.33

b. For the payment of utility costs:

..... $ 3,704,800

Notwithstanding section 8.33, any excess funds appropriated for utility costs in this lettered paragraph 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 lettered paragraph during the succeeding fiscal year.

It is the intent of the general assembly that the department shall reduce utility costs through energy conservation practices. The goal of the general assembly is to reduce energy use by 10 percent to save money, conserve energy resources, and reduce pollution.

2. 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.

3. Any funds and premiums collected by the department for workers' compensation shall be segregated into a separate workers' compensation fund in the state treasury to be used for payment of state employees' workers' compensation claims and administrative costs. 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.

Sec. 2. REVOLVING FUNDS. There is appropriated to the department of administrative services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, from the revolving funds designated in chapter 8A and from internal service funds created by the department such amounts as the department deems necessary for the operation of the department consistent with the requirements of chapter 8A.

Sec. 3. FUNDING FOR IOWACCESS.

1. Notwithstanding section 321A.3, subsection 1, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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 established by section 8A.224 and administered by the department of administrative services for the purposes of developing, im-

plementing, maintaining, and expanding electronic access to government records as provided by law.

2. All fees collected with respect to transactions involving IowAccess shall be deposited in the IowAccess revolving fund and shall be used only for the support of IowAccess projects.

Sec. 4. STATE EMPLOYEE HEALTH INSURANCE ADMINISTRATION CHARGE. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the monthly per contract administrative charge which may be assessed by the department of administrative services shall be $2 per contract on all health insurance plans administered by the department.

Sec. 5. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,249,178
..... FTEs 103.00

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 services agency of the additional full-time equivalent positions retained.

Sec. 6. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 527,122
..... FTEs 6.00

Sec. 7. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,079,509
..... FTEs 37.00

2. BANKING DIVISION

a. Banking. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 8,200,316
..... FTEs 73.00

b. Professional licensing and regulation. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 945,982
..... FTEs 16.00

3. CREDIT UNION DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,631,740
..... FTEs 19.00

4. INSURANCE DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,857,123
..... FTEs 101.00

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 services agency, 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.

c. The insurance division shall allocate $10,000 from the examination receipts for the payment of its fees to the national conference of insurance legislators.

5. UTILITIES DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 7,573,402
..... 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 services agency, 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.

c. Notwithstanding sections 8.33 and 476.10 or any other provision to the contrary, any balance of the appropriation made in this subsection for the utilities division or any other operational appropriation made for the fiscal year beginning July 1, 2008, and ending June 30, 2009, that remains unused, unencumbered, or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for purposes of the energy-efficient building project authorized under section 476.10B, or for relocation costs in succeeding fiscal years.

6. CHARGES — TRAVEL

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 and any state-assessed indirect costs determined by the department of administrative services. 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.

Sec. 8. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION BUREAU. There is appropriated from the housing improvement fund of the department of economic development, or, if 2008 Iowa Acts, Senate File 2136,[1] is enacted, from the housing trust fund of the Iowa finance authority, to the bureau of professional licensing and regulation

[1] Chapter 1097 herein

of the banking division of the department of commerce for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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

Sec. 9. 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, 2008, and ending June 30, 2009, 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:

..... $ 2,524,462
..... FTEs 26.25

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:

..... $ 492,593
..... FTEs 10.00

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:

..... $ 158,873
..... FTEs 3.00

4. NATIONAL GOVERNORS ASSOCIATION

For payment of Iowa's membership in the national governors association:

..... $ 80,600

5. STATE-FEDERAL RELATIONS

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 131,222
..... FTEs 2.00

Sec. 10. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

a. For salaries, support, maintenance, and 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:

..... $ 346,731
..... FTEs 8.00

b. For support of multijurisdictional drug enforcement programs:

..... $ 1,760,000

It is the intent of the general assembly that the governor's office of drug control policy maximize efforts with federal agencies concerning drug enforcement programs to avoid duplication of services.

If federal funding in excess of $880,209 is received for multijurisdictional drug enforcement programs during the fiscal year beginning July 1, 2008, and ending June 30, 2009, of the moneys appropriated in this lettered paragraph, an amount equal to the federal funding received in excess of $880,209 shall revert to the general fund of the state at the end of the fiscal year.

The programs shall provide for at least a 25 percent local match.

2. The governor's office of drug control policy, in consultation with the 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. 11. 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, 2008, and ending June 30, 2009, 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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 356,535
..... FTEs 7.00

2. DEAF SERVICES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 421,700
..... FTEs 6.00

3. STATUS OF IOWANS OF ASIAN AND PACIFIC ISLANDER HERITAGE DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 153,093
..... FTEs 1.00

4. PERSONS WITH DISABILITIES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 217,221
..... FTEs 3.20

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 207,035
..... FTEs 3.00

6. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, and 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:

..... $ 367,203
..... FTEs 3.00

7. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 187,066
..... FTEs 2.00

7A. NATIVE AMERICAN AFFAIRS DIVISION

For travel reimbursement for members of the commission on Native American affairs:

..... $ 6,000

7B. DEVELOPMENT ASSESSMENT AND RESOLUTION PROGRAM

For support, maintenance, and miscellaneous purposes:

..... $ 10,000

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,587,333
..... FTEs 11.18

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.

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. 12. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. ADMINISTRATION DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,209,075
..... FTEs 39.25

As a condition of receiving funding appropriated in this subsection, the department shall maintain the targeted small business certification employee position within the division.

2. ADMINISTRATIVE HEARINGS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 708,962
..... FTEs 24.00

3. INVESTIGATIONS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,599,591
..... FTEs 49.00

4. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,498,437
..... FTEs 140.75

5. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 58,117
..... 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.

6. CHILD ADVOCACY BOARD

For foster care review and the court appointed special advocate program, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,751,058
..... FTEs 45.12

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. The court appointed special advocate program shall investigate and develop opportunities for expanding fund-raising for the program.

c. 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.

d. Notwithstanding any provision of sections 237.18 and 237.20 to the contrary, the child advocacy board may establish up to six pilot projects using alternative policies to guide the selection of cases and the procedures used by local citizen foster care review boards as they review cases of children who received or are receiving foster care or other out-of-home placement services while under the supervision of the department of human services. Policies to guide the pilot project case selection, review time frames and reporting formats shall be approved by the department of human services, state court administrator, and the chief judge of any judicial district in which a pilot project is to be implemented. The child advocacy board shall report to the governor and general assembly by February 1, 2009, on the progress of any new approaches and their impact on efficiencies and case outcomes.

Sec. 13. 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, 2008, and ending June 30, 2009, 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 parimutuel racetracks, and for not more than the following full-time equivalent positions:

.....	$	2,827,266
.....	FTEs	28.53

2. EXCURSION BOAT AND GAMBLING STRUCTURE 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, 2008, and ending June 30, 2009, 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 and gambling structure laws, and for not more than the following full-time equivalent positions:

.....	$	3,171,229
.....	FTEs	42.22

Sec. 14. ROAD USE TAX FUND APPROPRIATION — DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the road use tax fund to the administrative hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	$	1,623,897

Sec. 15. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	3,178,337
.....	FTEs	37.50

Of the moneys appropriated in this section, the department shall use a portion for enterprise resource planning, providing for a salary model administrator, conducting performance audits, and for the department's LEAN process.

As a condition of receiving funding appropriated in this section, the department of management shall report to the members and staff of the joint appropriations subcommittee on administration and regulation by January 1, 2009, concerning the feasibility and costs of creating and publishing on the internet a publicly available, single state database providing detailed information on state funding that is subject to state budgeting and expenditure.

The department of management budget for the fiscal year beginning July 1, 2009, as proposed by the department and the governor, shall include funding for director and assistant director positions at the Tim Shields center for governing excellence in Iowa under section 8.69.

Sec. 16. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 56,000

Sec. 17. DEPARTMENT OF REVENUE. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 26,472,699
..... FTEs 399.01

Of the funds appropriated pursuant to this section, $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 423B and 423E.

The director of revenue shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 17, without cost to a city or county.

Sec. 18. MOTOR VEHICLE FUEL TAX APPROPRIATION. There is appropriated from the motor fuel tax fund created by section 452A.77 to the department of revenue for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 1,305,775

Sec. 19. 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, 2008, and ending June 30, 2009, 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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,499,063
..... FTEs 17.00

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, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,012,018
..... FTEs 25.00

* Item veto; see message at end of the Act

Sec. 20. 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 504.113, subsection 1, paragraphs "a", "c", "d", "j", "k", "l", and "m", for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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, chapter 17A.

Sec. 21. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,027,970
..... FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 22. ROAD USE TAX APPROPRIATION. There is appropriated from the road use tax fund to the office of treasurer of state for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as necessary, to be used for the purposes designated:

For enterprise resource management costs related to the distribution of road use tax funds:

..... $ 93,148

Sec. 23. IPERS — GENERAL OFFICE. There is appropriated from the Iowa public employees' retirement system fund to the Iowa public employees' retirement system for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system, and for not more than the following full-time equivalent positions:

..... $ 17,313,766
..... FTEs 95.13

Sec. 24. Section 68A.402, subsection 1, Code Supplement 2007, is amended to read as follows:

1. FILING METHODS. Each committee shall file with the board reports disclosing information required under this section on forms prescribed by rule. Reports shall be filed on or before the required due dates by using any of the following methods: mail bearing a United States postal service postmark, hand-delivery, facsimile transmission, electronic mail attachment, or electronic filing as prescribed by rule. Any report that is required to be filed five days or less prior to an election must be physically received by the board to be considered timely filed. For purposes of this section, "physically received" means the report is either electronically filed using the board's electronic filing system or is received by the board prior to 4:30 p.m. on the report due date.

Sec. 25. Section 68B.32A, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. At the board's discretion, develop and operate a searchable internet site database that provides access to information on statements or reports filed with the board. For purposes of this subsection, "searchable internet site database" means an internet site database that allows the public to search and aggregate information and is in a downloadable format.

Sec. 26. 2007 Iowa Acts, chapter 217, section 7, subsection 5, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding sections 8.33 and 476.10 or any other provision to the contrary, any balance of the appropriation made in this subsection for the utilities division or any other operational appropriation made for the fiscal year beginning July 1, 2007, and ending June 30, 2008, that remains unused, unencumbered, or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for purposes of the energy-efficient building project authorized under section 476.10B, or for relocation costs in succeeding fiscal years.

Sec. 27. 2007 Iowa Acts, chapter 217, section 10, subsection 1, paragraph b, is amended to read as follows:

b. For support of multijurisdictional drug enforcement programs:

. . . . . $ 1,400,000

~~If federal funding is received for multijurisdictional drug enforcement programs during the fiscal year beginning July 1, 2007, and ending June 30, 2008, of the moneys appropriated in this lettered paragraph an amount equal to the federal funding received less $1,560,000 shall revert to the general fund of the state at the end of the fiscal year.~~ The programs shall provide for at least a 25 percent local match.

Notwithstanding section 8.33, moneys appropriated in this lettered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

Sec. 28. EFFECTIVE DATES.

1. The provision of this division of this Act amending 2007 Iowa Acts, chapter 217, section 7, relating to the expenditure authority of the utilities board for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for purposes of a building project, being deemed of immediate importance, takes effect upon enactment.

2. The provision of this division of this Act amending 2007 Iowa Acts, chapter 217, section 10, relating to appropriations to the governor's office of drug control policy, being deemed of immediate importance, takes effect upon enactment.

3. The section of this division of this Act amending section 68A.402, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
DEPARTMENT OF ADMINISTRATIVE SERVICES OPERATIONS

Sec. 29. Section 8.6, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 16. DESIGNATION OF SERVICES — FUNDING — CUSTOMER COUNCILS.

a. Establish a process by which the department, in consultation with the department of administrative services, shall determine which services provided by the department of administrative services shall be funded by an appropriation and which services shall be funded by the governmental entity receiving the service.

b. Establish a process for determining whether the department of administrative services shall be the sole provider of a service for purposes of those services which the department determines under paragraph "a" are to be funded by the governmental entities receiving the service.

c. Establish, by rule, a customer council responsible for overseeing the services provided solely by the department of administrative services. The rules adopted shall provide for all of the following:

(1) The method of appointment of members to the council by the governmental entities required to receive the services.

(2) The duties of the customer council which shall be as follows:

(a) Annual review and approval of the department of administrative services' business plan regarding services provided solely by the department of administrative services.

(b) Annual review and approval of the procedure for resolving complaints concerning services provided by the department of administrative services.

(c) Annual review and approval of the procedure for setting rates for the services provided solely by the department of administrative services.

(3) A process for receiving input from affected governmental entities as well as for a biennial review by the customer council of the determinations made by the department of which services are funded by an appropriation to the department of administrative services and which services are funded by the governmental entities receiving the service, including any recommendations as to whether the department of administrative services shall be the sole provider of a service funded by the governmental entities receiving the service. The department, in consultation with the department of administrative services, may change the determination of a service if it is determined that the change is in the best interests of those governmental entities receiving the service.

d. If a service to be provided may also be provided to the judicial branch and legislative branch, then the rules shall provide that the chief justice of the supreme court may appoint a member to the customer council, and the legislative council may appoint a member from the Senate and a member from the House of Representatives to the customer council, in their discretion.

Sec. 30. NEW SECTION. 8A.111 REPORTS REQUIRED.

The department shall provide all of the following reports:

1. An annual report of the department as required under section 7E.3, subsection 4.

2. Internal service fund service business plans and financial reports as required under section 8A.123, subsection 5, paragraph "a", and an annual internal service fund expenditure report as required under section 8A.123, subsection 5, paragraph "b".

3. An annual report regarding total spending on technology as required under section 8A.204, subsection 3, paragraph "a".

4. An annual report of expenditures from the IowAccess revolving fund as provided in section 8A.224.

5. A technology audit of the electronic transmission system as required under section 8A.223.

6. An annual report on state purchases of recycled and soybean-based products as required under section 8A.315, subsection 1, paragraph "d".

7. An annual report on the status of capital projects as required under section 8A.321, subsection 11.

8. An annual salary report as required under section 8A.341, subsection 2.

9. An annual average fuel economy standards compliance report as required under section 8A.362, subsection 4, paragraph "c".

10. An annual report of the capitol planning commission as required under section 8A.373.

11. A comprehensive annual financial report as required under section 8A.502, subsection 8.

11A. An annual report regarding the Iowa targeted small business procurement Act activities of the department as required under section 15.108, subsection 7, paragraph "c", and quarterly reports regarding the total dollar amount of certified purchases for certified targeted small businesses during the previous quarter as required in section 73.16, subsection 2. The department shall keep any vendor identification information received from the department of inspections and appeals as provided in section 10A.104, subsection 8, and necessary for the quarterly reports, confidential to the same extent as the department of inspection and appeals is required to keep such information. Confidential information received by the department from the department of inspections and appeals shall not be disclosed except pursuant to court order or with the approval of the department of inspections and appeals.

12. An annual report on the condition of affirmative action, diversity, and multicultural programs as provided under section 19B.5, subsection 2.

13. An unpaid warrants report as required under section 25.2, subsection 3, paragraph "b".
14. A report on educational leave as provided under section 70A.25.
15. A monthly report regarding the revitalize Iowa's sound economy fund as required under section 315.7.

Sec. 31. Section 8A.202, subsection 2, paragraph e, Code 2007, is amended by striking the paragraph.

Sec. 32. Section 8A.221, subsection 2, paragraph a, subparagraph (2), Code 2007, is amended to read as follows:
(2) Recommend to the director the priority of projects associated with IowAccess. The recommendation may also include a recommendation concerning funding for a project proposed by a political subdivision of the state or an association, the membership of which is comprised solely of political subdivisions of the state. Prior to recommending a project proposed by a political subdivision, the advisory council shall verify that all of the following conditions are met:
(a) The proposed project provides a benefit to the state.
(b) The proposed project, once completed, can be shared with and used by other political subdivisions or the state, as appropriate.
(c) The state retains ownership of any final product or is granted a permanent license to the use of the product.

Sec. 33. Section 8A.402, subsection 2, Code 2007, is amended by adding the following new paragraph:
NEW PARAGRAPH. f. Develop, in consultation with the department of veterans affairs, programs to inform members of the national guard or organized reserves of the armed forces of the United States returning to Iowa following active federal service about job opportunities in state government.

Sec. 34. Section 10A.104, subsection 8, Code 2007, 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. The director shall maintain a current directory of targeted small businesses that have been certified pursuant to this subsection. The director shall also provide information to the department of administrative services necessary for the identification of targeted small businesses as provided under section 8A.111, subsection 11A.

Sec. 35. Section 305.10, subsection 1, paragraph h, Code 2007, is amended to read as follows:
h. Prepare all mandated reports, newsletters, and publications for electronic distribution in accordance with government information policies, standards, and guidelines. A reference copy of all mandated reports, newsletters, and publications shall be located at an electronic repository for public access ~~to be developed and maintained by the department of administrative services in consultation with the state librarian and the state archivist~~.

Sec. 36. Section 8A.121, Code 2007, is repealed.

DIVISION III
COMMISSION ON NATIVE AMERICAN AFFAIRS

Sec. 37. Section 7E.5, subsection 1, paragraph s, Code 2007, is amended to read as follows:
s. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, ~~and~~ deaf and hard-of-hearing persons, and Native-Americans.

Sec. 38. Section 216A.1, Code 2007, is amended by adding the following new subsection:
NEW SUBSECTION. 9. Division on Native American affairs.

Sec. 39. NEW SECTION. 216A.161 DEFINITIONS.
For purposes of this subchapter, unless the context otherwise requires:
1. "Administrator" means the administrator of the division on Native American affairs.
2. "Commission" means the commission on Native American affairs.
3. "Division" means the division on Native American affairs of the department of human rights.
4. "Tribal government" means the governing body of a federally recognized Indian tribe.

Sec. 40. NEW SECTION. 216A.162 ESTABLISHMENT — PURPOSE.
1. A commission on Native American affairs is established consisting of eleven voting members appointed by the governor, subject to confirmation by the senate. The members of the commission shall appoint one of the members to serve as chairperson of the commission.
2. The purpose of the commission shall be to work in concert with tribal governments, Native American groups, and Native American persons in this state to advance the interests of tribal governments and Native American persons in the areas of human rights, access to justice, economic equality, and the elimination of discrimination.[2]
3. The members of the commission shall be as follows:
a. Seven public members appointed in compliance with sections 69.16 and 69.16A who shall be appointed with consideration given to the geographic residence of the member and the population density of Native Americans within the vicinity of the geographic residence of a member. Of the seven public members appointed, at least one shall be a Native American who is an enrolled tribal member living on a tribal settlement or reservation in Iowa and whose tribal government is located in Iowa and one shall be a Native American who is primarily descended from a tribe other than those specified in paragraph "b".[3]
b. Four members selected by and representing tribal governments.
c. All members of the commission shall be residents of Iowa.

Sec. 41. NEW SECTION. 216A.163 TERM OF OFFICE.
Five of the members appointed to the initial commission shall be designated by the governor to serve two-year terms, and six shall be designated by the governor to serve four-year terms. Succeeding appointments shall be for a term of four years. Vacancies in the membership shall be filled for the remainder of the term of the original appointment.

Sec. 42. NEW SECTION. 216A.164 MEETINGS OF THE COMMISSION.
The commission shall meet at least four times each year, and shall hold special meetings on the call of the chairperson. The commission shall adopt rules pursuant to chapter 17A as it deems necessary for the conduct of its business. The members of the commission shall be reimbursed for actual expenses while engaged in their official duties. A member may also be eligible to receive compensation as provided in section 7E.6.

Sec. 43. NEW SECTION. 216A.165 DUTIES.
The commission shall have all powers necessary to carry out the functions and duties specified in this subchapter and shall do all of the following:
1. Advise the governor and the general assembly on issues confronting tribal governments and Native American persons in this state.
2. Promote legislation beneficial to tribal governments and Native American persons in this state.
3. Recommend to the governor and the general assembly any revisions in the state's affirmative action program and other steps necessary to eliminate discrimination against and the underutilization of Native American persons in the state's workforce.
4. Serve as a conduit to state government for Native American persons in this state.

[2] See chapter 1191, §52 herein
[3] See chapter 1191, §53 herein

5. Serve as an advocate for Native American persons and a referral agency to assist Native American persons in securing access to justice and state agencies and programs.

6. Serve as a liaison with federal, state, and local governmental units, and private organizations on matters relating to Native American persons in this state.

7. Conduct studies, make recommendations, and implement programs designed to solve the problems of Native American persons in this state in the areas of human rights, housing, education, welfare, employment, health care, access to justice, and any other related problems.

8. Publicize the accomplishments of Native American persons and their contributions to this state.

9. Work with other state, tribal, and federal agencies and organizations to develop small business opportunities and promote economic development for Native American persons.[4]

Sec. 44. NEW SECTION. 216A.166 REVIEW OF GRANT APPLICATIONS AND BUDGET REQUESTS.

Before the submission of an application, a state department or agency shall consult with the commission concerning an application for federal funding that will have its primary effect on tribal governments or Native American persons. The commission shall advise the governor, the director of the department of human rights, and the director of revenue concerning any state agency budget request that will have its primary effect on tribal governments or Native American persons.[5]

Sec. 45. NEW SECTION. 216A.167 ADDITIONAL DUTIES AND AUTHORITY — LIMITATIONS.

1. The commission shall have responsibility for the budget of the commission and the division and shall submit the budget to the director of the department of human rights as provided in section 216A.2, subsection 2.

2. The commission may do any of the following:

a. Enter into contracts, within the limit of funds made available, with individuals, organizations, and institutions for services.

b. Accept gifts, grants, devises, or bequests of real or personal property from the federal government or any other source for the use and purposes of the commission.

3. The commission shall not have the authority to do any of the following:

a. Implement or administer the duties of the state of Iowa under the federal Indian Gaming Regulatory Act, shall not have any authority to recommend, negotiate, administer, or enforce any agreement or compact entered into between the state of Iowa and Indian tribes located in the state pursuant to section 10A.104, and shall not have any authority relative to Indian gaming issues.

b. Administer the duties of the state under the federal National Historic Preservation Act, the federal Native American Graves Protection and Repatriation Act, and chapter 263B. The commission shall also not interfere with the advisory role of a separate Indian advisory council or committee established by the state archeologist by rule for the purpose of consultation on matters related to ancient human skeletal remains and associated artifacts.

4. This subchapter shall not diminish or inhibit the right of any tribal government to interact directly with the state or any of its departments or agencies for any purpose which a tribal government desires to conduct its business or affairs as a sovereign governmental entity.

Sec. 46. NEW SECTION. 216A.168 ADMINISTRATOR.

The commission shall designate the duties and obligations of the position of administrator. The administrator shall carry out programs and policies as determined by the commission. The administrator may employ other persons necessary to carry out the programs of the division.

Sec. 47. NEW SECTION. 216A.169 STATE AGENCY ASSISTANCE.

On the request of the commission, state departments and agencies may supply the commis-

[4] See chapter 1191, §54 herein

[5] See chapter 1191, §55 herein

sion with advisory staff services on matters relating to the jurisdiction of the commission. The commission shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Sec. 48. NEW SECTION. 216A.170 ANNUAL REPORT.

Not later than February 1 of each year, the commission shall file a report in an electronic format with the governor and the general assembly of its activities for the previous calendar year. With the report, the commission may submit any recommendations pertaining to its activities and shall submit recommendations for legislative consideration and other action it deems necessary.

Sec. 49. COMMISSION ON NATIVE AMERICAN AFFAIRS — TRANSITION PROVISIONS.

1. The initial members of the commission established pursuant to this Act shall be appointed by September 1, 2008.

2. Notwithstanding any provision of this Act to the contrary, an administrator of the division on Native American affairs and employees of the division shall not be appointed or hired prior to July 1, 2009.

3. Prior to June 1, 2009, the commission shall submit a report to the director of human rights. The report shall include a job description for the administrator of the division, goals for division operations, and performance measures to measure achievement of division goals.

DIVISION IV
DEPARTMENT OF REVENUE ADMINISTRATION

Sec. 50. Section 99B.10B, subsection 2, Code Supplement 2007, is amended to read as follows:

2. a. The department shall revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period of ten years if a person commits an offense of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department. A person whose registration is revoked under this subsection who is a person for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". A person whose registration is revoked under this subsection who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended ~~and that person's sales tax permit suspended~~ for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

b. If a person owning or employed by an establishment having a class "A", class "B", class "C", special class "C", or class "D" liquor control license issued pursuant to chapter 123 commits an offense of awarding a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, the liquor control license of the establishment shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". If a person owning or employed by an establishment having a class "B" or class "C" beer permit issued pursuant to chapter 123 awards a cash prize in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, the beer permit of the establishment ~~and the establishment's sales tax permit~~ shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

Sec. 51. Section 99B.14, subsection 1, Code 2007, is amended to read as follows:

1. The department may deny, suspend, or revoke a license if the department finds that an applicant, licensee, or an agent of the licensee violated or permitted a violation of a provision of this chapter or a departmental rule adopted pursuant to chapter 17A, or for any other cause

for which the director of the department would be or would have been justified in refusing to issue a license, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the licensed premises. However, the denial, suspension, or revocation of one type of gambling license does not require, but may result in, the denial, suspension, or revocation of a different type of gambling license held by the same licensee. In addition, a person whose license is revoked under this section who is a person for which a class "A", class "B", class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". In addition, a person whose license is revoked under this section who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended ~~and that person's sales tax permit suspended~~ for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

Sec. 52. Section 421.17, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 30. If a natural disaster is declared by the governor in any area of the state, the director may extend for a period of up to one year the due date for the filing of any tax return and may suspend any associated penalty or interest that would accrue during that period of time for any affected taxpayer whose principal residence or business is located in the covered area if the director determines it necessary for the efficient administration of the tax laws of this state.

Sec. 53. Section 421.60, subsection 8, Code 2007, is amended to read as follows:

8. REFUND OF UNTIMELY ASSESSED TAXES. Notwithstanding any other refund statute, if it appears that an amount of tax, penalty, or interest has been paid to the department after the expiration of the statute of limitations for the department to determine and assess or collect the amount of such tax due, then the amount paid shall be credited against another tax liability of the taxpayer which is outstanding, if the statute of limitations for assessment or collection of that other tax has not expired or the amount paid shall be refunded to the person or, with the person's approval, credited to tax to become due. An application for refund or credit under this subsection must be filed within one year of payment. This subsection shall not be construed to prohibit the department from offsetting the refund claim against any tax due, if the statute of limitations for that other tax has not expired. However, any tax, penalty, or interest due for which a notice of assessment was not issued by the department but which was voluntarily paid by a taxpayer after the expiration of the statute of limitations for assessment shall not be refunded.

Sec. 54. Section 422.16, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. Every withholding agent and every employer as defined in this chapter and further defined in the Internal Revenue Code, with respect to income tax collected at source, making payment of wages to a nonresident employee working in Iowa, or to a resident employee, shall deduct and withhold from the wages an amount which will approximate the employee's annual tax liability on a calendar year basis, calculated on the basis of tables to be prepared by the department and schedules or percentage rates, based on the wages, to be prescribed by the department. Every employee or other person shall declare to the employer or withholding agent the number of the employee's or other person's personal ~~exemptions and dependency exemptions or credits~~ allowances to be used in applying the tables and schedules or percentage rates. However, no greater number of ~~personal or dependency exemptions or credits~~ allowances may be declared by the employee or other person than the number to which the employee or other person is entitled except as allowed under sections 3402(m)(1) and 3402(m)(3) of the Internal Revenue Code and as allowed for the child and dependent care credit provided in section 422.12C. The claiming of ~~exemptions or credits~~ allowances in excess of entitlement is a serious misdemeanor.

Sec. 55. Section 423.3, subsection 8, paragraph c, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The replacement part is ~~essential to~~ used in any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in the production of agricultural products.

Sec. 56. Section 423.3, subsection 11, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The replacement part is ~~essential to~~ used in any repair or reconstruction necessary to the farm machinery's or equipment's exempt use in livestock or dairy production, aquaculture production, or the production of flowering, ornamental, or vegetable plants.

Sec. 57. Section 423.36, subsection 2, Code 2007, is amended to read as follows:

2. To collect sales or use tax, the applicant must have a permit for each place of business in the state of Iowa. The department may deny a permit to an applicant who is substantially delinquent in paying a tax due, or the interest or penalty on the tax, administered by the department at the time of application or if the applicant had a previous delinquent liability with the department. If the applicant is a partnership, a permit may be denied if a partner is substantially delinquent in paying any delinquent tax, penalty, or interest or if a partner had a previous delinquent liability with the department. If the applicant is a corporation, a permit may be denied if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax, penalty, or interest or if any officer having a substantial legal or equitable interest in the ownership of the corporation had a previous delinquent liability with the department.

Sec. 58. Section 423A.5, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The sales price from transactions exempt from state sales tax under section 423.3.

Sec. 59. Section 423A.5, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The sales price from transactions exempt from state sales tax under section 423.3.

Sec. 60. Section 423D.3, Code 2007, is amended to read as follows:

423D.3 EXEMPTION.

The sales price on the lease or rental of equipment to contractors for direct and primary use in construction is exempt from the tax imposed by this chapter. The sales price from transactions exempt from state sales tax under section 423.3 is also exempt from the tax imposed by this chapter.

Sec. 61. Section 427.1, subsection 7, Code Supplement 2007, is amended to read as follows:

7. LIBRARIES AND ART GALLERIES. All grounds and buildings used for public libraries, public art galleries, and libraries and art galleries owned and kept by private individuals, associations, or corporations, for public use and not for private profit. Claims for exemption for libraries and art galleries owned and kept by private individuals, associations, or corporations for public use and not for private profit must be filed with the local assessor by February 1 of the first year the exemption is requested. Once the exemption is granted, the exemption shall continue to be granted for subsequent assessment years without further filing of claims as long as the property continues to be used as a library or art gallery for public use and not for private profit.

Sec. 62. Section 452A.2, subsection 35, Code 2007, is amended to read as follows:

35. "Supplier" means a person who acquires motor fuel or special fuel by pipeline or marine vessel from a state, territory, or possession of the United States, or from a foreign country for storage at and distribution from a terminal and who is registered under 26 U.S.C. § 4101 for tax-free transactions in gasoline, a person who produces in this state or acquires by truck, rail-

car, or barge for storage at and distribution from a terminal, biofuel, biodiesel, alcohol, or alcohol derivative substances, or a person who produces, manufactures, or refines motor fuel or special fuel in this state. "Supplier" includes a person who does not meet the jurisdictional connection to this state but voluntarily agrees to act as a supplier for purposes of collecting and reporting the motor fuel or special fuel tax. "Supplier" does not include a retail dealer or wholesaler who merely blends alcohol with gasoline or biofuel with diesel before the sale or distribution of the product or a terminal operator who merely handles, in a terminal, motor fuel or special fuel consigned to the terminal operator.

Sec. 63. Section 452A.33, subsection 2, unnumbered paragraph 1, Code 2007, is amended to read as follows:

On or before ~~February~~ April 1 the department shall deliver a report to the governor and the legislative services agency. The report shall compile information reported by retail dealers to the department as provided in this section and shall at least include all of the following:

Sec. 64. Section 452A.59, Code 2007, is amended to read as follows:

452A.59 ADMINISTRATIVE RULES.

The department of revenue and the state department of transportation are authorized and empowered to adopt rules under chapter 17A, relating to the administration and enforcement of this chapter as deemed necessary by the departments. However, when in the opinion of the director it is necessary for the efficient administration of this chapter, the director may regard persons in possession of motor fuel, special fuel, biofuel, alcohol, or alcohol derivative substances as blenders, dealers, eligible purchasers, exporters, importers, restrictive suppliers, suppliers, terminal operators, or nonterminal storage facility operators.

Sec. 65. Section 453A.46, subsection 7, Code Supplement 2007, is amended to read as follows:

7. The director may require by rule that ~~reports~~ returns be filed by electronic transmission.

Sec. 66. Section 422.24A, Code 2007, is repealed.

Sec. 67. RETROACTIVE APPLICABILITY DATE. The section of this division of this Act repealing section 422.24A applies retroactively to January 1, 2008, for tax years beginning on or after that date.

DIVISION V
DEPUTY SHERIFF POSITIONS

Sec. 68. Section 341A.7, Code 2007, is amended to read as follows:

341A.7 CLASSIFICATIONS.

1. The classified civil service positions covered by this chapter include persons actually serving as deputy sheriffs who are salaried pursuant to section 331.904, subsection 2, but do not include a chief deputy sheriff, two second deputy sheriffs in counties with a population of more than one hundred thousand, three second deputy sheriffs in counties with a population of more than one hundred fifty thousand, and four second deputy sheriffs in counties with a population of more than two hundred thousand. However, a chief deputy sheriff or second deputy sheriff who becomes a candidate for a partisan elective office for remuneration is subject to section 341A.18. A deputy sheriff serving with permanent rank under this chapter may be designated chief deputy sheriff or second deputy sheriff and retain that rank during the period of service as chief deputy sheriff or second deputy sheriff and shall, upon termination of the duties as chief deputy sheriff or second deputy sheriff, revert to the permanent rank.

2. If the positions of two second deputy sheriffs of a county were exempt from classified civil service coverage under this chapter based on the 1980 decennial census, the two second deputy positions shall remain exempt from classified civil service coverage under this chapter.

Sec. 69. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this division of this Act.

DIVISION VI
MISCELLANEOUS PROVISIONS

Sec. 70. Section 8.64, subsection 2, Code Supplement 2007, is amended to read as follows:

2. "Community-wide area" means a distinct geographical area voluntarily formed by and comprised of counties, cities, or townships, or any combination thereof, all of which possess a degree of autonomy in a varying number of matters. State agencies, community colleges, and school districts may also participate in a community-wide area if joined by a county, city, or township.

Sec. 71. Section 331.907, subsection 3, Code 2007, is amended to read as follows:

3. The elected county officers are also entitled to receive their actual and necessary expenses incurred in performance of official duties of their respective offices. The board of supervisors may authorize the reimbursement of expenses related to an educational course, seminar, or school which is attended by a county officer after the county officer is elected, but prior to the county officer taking office.

Sec. 72. NEW SECTION. 504.132 SECRETARY OF STATE — INTERNET SITE.

The secretary of state shall place on the secretary of state's internet site a link to a free internet site with completed internal revenue service forms 990 and 990EZ.

Approved May 12, 2008, with exception noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2400, an Act relating to and making appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters and providing an effective and retroactive applicability date. Senate File 2400 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve the designated portion of Section 15, unnumbered paragraph 5, in its entirety. This paragraph directs the Department of Management to include in its budget request funding for the salaries of the director and assistant director of the Tim Shields Center for Governing Excellence in Iowa and also requires the Governor to include such funding in his budget recommendation for Fiscal Year 2010. While I strongly support efforts to improve innovation in our state and local governments, this language requires an Executive Branch department to provide funding by a pass-through appropriation for yet-to-be-determined non-Executive Branch positions. Further, the proposed language is premature until the Local Government Innovation Commission determines where the Tim Shields Center for Governing Excellence in Iowa will be located. My understanding is that the Commission will be asking for proposals this fall and making a recommendation on awarding a contract and funding later this calendar year. I look forward to reviewing the work of the Local Government Innovation Commission and will seriously consider any proposals that are made.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2400 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1185

APPROPRIATIONS — TRANSPORTATION

S.F. 2394

AN ACT relating to and making transportation and other infrastructure-related appropriations to the department of transportation, including allocation and use of moneys from the road use tax fund and the primary road fund, and including an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. ROAD USE TAX FUND. There is appropriated from the road use tax fund to the department of transportation for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used 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:

. . . . . $ 3,047,000

Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30, 2009, 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:

. . . . . $ 6,411,178

b. Planning:

. . . . . $ 490,945

c. Motor vehicles:

. . . . . $ 34,443,525

3. For payments to the department of administrative services for utility services:

. . . . . $ 183,000

4. Unemployment compensation:

. . . . . $ 17,000

5. For payments to the department of administrative services for paying workers' compensation claims under chapter 85 on behalf of employees of the department of transportation:

. . . . . $ 117,000

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:

. . . . . $ 64,082

8. For automation, telecommunications, and related costs associated with the county issuance of driver's licenses and vehicle registrations and titles:

. . . . . $ 1,442,000

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 costs associated with the participation in the Mississippi river parkway commission:

. . . . . $ 61,000

11. For membership in North America's supercorridor coalition:

. . . . . $ 50,000

12. For development of an overdimension permitting system:

. . . . . $ 1,000,000

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 fiscal year that begins July 1, 2010.

13. For motor vehicle division field facility maintenance projects at various locations:
..... $ 200,000

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 fiscal year that begins July 1, 2011.

Sec. 2. PRIMARY ROAD FUND. There is appropriated from the primary road fund to the department of transportation for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Operations:
..... $ 39,386,314
..... FTEs 308.00

b. Planning:
..... $ 9,320,862
..... FTEs 131.00

c. Highways:
..... $ 217,651,984
..... FTEs 2,453.00

d. Motor vehicles:
..... $ 1,435,497
..... FTEs 481.00

2. For payments to the department of administrative services for utility services:
..... $ 1,121,000

3. Unemployment compensation:
..... $ 328,000

4. For payments to the department of administrative services for paying workers' compensation claims under chapter 85 on behalf of the employees of the department of transportation:
..... $ 2,814,000

5. For disposal of hazardous wastes from field locations and the central complex:
..... $ 800,000

6. For payment to the general fund of the state for indirect cost recoveries:
..... $ 748,000

7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 395,218

8. For costs associated with producing transportation maps:
..... $ 242,000

9. For inventory and equipment replacement:
..... $ 2,250,000

10. For utility improvements at various locations:
..... $ 400,000

11. For roofing projects at various locations:
..... $ 200,000

12. For heating, cooling, and exhaust system improvements at various locations:
..... $ 100,000

13. For deferred maintenance projects at field facilities throughout the state:
..... $ 500,000

14. For construction of a new Waukon garage:
..... $ 2,500,000

15. For federal Americans With Disabilities Act improvements at various locations:
..... $ 120,000

16. For elevator upgrades at the Ames complex:
. . . . . $ 100,000

Notwithstanding section 8.33, moneys appropriated in subsections 10 through 16 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, 2011.

Sec. 3. 2007 Iowa Acts, chapter 216, section 2, subsection 1, paragraph c, is amended to read as follows:

c. Highways:
. . . . . $ ~~209,436,880~~
219,166,306
. . . . . FTEs 2,454.00

Notwithstanding section 8.33, moneys appropriated in this lettered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 4. EFFECTIVE DATE. The section of this Act amending 2007 Iowa Acts, chapter 216, section 2, subsection 1, paragraph "c", being deemed of immediate importance, takes effect upon enactment.

Approved May 13, 2008

CHAPTER 1186

HEALTHY IOWANS TOBACCO TRUST AND
TOBACCO SETTLEMENT TRUST FUND — APPROPRIATIONS

S.F. 2417

AN ACT relating to and making appropriations from the healthy Iowans tobacco trust and the tobacco settlement trust fund, and providing for the repeal of the healthy Iowans tobacco trust, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
HEALTHY IOWANS TOBACCO TRUST — APPROPRIATIONS

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, 2008, and ending June 30, 2009, 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. For child and family services including for reimbursement of adoption, independent living, shelter care, and home studies services providers, and other service providers under the purview of the department of human services:
. . . . . $ 3,786,677

Of the funds appropriated in this paragraph "a", $25,000 is allocated for a grant to a child welfare services provider headquartered in a county with a population between 189,000 and 196,000 in the latest preceding certified federal census that provides multiple services including but not limited to a psychiatric medical institution for children, shelter, residential treatment, after school programs, school-based programming, and an Asperger's syndrome program, to be used for support services for children with autism spectrum disorder and their families.

b. To continue supplementation of the state supplementary assistance program including reimbursements for residential care facilities and in-home health services:
..... $ 182,381

c. For general administration of health-related programs:
..... $ 274,000

2. 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:
..... $ 5,928,265
..... 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 in this paragraph "a", 2.00 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, 2008, for that purpose.**

b. For additional substance abuse treatment under the substance abuse treatment program:
..... $ 13,800,000

**(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.

*(6) The department shall submit a report annually by March 1, to the governor and the general assembly delineating the success rates of the substance abuse treatment programs that receive funding under this paragraph "b".**

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:
..... $ 2,509,960
..... FTEs 4.00

(1) Of the funds appropriated in this paragraph "c", not more than $1,157,482 shall be used for essential public health services that promote healthy aging throughout the lifespan, con-

* Item veto; see message at end of the Act

tracted through a formula for local boards of health, to enhance health promotion and disease prevention services.

(2) Of the funds appropriated in this paragraph "c", not more than $387,320 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 $600,000 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 for the childhood lead poisoning prevention program.

d. For the center for congenital and inherited disorders established pursuant to section 136A.3:

. . . . . $ 26,000

e. For a grant program to provide substance abuse prevention programming for children:

. . . . . $ 1,050,000

(1) Of the funds appropriated in this paragraph "e", $500,000 shall be utilized to provide funding for organizations that provide programming for children by utilizing mentors. Programs approved for grants under this subparagraph (1) shall be certified or will be certified within six months of receiving the grant award by the Iowa commission on volunteer services as utilizing the standards for effective practice for mentoring programs.

(2) Of the funds appropriated in this paragraph "e", $500,000 shall be utilized to provide funding for organizations that provide programming that includes youth development and leadership. The programs shall also be recognized as being programs that are scientifically based with evidence of their effectiveness in reducing substance abuse in children.

(3) The Iowa department of public health shall utilize a request for proposals process to implement the program under this paragraph "e".

(4) All grant recipients under this paragraph "e" shall participate in a program evaluation as a requirement for receiving grant funds.

(5) Of the funds appropriated in this paragraph "e", $50,000 shall be used to administer substance abuse prevention grants and for program evaluations.

f. For providing grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods:

. . . . . $ 100,000

g. For additional funding to leverage federal funding through the federal Ryan White Care Act, Title II, AIDS drug assistance program supplemental drug treatment grants:

. . . . . $ 275,000

h. For a grant to an existing national-affiliated organization to provide education, client-centered programs, and client and family support for people living with epilepsy and their families:

. . . . . $ 100,000

3. To the department of corrections:

. . . . . $ 4,477,474

It is the intent of the general assembly that each judicial district department of correctional services shall cooperate with and utilize local community-based treatment providers licensed under chapter 125. Each judicial district department of correctional services shall submit a report to the general assembly and to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by December 15, 2008, detailing the utilization of drug court funds allocated in this subsection.

a. Of the funds appropriated in this subsection, $410,332 is allocated to the first judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, $182,116 shall be used to expand the drug court in Black Hawk county to Dubuque and Delaware counties, and $128,216 shall be used to replace expired federal funding for dual diagnosis offenders.

b. Of the funds appropriated in this subsection, $441,215 is allocated to the second judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $341,215 shall be used to replace expired federal funding for day programming and to replace expired federal funding for the drug court program.

c. Of the funds appropriated in this subsection, $220,856 is allocated to the third judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $120,856 shall be used to replace expired federal funding for the drug court program.

d. Of the funds appropriated in this subsection, $310,547 is allocated to the fourth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $210,547 shall be used for the drug court program.

e. Of the funds appropriated in this subsection, $419,582 is allocated to the fifth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $319,582 shall be used to replace expired federal funding for the drug court program.

f. Of the funds appropriated in this subsection, $566,750 is allocated to the sixth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, $64,741 shall be used to replace expired federal funding for dual diagnosis offenders, and $402,009 shall be used to establish drug court programs in Johnson and Linn counties.

g. Of the funds appropriated in this subsection, $256,608 is allocated to the seventh judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $156,608 shall be used to replace expired federal funding for the drug court program.

h. Of the funds appropriated in this subsection, $324,299 is allocated to the eighth judicial district department of correctional services. Of the funds allocated, $100,000 shall be used for community-based corrections, and $224,299 shall be used to implement an adult drug court program.

i. Of the funds appropriated in this subsection, $1,497,285 is allocated to the Fort Madison correctional facility for the clinical care unit.

j. Of the funds appropriated in this subsection, $30,000 is allocated for a transitional housing pilot project for offenders on parole who are in the early stages of recovery from substance abuse. The department of corrections shall contract with a private nonprofit substance abuse treatment provider in a city with a population exceeding 65,000 but not exceeding 75,000 to implement the pilot project. The department shall file a report with the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative services agency by February 1, 2009, detailing the number of offenders served by the pilot project, the recidivism rate, a description of the types of services received by the offenders, and the number of prison bed days saved by the pilot project.

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, 2008, and ending June 30, 2009, 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, 2008, and ending June 30, 2009, for deposit in the school ready children grants account:

..... $ 2,153,250

Sec. 4. IOWA COMMISSION ON VOLUNTEER SERVICES. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For allocation to the Iowa commission on volunteer services for the Iowa's promise and mentoring partnership program and for not more than the following full-time equivalent positions:

..... $ 125,000
..... FTEs 1.00

Sec. 5. DEPARTMENT OF EDUCATION. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the department of education for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To continue the competitive grants program to expand the availability of the before and after school grant program as provided in section 256.26:

..... $ 505,000

Of the amount appropriated for purposes of the competitive grants program, not more than $100,000 may be used to retain a contractor to work with the department on long-term planning and development of a statewide infrastructure to provide coordination, support, and technical assistance to before and after school programs. The contractor shall be qualified to provide services in policy development, before and after school funding mechanisms, public and private partnerships, data collection, the promotion of quality, and working with various state and local interests.

Sec. 6. 2007 Iowa Acts, chapter 208, section 1, subsection 2, paragraph e, is amended to read as follows:

e. For the center for congenital and inherited disorders established pursuant to section 136A.3:

..... $ ~~26,000~~
0

Sec. 7. ENDOWMENT FOR IOWA'S HEALTH ACCOUNT — TRANSFER. Notwithstanding any provision of law to the contrary, the unencumbered or unobligated balance of the endowment for Iowa's health account created in section 12E.12 at the close of the fiscal year beginning July 1, 2007, shall be transferred to the healthy Iowans tobacco trust created in section 12.65.

Sec. 8. EFFECTIVE DATES.

1. The section of this division of this Act transferring the balance at the end of the fiscal year beginning July 1, 2007, in the endowment for Iowa's health account to the healthy Iowans tobacco trust, being deemed of immediate importance, takes effect upon enactment.

2. The section of this division of this Act amending the appropriation for the center for congenital and inherited disorders in 2007 Iowa Acts, chapter 208, being deemed of immediate importance, takes effect upon enactment.

DIVISION II
HEALTHY IOWANS TOBACCO TRUST — REPEAL

Sec. 9. Section 12E.2, subsection 5, Code 2007, is amended by striking the subsection.

Sec. 10. Section 12E.2, subsection 10, Code 2007, is amended to read as follows:

10. "Program plan" means the tobacco settlement program plan dated February 14, 2001,

including exhibits to the program plan, submitted by the authority to the legislative council and the executive council, to provide the state with a secure and stable source of funding for the purposes designated by section 12E.3A and other provisions of this chapter ~~and section 12.65~~.

Sec. 11. Section 12E.3, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. To implement and administer the program plan and to establish a stable source of revenue to be used for the purposes designated in section 12E.3A and other provisions of this chapter ~~and section 12.65~~.

Sec. 12. NEW SECTION. 12E.3A ENDOWMENT FOR IOWA'S HEALTH ACCOUNT — PURPOSES.

1. The general assembly reaffirms and reenacts the purposes stated for the use of moneys deposited in the healthy Iowans tobacco trust, as the purposes were enacted in 2000 Iowa Acts, chapter 1232, section 12, and codified in section 12.65, Code 2007, as the purposes for the endowment for Iowa's health account. The purposes include those purposes related to health care, substance abuse treatment and enforcement, tobacco use prevention and control, and other purposes related to the needs of children, adults, and families in the state.

2. Any net proceeds from the sale of taxable bonds or tax-exempt bonds issued to provide funds for the purposes stated in section 12.65, Code 2007, and as reaffirmed and reenacted in subsection 1 shall continue to be used for such purposes, including but not limited to any such proceeds deposited in the endowment for Iowa's health account or transferred or otherwise credited to the general fund of the state.

Sec. 13. Section 12E.9, subsection 1, paragraph b, subparagraphs (3) and (6), Code 2007, are amended to read as follows:

(3) An agreement that the anticipated use by the state of bond proceeds received pursuant to the sales agreement shall be for capital projects, certain debt service on outstanding obligations that funded capital projects, payment of attorney fees related to the master settlement agreement, and to provide a secure and stable source of funding to the state for purposes designated by section 12E.3A and other provisions of this chapter ~~and section 12.65~~.

(6) A requirement that the net proceeds received by the authority from the sale of taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section ~~12.65~~ 12E.3A be deposited in the endowment for Iowa's health account of the tobacco settlement trust fund as moneys of the authority until transferred to the state pursuant to section 12E.12, subsection 1, paragraph "b", subparagraph (2). Each amount transferred shall be the consideration received by the state for that portion of the state's share.

Sec. 14. Section 12E.10, subsection 1, paragraph a, subparagraph (3), Code 2007, is amended to read as follows:

(3) The authority may also issue taxable bonds or tax-exempt bonds to provide additional amounts to be used for the purposes specified in section ~~12.65~~ 12E.3A.

Sec. 15. Section 12E.11, subsection 1, Code 2007, is amended to read as follows:

1. The authority may issue bonds and, if bonds are issued, shall make the proceeds from the bonds available to the state pursuant to the sales agreement to fund capital projects, certain debt service on outstanding obligations that funded capital projects, and attorney fees related to the master settlement agreement, and to provide a secure and stable source of funding to the state, consistent with the purposes of section 12E.3A and other provisions of this chapter ~~and section 12.65~~. In connection with the issuance of bonds and subject to the terms of the sales agreement, the authority shall determine the terms and other details of the financing and the method of implementation of the program plan. Bonds issued pursuant to this section may be secured by a pledge of all or a portion of the state's share and any moneys derived from the state's share, and any other sources available to the authority with the exception of moneys

in the tobacco settlement trust fund. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter.

Sec. 16. Section 12E.12, subsection 1, paragraph b, subparagraph (2), Code 2007, is amended to read as follows:

(2) The endowment for Iowa's health account.

(a) The net proceeds of any taxable bonds or tax-exempt bonds issued to provide funds for the purposes specified in section ~~12.65~~ 12E.3A, which the authority is directed to deposit in the account, any portion of the state's share which is not sold to the authority, and any other moneys appropriated by the state for deposit in the account shall be deposited in the account and shall be used for the purposes specified in section ~~12.65~~ 12E.3A.

~~(a) There is transferred from the endowment for Iowa's health account of the tobacco settlement trust fund to the healthy Iowans tobacco trust for the fiscal year beginning July 1, 2001, and ending June 30, 2002, the amount of fifty-five million dollars, to be used for the purposes specified in section 12.65.~~

(b) For each fiscal year beginning July 1, ~~2002~~ 2009, ~~and annually thereafter, there is transferred from~~ the moneys deposited in the endowment for Iowa's health account of the tobacco settlement trust fund are transferred to the ~~healthy Iowans tobacco trust fifty-five million dollars plus an inflationary factor of one and one-half percent of the amount transferred in the previous fiscal year. Any transfer in an amount not in accordance with this subparagraph shall not be made unless authorized by a three-fifths majority of each house and approved by the governor~~ general fund of the state. The moneys transferred shall be used for the purposes specified in section 12E.3A.

Sec. 17. Section 12E.17, Code 2007, is amended to read as follows:

12E.17 DISSOLUTION OF THE AUTHORITY.

The authority shall dissolve no later than two years from the date of final payment of all outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the ~~healthy Iowans tobacco trust~~ general fund of the state, unless otherwise directed by the general assembly, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

Sec. 18. Section 12.65, Code 2007, is repealed.

Sec. 19. EFFECTIVE DATE. This division of this Act takes effect June 30, 2009.

DIVISION III
APPROPRIATIONS AND BALANCES — REVERSIONS

Sec. 20. HEALTHY IOWANS TOBACCO TRUST AND ENDOWMENT FOR IOWA'S HEALTH ACCOUNT — REVERSION.

1. Notwithstanding any provision of law to the contrary, moneys from appropriations that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2008, or the close of any succeeding fiscal year that would otherwise be required by law to revert to, be deposited in, or to be credited to the healthy Iowans tobacco trust or the endowment for Iowa's health account shall instead be credited to the general fund of the state.

2. Notwithstanding any provision of law to the contrary, the unencumbered or unobligated

balances of the healthy Iowans tobacco trust at the close of the fiscal year beginning July 1, 2008, or the endowment for Iowa's health account at the close of the fiscal year beginning July 1, 2008, or the close of any succeeding fiscal year shall be transferred to the general fund of the state.

Approved May 13, 2008, with exceptions noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2417, an Act relating to and making appropriations from the Healthy Iowans Tobacco Trust and the Tobacco Settlement Trust Fund and providing for the repeal of the Healthy Iowans Tobacco Trust, and providing effective dates. Senate File 2417 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve item designated as Section 1, subsection 2, paragraph a, subparagraph (4) in its entirety. This designated language continues general language on substance abuse treatment expenditures. These directives are already in place, and, therefore, this language is unnecessary.

Finally, I am unable to approve item designated as Section 1, subsection 2, paragraph b, subparagraphs (1) through (6) in their entireties. This designated language continues general language on substance abuse treatment expenditures. These directives are in place, and, therefore, this annual report language is unnecessary.

These actions of disapproval are consistent with efforts to remove extraneous bill language.

For the above reasons, I respectfully disapprove the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2417 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1187

APPROPRIATIONS — HEALTH AND HUMAN SERVICES

S.F. 2425

AN ACT relating to and making appropriations for health and human services and including other related provisions and appropriations, providing penalties, making penalties applicable and providing effective, retroactive, and applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
GENERAL FUND AND BLOCK GRANT APPROPRIATIONS
ELDER AFFAIRS

Section 1. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aging programs for the department of elder affairs and area agencies on aging to provide citizens of Iowa who are 60 years of age and older with case management for the frail elderly only if the monthly cost per client for case management for the frail elderly services provided does not exceed an average of $70, resident advocate committee coordination, employment, and other services which may include but are not limited to adult day services, respite care, chore services, telephone reassurance, information and assistance, and home repair services, and for the construction of entrance ramps which make residences accessible to the physically handicapped, and for salaries, support, administration, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,251,698

..... FTEs 40.50

1. Funds appropriated in this section may be used to supplement federal funds under federal regulations. To receive funds appropriated in this section, a local area agency on aging shall match the funds with moneys from other sources according to rules adopted by the department. Funds appropriated in this section may be used for elderly services not specifically enumerated in this section only if approved by an area agency on aging for provision of the service within the area.

2. Of the funds appropriated in this section, $2,788,223 shall be used for case management for the frail elderly. Of the funds allocated in this subsection, $1,385,015 shall be transferred to the department of human services in equal amounts on a quarterly basis for reimbursement of case management services provided under the medical assistance elderly waiver. The department of human services shall adopt rules for case management services provided under the medical assistance elderly waiver in consultation with the department of elder affairs. The monthly cost per client for case management for the frail elderly services provided shall not exceed an average of $70.

3. Of the funds appropriated in this section, $200,198 shall be transferred to the department of economic development for the Iowa commission on volunteer services to be used for the retired and senior volunteer program.

4. Of the funds appropriated in this section, $130,000 shall be used to continue to fund additional long-term care resident's advocate positions.

5. Of the funds appropriated in this section, $250,000 shall be used for continuation of the substitute decision maker Act pursuant to chapter 231E.

6. Of the funds appropriated in this section, $200,000 shall be used to replace federal funding for the aging and disability resource center.

7. Of the funds appropriated in this section, $200,000 shall be used to expand the elder abuse initiative program established pursuant to section 231.56A to additional counties.

HEALTH

Sec. 2. DEPARTMENT OF PUBLIC HEALTH. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 3,082,149
..... FTEs 6.00

a. The requirement of section 123.53, subsection 3, is met by the appropriations made in this Act for purposes of addictive disorders for the fiscal year beginning July 1, 2008.

b. Of the funds appropriated in this subsection, $1,550,000 shall be used for tobacco use prevention, cessation, and treatment.

2. HEALTHY CHILDREN AND FAMILIES

For promoting the optimum health status for children, adolescents from birth through 21 years of age, and families, and for not more than the following full-time equivalent positions:

..... $ 2,636,913
..... FTEs 16.00

a. Of the funds appropriated in this subsection, not more than $645,917 shall be used for the healthy opportunities to experience success (HOPES) – healthy families Iowa (HFI) program established pursuant to section 135.106. The department shall transfer the funding allocated for the HOPES-HFI program to the Iowa empowerment board for distribution and shall assist the board in managing the contracting for the funding. The funding shall be distributed to renew the grants that were provided to the grantees that operated the program during the fiscal year ending June 30, 2008.

b. Of the funds appropriated in this subsection, $325,000 shall be used to continue to address the healthy mental development of children from birth through five years of age through local evidence-based strategies that engage both the public and private sectors in promoting healthy development, prevention, and treatment for children.

c. Of the funds appropriated in this subsection, $100,000 is allocated for distribution to the children's hospital of Iowa mother's milk bank.

d. Of the funds appropriated in this subsection, $40,000 shall be distributed to a statewide dental carrier to provide funds to continue the donated dental services program patterned after the projects developed by the national foundation of dentistry for the handicapped to provide dental services to indigent elderly and disabled individuals.

e. Of the funds appropriated in this subsection, $100,000 shall be transferred to the university of Iowa college of dentistry for provision of primary dental services to children. State funds shall be matched on a dollar-for-dollar basis. The university of Iowa college of dentistry shall coordinate efforts with the department of public health bureau of oral health to provide dental care to underserved populations throughout the state.

3. 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:

..... $ 2,242,840
..... FTEs 5.00

a. Of the funds appropriated in this subsection, $100,000 shall be used for grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods.

b. Of the funds appropriated in this subsection, $500,000 is allocated for continuation of the contracts for resource facilitator services in accordance with section 135.22B, subsection 10, and for brain injury training services and recruiting of service providers to increase the capacity within this state to address the needs of individuals with brain injuries and such individuals' families.

4. COMMUNITY CAPACITY

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

..... $ 1,760,532
..... FTEs 12.00

a. Of the funds appropriated in this subsection, $100,000 is allocated for a child vision screening program implemented through the university of Iowa hospitals and clinics in collaboration with community empowerment areas.

b. Of the funds appropriated in this subsection, $159,700 is allocated for an initiative implemented at the university of Iowa and $140,300 is allocated for an initiative at the state mental health institute at Cherokee to expand and improve the workforce engaged in mental health treatment and services. The initiatives shall receive input from the university of Iowa, the department of human services, the department of public health, and the mental health, mental retardation, developmental disabilities, and brain injury commission to address the focus of the initiatives. The department of human services, the department of public health, and the commission shall receive regular updates concerning the status of the initiatives.

5. ELDERLY WELLNESS

For promotion of healthy aging and optimization of the health of older adults:

..... $ 9,233,985

6. 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:

..... $ 747,960
..... FTEs 2.00

Of the funds appropriated in this subsection, $121,000 shall be used for childhood lead poisoning provisions.

7. INFECTIOUS DISEASES

For reducing the incidence and prevalence of communicable diseases, and for not more than the following full-time equivalent positions:

..... $ 1,858,286
..... FTEs 7.00

a. Of the funds appropriated in this subsection, an increase of $200,000 is provided for the purchasing of vaccines for immunizations.

b. Of the funds appropriated in this subsection, $100,000 shall be used to fund the position of bureau chief for the center for acute disease epidemiology (CADE).

8. 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:

..... $ 3,161,013
..... FTEs 128.00

a. Of the funds appropriated in this subsection, $643,500 shall be credited to the emergency medical services fund created in section 135.25. Moneys in the emergency medical services fund are appropriated to the department to be used for the purposes of the fund.

b. Of the funds appropriated in this subsection, $23,810 shall be used for the office of the state medical examiner.

c. Of the funds appropriated in this subsection, $150,000 shall be used for management of the antiviral stockpile.

d. Of the funds appropriated in this subsection, $262,500 shall be used for sexual violence prevention programming through a statewide organization representing programs serving victims of sexual violence through the department's sexual violence prevention program. The

amount allocated in this paragraph "d" shall not be used to supplant funding administered for other sexual violence prevention or victims assistance programs.

e. Of the funds appropriated in this subsection, $200,000 shall be used for start-up costs to implement licensing of plumbers and mechanical professionals in accordance with 2007 Iowa Acts, chapter 198.

f. The department may incur expenses for start-up costs to implement licensing of plumbers and mechanical professionals in accordance with 2007 Iowa Acts, chapter 198, provided the amounts expended are covered by the close of the fiscal year through the repayment receipts from license fees.

9. 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:

..... $ 1,205,933
..... FTEs 10.00

Of the funds appropriated in this subsection, $150,150 shall be used for administration of tobacco-related programs.

The university of Iowa hospitals and clinics under the control of the state board of regents shall not receive indirect costs from the funds appropriated in this section. The university of Iowa hospitals and clinics billings to the department shall be on at least a quarterly basis.

Sec. 3. GAMBLING TREATMENT FUND — APPROPRIATION.

1. In lieu of the appropriation made in section 135.150, subsection 1, there is appropriated from funds available in the gambling treatment fund created in section 135.150 to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be utilized for the benefit of persons with addictive disorders:

..... $ 1,690,000

It is the intent of the general assembly that from the moneys appropriated in this subsection persons with a dual diagnosis of substance abuse and gambling addictions shall be given priority in treatment services. The amount appropriated in this subsection includes moneys credited to the fund in previous fiscal years.

2. In addition to the appropriation made in subsection 1, there is appropriated from funds available in the gambling treatment fund created in section 135.150 to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be utilized for the benefit of substance abuse treatment for persons with addictions:

..... $ 525,000

The amount appropriated in this subsection is one-time funding from moneys remaining in the gambling treatment fund from the carryforward of appropriations made for addictive disorders in previous fiscal years.

3. The amount remaining in the gambling treatment fund after the appropriations are made in subsections 1 and 2, is appropriated to the department to be used for funding of administrative costs and to provide programs which may include but are not limited to outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, education and preventive services, and financial management services. Of the amount appropriated in this subsection, up to $100,000 may be used for the licensing of gambling treatment programs as provided in section 135.150.

4. Notwithstanding any provision to the contrary, to standardize the availability, delivery, cost of delivery, and accountability of gambling and substance abuse treatment services statewide, the department shall implement a process to create a system for delivery of the treatment services. To ensure the system provides a continuum of treatment services that best meets the needs of Iowans, the gambling and substance abuse treatment services in an area may be provided either by a single agency or by separate agencies submitting a joint proposal. The process shall be completed by July 1, 2010.

a. The process shall include the establishment of joint licensure for gambling and substance

abuse treatment programs that includes one set of standards, one licensure survey, comprehensive technical assistance, and appropriately credentialed counselors to support the following goals:

(1) Gambling and substance abuse treatment services are available to Iowans statewide.

(2) To the greatest extent possible, outcome measures are uniform statewide for both gambling and substance abuse treatment services and include but are not limited to prevalence indicators, service delivery areas, financial accountability, and longitudinal clinical outcomes.

(3) The costs to deliver gambling and substance abuse treatment services in the system are based upon best practices and are uniform statewide.

b. From the amounts appropriated in this section and from other funding sources available for gambling and substance abuse treatment, the department may allocate up to $100,000 for administrative costs to develop and implement the process in accordance with this subsection.

DEPARTMENT OF VETERANS AFFAIRS

Sec. 4. DEPARTMENT OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the department of veterans affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes, including the war orphans educational assistance fund created in section 35.8, and for not more than the following full-time equivalent positions:

..... $ 1,163,457
..... FTEs 17.20

Of the amount appropriated in this subsection, $50,000 is allocated for continuation of the veterans counseling program established pursuant to section 35.12.

2. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 12,694,154
..... FTEs 951.95

The Iowa veterans home billings involving the department of human services shall be submitted to the department on at least a monthly basis.

If there is a change in the employer of employees providing services at the Iowa veterans home under a collective bargaining agreement, such employees and the agreement shall be continued by the successor employer as though there had not been a change in employer.

3. COUNTY GRANT PROGRAM FOR VETERANS

For providing grants to counties to provide services to living veterans:

..... $ 600,000

The department shall establish or continue a grant application process and shall require each county applying for a grant to submit a plan for utilizing the grant for providing services for living veterans. The maximum grant to be awarded to a county shall be $10,000. Each county receiving a grant shall submit a report to the department identifying the impact of the grant on providing services to veterans as specified by the department. The department shall submit a report to the general assembly by October 1, 2008, concerning the impact of the grant program on services to veterans.

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the fund from which appropriated but shall be credited to the veterans trust fund.

4. STATE EDUCATIONAL ASSISTANCE — CHILDREN OF DECEASED VETERANS

For provision of educational assistance pursuant to section 35.9:

..... $ 27,000

HUMAN SERVICES

Sec. 5. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT. There is appropriated from the fund created in section 8.41 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, from moneys received under the federal temporary assistance for needy families (TANF) block grant pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and successor legislation, which are federally appropriated for the federal fiscal years beginning October 1, 2007, and ending September 30, 2008, and beginning October 1, 2008, and ending September 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be credited to the family investment program account and used for assistance under the family investment program under chapter 239B:

. . . . . $ 26,101,513

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:

. . . . . $ 13,334,528

Notwithstanding section 8.33, not more than 5 percent of the moneys designated in this subsection that are allocated by the department for contracted services, other than family self-sufficiency grant services allocated under 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. However, unless such moneys are encumbered or obligated on or before September 30, 2009, the moneys shall revert.

3. To be used for the family development and self-sufficiency grant program in accordance with 2008 Iowa Acts, House File 2328:[1]

. . . . . $ 2,998,675

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. However, unless such moneys are encumbered or obligated on or before September 30, 2009, the moneys shall revert.

4. For field operations:

. . . . . $ 18,507,495

Of the funds appropriated in this subsection, $800,000 is allocated for additional income maintenance workers and social workers.

It is the intent of the general assembly that the department work with Indian tribes providing services under the federal Temporary Assistance for Needy Families block grant to Indians who reside in Iowa but live outside the reservation to establish a formula for providing match funding for the expenditures made by the tribes for such services. The department shall provide recommendations regarding implementation of the formula beginning in FY 2009-2010 to the governor and the persons designated by this Act to receive reports. For the purposes of this paragraph, "Indian", "reservation", and "Indian tribe" mean the same as defined in section 232B.3.

5. For general administration:

. . . . . $ 3,744,000

6. For local administrative costs:

. . . . . $ 2,189,830

7. For state child care assistance:

. . . . . $ 27,886,177

a. Of the funds appropriated in this subsection, $18,986,177 shall be transferred to the child care and development block grant appropriation made in 2008 Iowa Acts, Senate File 2286,[2]

[1] Chapter 1072 herein
[2] Chapter 1177 herein

if enacted, for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009. Of this amount, $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. Any funds appropriated in this subsection remaining unallocated shall be used for state child care assistance payments for individuals enrolled in the family investment program who are employed.

8. For mental health and developmental disabilities community services:
. . . . . $ 4,894,052

9. For child and family services:
. . . . . $ 32,084,430

10. For child abuse prevention grants:
. . . . . $ 250,000

11. For pregnancy prevention grants on the condition that family planning services are funded:
. . . . . $ 1,930,067

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2008, 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, 2008, if the programs are comprehensive in scope and are based on existing models that have demonstrated positive outcomes. Grants shall comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, including the requirement that grant programs must emphasize sexual abstinence. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females of childbearing age within the geographic area to be served by the grant.

12. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:
. . . . . $ 1,037,186

13. For the healthy opportunities for parents to experience success (HOPES) program administered by the department of public health to target child abuse prevention:
. . . . . $ 200,000

14. To be credited to the state child care assistance appropriation made in this section to be used for funding of community-based early childhood programs targeted to children from birth through five years of age developed by community empowerment areas as provided in section 28.9:
. . . . . $ 7,350,000

The department shall transfer TANF block grant funding appropriated and allocated in this subsection to the child care and development block grant appropriation in accordance with federal law as necessary to comply with the provisions of this subsection.

15. For a pilot program established in one or more judicial districts, selected by the department and the judicial council, to provide employment and support services to delinquent child support obligors as an alternative to commitment to jail as punishment for contempt of court:
. . . . . $ 200,000

Of the amounts appropriated in this section, $12,962,008 for the fiscal year beginning July 1, 2008, shall be transferred to the appropriation of the federal social services block grant for that fiscal year.

The department may transfer funds allocated in this section to the appropriations in this Act for general administration and field operations for resources necessary to implement and operate the services referred to in this section and those funded in the appropriation made in this division of this Act for the family investment program from the general fund of the state.

Sec. 6. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2008, and ending June 30, 2009, shall be used to provide assistance in accordance with chapter 239B.

2. The department may use a portion of the moneys credited to the FIP account under this section as necessary for salaries, support, maintenance, and miscellaneous purposes.

3. The department may transfer funds allocated in this section to the appropriations in this Act for general administration and field operations for resources necessary to implement and operate the services referred to in this section and those funded in the appropriation made in this division of this Act for the family investment program from the general fund of the state.

4. Moneys appropriated in this division of this Act and credited to the FIP account for the fiscal year beginning July 1, 2008, and ending June 30, 2009, are allocated as follows:

a. To be retained by the department of human services to be used for coordinating with the department of human rights to more effectively serve participants in the FIP program and other shared clients and to meet federal reporting requirements under the federal temporary assistance for needy families block grant:

. . . . . $ 20,000

b. To the department of human rights for staffing, administration, and implementation of the family development and self-sufficiency grant program in accordance with 2008 Iowa Acts, House File 2328:[3]

. . . . . $ 5,563,042

(1) Of the funds allocated for the family development and self-sufficiency grant program in this lettered paragraph, not more than 5 percent of the funds shall be used for the administration of the grant program.

(2) The department of human rights may continue to implement the family development and self-sufficiency grant program statewide during fiscal year 2008-2009.

c. For the diversion subaccount of the FIP account:

. . . . . $ 2,814,000

(1) A portion of the moneys allocated for the subaccount may be used for field operations salaries, data management system development, and implementation costs and support deemed necessary by the director of human services in order to administer the FIP diversion program.

(2) Of the funds allocated in this lettered paragraph, not more than $250,000 shall be used to develop or continue community-level parental obligation pilot projects. The requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall remain applicable to the parental obligation pilot projects for fiscal year 2008-2009. Notwithstanding 441 IAC 100.8, providing for termination of rules relating to the pilot projects the earlier of October 1, 2006, or when legislative authority is discontinued, the rules relating to the pilot projects shall remain in effect until June 30, 2009.

d. For the food stamp employment and training program:

. . . . . $ 68,059

The department shall amend the food stamp employment and training state plan in order to maximize to the fullest extent permitted by federal law the use of the fifty-fifty match provisions for the claiming of allowable federal matching funds from the United States department of agriculture pursuant to the federal food stamp employment and training program for providing education, employment, and training services for eligible food assistance program participants, including but not limited to related dependent care and transportation expenses.

e. For the JOBS program:

. . . . . $ 22,310,116

5. Of the child support collections assigned under FIP, an amount equal to the federal share of support collections shall be credited to the child support recovery appropriation. Of the remainder of the assigned child support collections received by the child support recovery unit, a portion shall be credited to the FIP account, a portion may be used to increase recoveries, and a portion may be used to sustain cash flow in the child support payments account. If as

[3] Chapter 1072 herein

a result the appropriations allocated in this section are insufficient to sustain cash assistance payments and meet federal maintenance of effort requirements, the department shall seek supplemental funding. If child support collections assigned under FIP are greater than estimated or are otherwise determined not to be required for maintenance of effort, the state share of either amount may be transferred to or retained in the child support payment account.

6. The department may adopt emergency rules for the family investment, JOBS, family development and self-sufficiency grant, food stamp, and medical assistance programs if necessary to comply with federal requirements.

Sec. 7. FAMILY INVESTMENT PROGRAM GENERAL FUND. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To be credited to the family investment program (FIP) account and used for family investment program assistance under chapter 239B:

. . . . . $ 42,675,127

1. Of the funds appropriated in this section, $8,975,588 is allocated for the JOBS program.

2. Of the funds appropriated in this section, $2,584,367 is allocated for the family development and self-sufficiency grant program.

3. a. Of the funds appropriated in this section, $250,000 shall be used for a grant to an Iowa-based nonprofit organization with a history of providing tax preparation assistance to low-income Iowans in order to expand the usage of the earned income tax credit. The purpose of the grant is to supply this assistance to underserved areas of the state. The grant shall be provided to an organization that has existing national foundation support for supplying such assistance that can also secure local charitable match funding.

b. The general assembly supports efforts by the organization receiving funding under this subsection to create a statewide earned income tax credit and asset-building coalition to achieve both of the following purposes:

(1) Expanding the usage of the tax credit through new and enhanced outreach and marketing strategies, as well as identifying new local sites and human and financial resources.

(2) Assessing and recommending various strategies for Iowans to develop assets through savings, individual development accounts, financial literacy, antipredatory lending initiatives, informed home ownership, use of various forms of support for work, and microenterprise business development targeted to persons who are self-employed or have fewer than five employees.

4. Notwithstanding section 8.39, for the fiscal year beginning July 1, 2008, 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, 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 funds 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:

a. For the family investment program.
b. For child care assistance.
c. For child and family services.
d. For field operations.
e. For general administration.
f. MH/MR/DD/BI community services (local purchase).

This subsection shall not be construed to prohibit the use of existing state transfer authority for other purposes. The department shall report any transfers made pursuant to this subsection to the legislative services agency.

Sec. 8. CHILD SUPPORT RECOVERY. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 14,951,757

..... FTEs 515.00

1. The department shall expend up to $31,000, including federal financial participation, for the fiscal year beginning July 1, 2008, for a child support public awareness campaign. The department and the office of the attorney general shall cooperate in continuation of the campaign. The public awareness campaign shall emphasize, through a variety of media activities, the importance of maximum involvement of both parents in the lives of their children as well as the importance of payment of child support obligations.

2. Federal access and visitation grant moneys shall be issued directly to private not-for-profit agencies that provide services designed to increase compliance with the child access provisions of court orders, including but not limited to neutral visitation sites and mediation services.

3. The appropriation made to the department for child support recovery may be used throughout the fiscal year in the manner necessary for purposes of cash flow management, and for cash flow management purposes the department may temporarily draw more than the amount appropriated, provided the amount appropriated is not exceeded at the close of the fiscal year.

Sec. 9. MEDICAL ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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, 2008, 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:

..... $ 649,629,269

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. The department shall utilize not more than $60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409, subsection 6. Of the funds allocated in this subsection, not more than $5,000 may be expended for administrative purposes.

3. Of the funds appropriated in this Act to the department of public health for addictive disorders, $950,000 for the fiscal year beginning July 1, 2008, shall be transferred to the depart-

ment of human services for an integrated substance abuse managed care system. The department shall not assume management of the substance abuse system in place of the managed care contractor unless such a change in approach is specifically authorized in law. The departments of human services and public health shall work together to maintain the level of mental health and substance abuse services provided by the managed care contractor through the Iowa plan for behavioral health. Each department shall take the steps necessary to continue the federal waivers as necessary to maintain the level of services.

4. a. The department shall aggressively pursue options for providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to policy provisions.

b. Of the funds appropriated in this section, $100,000 shall be used for participation in one or more pilot projects operated by a private provider to allow the individual or individuals to receive service in the community in accordance with principles established in Olmstead v. L.C., 527 U.S. 581 (1999), for the purpose of providing medical assistance or other assistance to individuals with special needs who become ineligible to continue receiving services under the early and periodic screening, diagnosis, and treatment program under the medical assistance program due to becoming 21 years of age who have been approved for additional assistance through the department's exception to policy provisions, but who have health care needs in excess of the funding available through the exception to the policy provisions.

5. Of the funds appropriated in this section, up to $3,050,082 may be transferred to the field operations or general administration appropriations in this Act for operational costs associated with Part D of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.

6. In addition to any other funds appropriated in this Act, of the funds appropriated in this section, $250,000 shall be used for the grant to the Iowa healthcare collaborative as defined in section 135.40.

7. Of the funds appropriated in this section, not more than $166,600 shall be used to enhance outreach efforts. The department may transfer funds allocated in this subsection to the appropriations in this division of this Act for general administration, the state children's health insurance program, or medical contracts, as necessary, to implement the outreach efforts.

8. Of the funds appropriated in this section, up to $442,100 may be transferred to the appropriation in this Act for medical contracts to be used for clinical assessment services related to remedial services in accordance with federal law.

9. Of the funds appropriated in this section, $1,143,522 may be used for the demonstration to maintain independence and employment (DMIE) if the waiver for DMIE is approved by the centers for Medicare and Medicaid services of the United States department of health and human services. Additionally, if the waiver is approved, $440,000 of the funds shall be transferred to the department of corrections for DMIE activities.

10. The drug utilization review commission shall monitor the smoking cessation benefit provided under the medical assistance program and shall provide a report of utilization, client success, cost-effectiveness, and recommendations for any changes in the benefit to the persons designated in this Act to receive reports by January 15, 2009. If a prescriber determines that all smoking cessation aids on the preferred drug list are not effective or medically appropriate for a patient, the prescriber may apply for an exception to policy for another product approved by the United States food and drug administration for smoking cessation pursuant to 441 IAC 1.8(1).

11. A portion of the funds appropriated in this section may be transferred to the appropriations in this division of this Act for general administration, medical contracts, the state children's health insurance program, or field operations to be used for the state match cost to comply with the payment error rate measurement (PERM) program for both the medical assistance and state children's health insurance programs as developed by the centers for

Medicare and Medicaid services of the United States department of health and human services to comply with the federal Improper Payments Information Act of 2002, Pub. L. No. 107-300.

12. It is the intent of the general assembly that the department implement the recommendations of the assuring better child health and development initiative II (ABCDII) clinical panel to the Iowa early and periodic screening, diagnostic, and treatment services healthy mental development collaborative board regarding changes to billing procedures, codes, and eligible service providers.

13. Of the funds appropriated in this section, a sufficient amount is allocated to supplement the incomes of residents of nursing facilities, intermediate care facilities for persons with mental illness, and intermediate care facilities for persons with mental retardation, with incomes of less than $50 in the amount necessary for the residents to receive a personal needs allowance of $50 per month pursuant to section 249A.30A.

14. Of the funds appropriated in this section, the following amounts shall be transferred to appropriations made in this division of this Act to the state mental health institutes:

a. Cherokee mental health institute ..... $ 5,933,659
b. Clarinda mental health institute ..... $ 1,289,526
c. Independence mental health institute ..... $ 5,899,400
d. Mount Pleasant mental health institute ..... $ 3,751,626

15. a. Of the funds appropriated in this section, $2,753,055 is allocated for state match for disproportionate share hospital payment of $7,321,954 to hospitals that meet both of the following conditions:

(1) The hospital qualifies for disproportionate share and graduate medical education payments.

(2) The hospital is an Iowa state-owned hospital with more than 500 beds and eight or more distinct residency specialty or subspecialty programs recognized by the American college of graduate medical education.

b. Distribution of the disproportionate share payment shall be made on a monthly basis. The total amount of disproportionate share payments including graduate medical education, enhanced disproportionate share, and Iowa state-owned teaching hospital payments shall not exceed the amount of the state's allotment under Pub. L. No. 102-234. In addition, the total amount of all disproportionate share payments shall not exceed the hospital-specific disproportionate share limits under Pub. L. No. 103-66.

16. Of the funds appropriated in this section, $4,568,899 is transferred to the IowaCare account created in section 249J.24.

17. Of the funds appropriated in this section, $250,000 shall be used for the Iowa chronic care consortium pursuant to 2003 Iowa Acts, chapter 112, section 12, as amended by 2003 Iowa Acts, chapter 179, sections 166 and 167.

18. The department shall implement cost-saving initiatives including implementing a surcharge for claims filed on paper when electronic filing is available and collecting a supplemental rebate for diabetic supplies.

19. One hundred percent of the nonfederal share of payments to area education agencies that are medical assistance providers for medical assistance-covered services provided to medical assistance-covered children, shall be made from the appropriation made in this section.

20. a. Beginning July 1, 2009, any new or renewed contract entered into by the department with a third party to administer behavioral health services under the medical assistance program shall provide that any interest earned on payments from the state during the state fiscal year shall be remitted to the department for deposit in a separate account after the end of the fiscal year.

b. Beginning July 1, 2008, the department shall maintain a separate account within the medical assistance budget for the deposit of all funds remitted pursuant to a contract with a third party to administer behavioral health services under the medical assistance program. Notwithstanding section 8.33, funds remaining in the account that remain unencumbered or unobligated at the end of any fiscal year shall not revert but shall remain available in succeeding

fiscal years and shall be used only in accordance with appropriations from the account for health and human services-related purposes.

c. Of the state share of any funds remitted to the medical assistance program pursuant to a contract with a third party to administer behavioral health services under the medical assistance program, the following amounts are appropriated to the department for the fiscal year beginning July 1, 2008, and ending June 30, 2009, to be used as follows:

(1) For implementation of the emergency mental health crisis services system in accordance with section 225C.19, as enacted by this Act, beginning January 1, 2009, $1,500,000.

(2) For implementation of the mental health services system for children and youth in accordance with section 225C.52, as enacted by this Act, beginning January 1, 2009, $500,000.

(3) For the mental health, mental retardation, and developmental disabilities risk pool created in the property tax relief fund in section 426B.5, $1,000,000.

(4) To reduce the waiting lists of the medical assistance home and community-based services waivers, $2,000,000. The department shall distribute the funding allocated under this subparagraph proportionately among all home and community-based services waivers.

(5) For Medicaid services provided under the children's mental health waiver, $750,000.

(6) For training for child welfare services providers, $250,000. The training shall be developed by the department in collaboration with the coalition for children and family services in Iowa.

d. The department shall provide the results of the audits of the third party administering behavioral health services under the medical assistance program for the fiscal years beginning July 1, 2006, and July 1, 2007, to the legislative services agency for review.

21. Of the funds appropriated in this section, at least $2,500,000 shall be used for existing and new home and community-based waiver[4] slots for persons with brain injury.

22. Of the funds appropriated in this section, $250,000 shall be used to implement the provisions in 2007 Iowa Acts, chapter 218, section 124,[5] as amended by the Eighty-second General Assembly, 2008 Session, relating to eligibility for certain persons with disabilities under the medical assistance program.

23. The department of human services shall conduct a review of the impact of broadening the list of drugs prescribed for the treatment of diabetes on the preferred drug list under the medical assistance program in order to promote drugs that are appropriate and therapeutically effective for persons with diabetes. The review shall include, at a minimum, a comparison of the effectiveness of drugs prescribed for the treatment of diabetes and a cost analysis. The department shall report its findings and recommendations to the individuals specified in this Act to receive reports by December 15, 2008.

24. The department of human services shall conduct a review of the medical assistance home and community-based services waivers, including but not limited to the upper limit of reimbursement for each waiver and the services provided under each waiver, and shall make recommendations to the individuals specified in this Act to receive reports by December 15, 2008, regarding revising the upper limits of reimbursement and services provided.

Sec. 10. HEALTH INSURANCE PREMIUM PAYMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

.....	$	566,338
.....	FTEs	21.00

Sec. 11. MEDICAL CONTRACTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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[4] According to enrolled Act; the phrase "community-based services waiver" probably intended

[5] According to enrolled Act; the phrase "section 126" probably intended; see chapter 1188, §55 herein

For medical contracts, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 14,165,550
. . . . . FTEs 6.00

1. Of the funds appropriated in this section, $50,000 shall be used for electronic cross-matching with state vital records databases through the department of public health.

2. Of the funds appropriated in this section, $250,000 shall be used for monitoring of home and community-based services waivers.

Sec. 12. STATE SUPPLEMENTARY ASSISTANCE.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state supplementary assistance program:

. . . . . $ 18,611,385

2. The department shall increase the personal needs allowance for residents of residential care facilities by the same percentage and at the same time as federal supplemental security income and federal social security benefits are increased due to a recognized increase in the cost of living. The department may adopt emergency rules to implement this subsection.

3. If during the fiscal year beginning July 1, 2008, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-through requirement specified in Title XVI of the federal Social Security Act, section 1618, as codified in 42 U.S.C. § 1382g, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and making programmatic adjustments or upward adjustments of the residential care facility or in-home health-related care reimbursement rates prescribed in this division of this Act to ensure that federal requirements are met. In addition, the department may make other programmatic and rate adjustments necessary to remain within the amount appropriated in this section while ensuring compliance with federal requirements. The department may adopt emergency rules to implement the provisions of this subsection.

Sec. 13. STATE CHILDREN'S HEALTH INSURANCE PROGRAM.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

. . . . . $ 13,868,885

2. If sufficient funding is available under this Act, and if federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover the following populations as an option under the state children's health insurance program, the department may expand coverage under the state children's health insurance program as follows:

a. By eliminating the categorical exclusion of state employees from receiving state children's health insurance program benefits.

b. By providing coverage for legal immigrant children and pregnant women not eligible under current federal guidelines.

c. By covering children up to age twenty-one, or up to age twenty-three if the child is attending school.

3. If the United States Congress does not authorize additional federal funds necessary to address any shortfall for the state children's health insurance program for the federal fiscal year beginning October 1, 2008, and ending September 30, 2009, the department may use 100 percent of state funds from the appropriation made in this section for the period beginning July 1, 2008, and ending June 30, 2009, and may, after consultation with the governor and the gen-

eral assembly, utilize funding from the appropriations made in this Act for medical assistance to maintain the state children's health insurance program. If deemed necessary, the department shall request a supplemental appropriation from the Eighty-third General Assembly, 2009 Session, to address any remaining shortfall for the fiscal year beginning July 1, 2008.

4. Of the funds appropriated in this section, $134,050 is allocated for continuation of the contract for advertising and outreach with the department of public health and $90,050 is allocated for other advertising and outreach.

Sec. 14. CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

. . . . . $ 41,345,381

1. Of the funds appropriated in this section, $37,589,569 shall be used for state child care assistance in accordance with section 237A.13.

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. A list of the registered and licensed child care facilities operating in the area served by a child care resource and referral service shall be made available to the families receiving state child care assistance in that area.

4. Of the funds appropriated in this section, $1,680,288 is allocated for child care quality improvement initiatives including but not limited to the voluntary quality rating system in accordance with section 237A.30.

5. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child care assistance and related programs. For the purpose of expenditures of state and federal child care funding, funds shall be considered obligated at the time expenditures are projected or are allocated to the department's service areas. 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.

6. A portion of the state match for the federal child care and development block grant shall be provided as necessary to meet federal matching funds requirements through the state general fund appropriation made for child development grants and other programs for at-risk children in section 279.51.

7. Of the funds appropriated in this section, $1,200,000 is transferred to the Iowa empowerment fund from which it is appropriated to be used for professional development for the system of early care, health, and education.

8. Of the funds appropriated in this section, $350,000 shall be allocated to a county with a population of more than 300,000 to be used for a one-time grant to support child care center services provided to children with mental, physical, or emotional challenges in order for the children to remain in a home or family setting.

9. Notwithstanding section 8.33, moneys appropriated in this section or received from the federal appropriations made for the purposes of this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 15. JUVENILE INSTITUTIONS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending

June 30, 2009, 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, and maintenance, and for not more than the following full-time equivalent positions:

..... $ 7,579,484
..... FTEs 126.00

2. For operation of the state training school at Eldora and for salaries, support, and maintenance, and for not more than the following full-time equivalent positions:

..... $ 11,948,327
..... FTEs 202.70

3. A portion of the moneys appropriated in this section shall be used by the state training school and by the Iowa juvenile home for grants for adolescent pregnancy prevention activities at the institutions in the fiscal year beginning July 1, 2008.

Sec. 16. CHILD AND FAMILY SERVICES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 89,326,628

2. In order to address a reduction of $5,200,000 from the amount allocated under the appropriation made for the purposes of this section in prior years for purposes of juvenile delinquent graduated sanction services, up to $5,200,000 of the amount of federal temporary assistance for needy families block grant funding appropriated in this division of this Act for child and family services shall be made available for purposes of juvenile delinquent graduated sanction services.

3. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under the medical assistance program, state child care assistance program, or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this division of this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

4. a. Of the funds appropriated in this section, up to $35,841,744 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services.

b. If at any time after September 30, 2008, annualization of a service area's current expenditures indicates a service area is at risk of exceeding its group foster care expenditure target under section 232.143 by more than 5 percent, the department and juvenile court services shall examine all group foster care placements in that service area in order to identify those which might be appropriate for termination. In addition, any aftercare services believed to be needed for the children whose placements may be terminated shall be identified. The department and juvenile court services shall initiate action to set dispositional review hearings for the placements identified. In such a dispositional review hearing, the juvenile court shall determine whether needed aftercare services are available and whether termination of the placement is in the best interest of the child and the community.

5. In accordance with the provisions of section 232.188, the department shall continue the child welfare and juvenile justice funding initiative during fiscal year 2008-2009. Of the moneys subject to the nonreversion clause provided in the amendment in this Act to 2006 Iowa Acts, chapter 1184, section 17, subsection 4, $3,605,000 is allocated specifically for expenditure for fiscal year 2008-2009 through the decategorization service funding pools and governance boards established pursuant to section 232.188.

6. A portion of the funds 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 or successor project to stay together or to be reunified.

7. Notwithstanding section 234.35 or any other provision of law to the contrary, state funding for shelter care shall be limited to $7,072,215. The department shall work with the coalition for children and family services in Iowa and other representatives of shelter care providers to reduce the number of guaranteed shelter beds and shift a portion of available funding to develop new or expand existing child welfare emergency services for children who might otherwise be served in shelter care. The child welfare emergency services shall be provided by shelter care agencies that currently have a contract for shelter care services with the department and may include mobile crisis response units for child and family crises, in-home supervision services, emergency family foster care homes, expanding capacity to provide emergency services in other family foster care homes, or provide flexible funding for child welfare emergency services based on evidence-based practices. Notwithstanding chapter 8A, the department may amend existing contracts with shelter care agencies as necessary to include child welfare emergency services.

8. Federal funds received by the state during the fiscal year beginning July 1, 2008, as the result of the expenditure of state funds appropriated during a previous state fiscal year for a service or activity funded under this section are appropriated to the department to be used as additional funding for services and purposes provided for under this section. Notwithstanding section 8.33, moneys received in accordance with this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for the purposes designated until the close of the succeeding fiscal year.

9. Of the funds appropriated in this section, at least $3,696,285 shall be used for protective child care assistance.

10. a. Of the funds appropriated in this section, up to $2,268,963 is allocated for the payment of the expenses of court-ordered services provided to juveniles who are under the supervision of juvenile court services, which expenses are a charge upon the state pursuant to section 232.141, subsection 4. Of the amount allocated in this lettered paragraph, up to $1,556,287 shall be made available to provide school-based supervision of children adjudicated under chapter 232, of which not more than $15,000 may be used for the purpose of training. A portion of the cost of each school-based liaison officer shall be paid by the school district or other funding source as approved by the chief juvenile court officer.

b. Of the funds appropriated in this section, up to $823,965 is allocated for the payment of the expenses of court-ordered services provided to children who are under the supervision of the department, which expenses are a charge upon the state pursuant to section 232.141, subsection 4.

c. Notwithstanding section 232.141 or any other provision of law to the contrary, the amounts allocated in this subsection shall be distributed to the judicial districts as determined by the state court administrator and to the department's service areas as determined by the administrator of the department's division of child and family services. The state court administrator and the division administrator shall make the determination of the distribution amounts on or before June 15, 2008.

d. Notwithstanding chapter 232 or any other provision of law to the contrary, a district or juvenile court shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district court or departmental service area distribution amounts to pay for the service. The chief juvenile court officer and the departmental service area manager 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 and departmental service area managers shall attempt to anticipate potential surpluses and shortfalls in the distribution amounts and shall cooperatively request the state court administrator or division administrator to transfer funds between the judicial districts' or departmental service areas' distribution amounts as prudent.

e. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

f. Of the funds allocated in this subsection, not more than $100,000 may be used by the judicial branch for administration of the requirements under this subsection.

11. Of the funds appropriated in this section, $1,030,000 shall be transferred to the department of public health to be used for the child protection center grant program in accordance with section 135.118.

12. If the department receives federal approval to implement a waiver under Title IV-E of the federal Social Security Act to enable providers to serve children who remain in the children's families and communities, for purposes of eligibility under the medical assistance program children who participate in the waiver shall be considered to be placed in foster care.

13. Of the funds appropriated in this section, $2,862,164 is allocated for the preparation for adult living program pursuant to section 234.46.

14. Of the funds appropriated in this section, $1,030,000 shall be used for juvenile drug courts. The amount allocated in this subsection shall be distributed as follows:

a. To the judicial branch for salaries to assist with the operation of juvenile drug court programs operated in the following jurisdictions:

(1) Marshall county:
..... $ 61,800

(2) Woodbury county:
..... $ 123,862

(3) Polk county:
..... $ 193,057

(4) The third judicial district:
..... $ 66,950

(5) The eighth judicial district:
..... $ 66,950

b. For court-ordered services to support substance abuse services provided to the juveniles participating in the juvenile drug court programs listed in paragraph "a" and the juveniles' families:
..... $ 517,381

The state court administrator shall allocate the funding designated in this paragraph among the programs.

15. Of the funds appropriated in this section, $203,000 is allocated for continuation of the contracts for the multidimensional treatment level foster care program established pursuant to 2006 Iowa Acts, chapter 1123, for a third year.

16. Of the funds appropriated in this section, $236,900 shall be used for a grant to a nonprofit human services organization providing services to individuals and families in multiple locations in southwest Iowa and Nebraska for support of a project providing immediate, sensitive support and forensic interviews, medical exams, needs assessments, and referrals for victims of child abuse and their nonoffending family members.

17. Of the funds appropriated in this section, $131,000 is allocated for the elevate approach of providing a support network to children placed in foster care.

18. Of the funds appropriated in this section, $300,000 is allocated for sibling visitation provisions for children subject to a court order for out-of-home placement in accordance with section 232.108.

19. Of the funds appropriated in this section, $200,000 is allocated for use pursuant to section 235A.1 for the initiative to address child sexual abuse implemented pursuant to 2007 Iowa Acts, ch. 218, section 18, subsection 21.

20. Of the funds appropriated in this section, $80,000 is allocated for renewal of a grant to a county with a population between 189,000 and 196,000 in the latest preceding certified federal census for implementation of the county's runaway treatment plan under section 232.195.

21. Of the funds appropriated in this section, $418,000 is allocated for the community partnership for child protection sites.

22. Of the funds appropriated in this section, $375,000 is allocated for the department's minority youth and family projects under the redesign of the child welfare system.

23. Of the funds appropriated in this section, $300,000 is allocated for funding of the state match for the federal substance abuse and mental health services administration (SAMHSA) system of care grant.

24. The department shall develop options for providing a growth mechanism for reimbursement of the child and family services traditionally funded under this appropriation. The growth mechanism options may provide for a tie to allowable growth for school aid, an inflationary adjustment reflective of the cost increases for the services, or other reasonable proxy for the cost increases affecting such service providers.

25. Of the funds appropriated in this section, $152,440 shall be used for continuation of the funding of one or more child welfare diversion and mediation pilot projects as provided in 2004 Iowa Acts, chapter 1130, section 1.

26. The department shall review the processes for drug testing of persons responsible for the care of a child in child abuse cases to evaluate the effectiveness of the testing, whether it is applied in the same manner in all service areas, identify how the funding designated for drug testing is utilized, and address other issues associated with the testing. The department shall report on or before December 1, 2008, concerning the review to the persons designated by this Act to receive reports.

27. Of the funds appropriated in this section, $100,000 shall be used for a grant to support a satellite project associated with a child protection center in a county with a population between 189,000 and 196,000 to be operated in a hospital in a county in northeast Iowa with a population between 120,000 and 135,000. The pilot project shall provide immediate, sensitive support and forensic interviews, medical exams, needs assessments, and referrals for victims of child abuse and the victims' nonoffender family members. Population numbers used in this subsection are from the latest preceding certified federal census.

Sec. 17. ADOPTION SUBSIDY.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:

. . . . . $ 34,168,872

2. The department may transfer funds appropriated in this section to the appropriation made in this Act for general administration for costs paid from the appropriation relating to adoption subsidy.

3. Federal funds received by the state during the fiscal year beginning July 1, 2008, as the result of the expenditure of state funds during a previous state fiscal year for a service or activity funded under this section are appropriated to the department to be used as additional funding for the services and activities funded under this section. Notwithstanding section 8.33, moneys received in accordance with this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 18. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile detention home fund created in section 232.142 during the fiscal year beginning July 1, 2008, and ending June 30, 2009, are appropriated to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, for distribution of an amount equal to a percentage of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 2007. Moneys appropriated for distribution in accordance with this section 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, 2007. The percentage figure shall be determined by the department based on the amount available for distribution for the fund. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2008, shall be limited to the amount appropriated for the purposes of this section.

Sec. 19. FAMILY SUPPORT SUBSIDY PROGRAM.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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

2. The department shall use at least $433,212 of the moneys appropriated in this section for the family support center component of the comprehensive family support program under section 225C.47. Not more than $20,000 of the amount allocated in this subsection shall be used for administrative costs.

Sec. 20. CONNER DECREE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For building community capacity through the coordination and provision of training opportunities in accordance with the consent decree of Conner v. Branstad, No. 4-86-CV-30871 (S.D. Iowa, July 14, 1994):

. . . . . $ 42,623

Sec. 21. MENTAL HEALTH INSTITUTES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

. . . . . $ 5,727,743
. . . . . FTEs 210.00

2. For the state mental health institute at Clarinda for salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

. . . . . $ 7,323,073
. . . . . FTEs 114.95

Of the funds appropriated in this section, $300,000 shall be used to establish and operate an Alzheimer's patient mobile consultation and assessment program.

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:

. . . . . $ 10,495,879
. . . . . FTEs 287.66

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:

. . . . . $ 1,874,721
. . . . . FTEs 116.44

Sec. 22. STATE RESOURCE CENTERS.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the state resource center at Glenwood for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 17,102,330

b. For the state resource center at Woodward for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 11,266,164

2. 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.

3. The state resource centers may expand the time-limited assessment and respite services during the fiscal year.

4. 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.

5. 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 begin implementing the service or addressing the special need during fiscal year 2008-2009.

Sec. 23. MI/MR/DD STATE CASES.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For distribution to counties for state case services for persons with mental illness, mental retardation, and developmental disabilities in accordance with section 331.440:

. . . . . $ 13,067,178

2. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, $200,000 is allocated for state case services from the amounts appropriated from the fund created in section 8.41 to the department of human services from the funds received from the federal government under 42 U.S.C., ch. 6A, subch. XVII, relating to the community mental health center block grant, for the federal fiscal years beginning October 1, 2006, and ending September 30, 2007, beginning October 1, 2007, and ending September 30, 2008, and beginning October 1, 2008, and ending September 30, 2009. The allocation made in this subsection shall be made prior to any other distribution allocation of the appropriated federal funds.

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. 24. MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES — COMMUNITY SERVICES FUND. There is appropriated from the general fund of the state to the mental health and developmental disabilities community services fund created in section 225C.7 for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

. . . . . $ 18,017,890

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 moneys shall be allocated to a county as follows:

a. Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

b. Fifty percent based upon the county's proportion of the state's general population.

2. a. A county shall utilize the funding the county receives pursuant to subsection 1 for services provided to persons with a disability, as defined in section 225C.2. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. A county shall use at least 50 percent of the funding the county receives under subsection 1 for contemporary services provided to persons with a disability, as described in rules adopted by the department.

3. Of the funds appropriated in this section, $30,000 shall be used to support the Iowa compass program providing computerized information and referral services for Iowans with disabilities and their families.

4. a. Funding appropriated for purposes of the federal social services block grant is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

b. The funds allocated in this subsection shall be expended by counties in accordance with the county's approved county management plan. A county without an approved county management plan shall not receive allocated funds until the county's management plan is approved.

c. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase of services in the preceding fiscal year.

5. A county is eligible for funds under this section if the county qualifies for a state payment as described in section 331.439.

6. Of the funds appropriated in this section, $260,000 shall be used for a grant to a statewide association of counties for development and implementation of the community services network to replace the county management information system.

7. The most recent population estimates issued by the United States bureau of the census shall be applied for the population factors utilized in this section.

Sec. 25. SEXUALLY VIOLENT PREDATORS.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

.....	$	6,720,268
.....	FTEs	94.50

2. Unless specifically prohibited by law, if the amount charged provides for recoupment of at least the entire amount of direct and indirect costs, the department of human services may contract with other states to provide care and treatment of persons placed by the other states at the unit for sexually violent predators at Cherokee. The moneys received under such a contract shall be considered to be repayment receipts and used for the purposes of the appropriation made in this section.

Sec. 26. FIELD OPERATIONS. There is appropriated from the general fund of the state

to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For field operations, including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 67,852,732
..... FTEs 2,130.68

Priority in filling full-time equivalent positions shall be given to those positions related to child protection services and eligibility determination for low-income families.

Sec. 27. GENERAL ADMINISTRATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 16,682,067
..... FTEs 407.50

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 at least monthly to the legislative services agency concerning the department's operational and program expenditures.

Sec. 28. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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. 29. FAMILY PLANNING SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount or so much thereof as is necessary, to be used for the purpose designated:

For family planning services to individuals with incomes not to exceed two hundred percent of the federal poverty level as defined by the most recently revised income guidelines published by the United States department of health and human services, who are not currently receiving the specific benefit under the medical assistance program:

..... $ 750,000

Moneys appropriated under this section shall not be used to provide abortions. The department shall work with appropriate stakeholders to implement and administer the program.

Sec. 30. PREGNANCY COUNSELING AND SUPPORT SERVICES PROGRAM — APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount or so much thereof as is necessary for the purpose designated:

For a pregnancy counseling and support services program as specified in this section:

..... $ 200,000

The department of human services shall establish a pregnancy counseling and support services program to provide core services consisting of information, education, counseling, and support services to women who experience unplanned pregnancies by supporting childbirth, assisting pregnant women in remaining healthy and maintaining a healthy pregnancy while deciding whether to keep the child or place the child for adoption, and assisting women after the birth of a child. The services provided may include but are not limited to: counseling and

mentoring; pregnancy, childbirth, and parenting classes; fostering of a statewide pregnancy and parenting support system; assistance with physical and mental well-being of a woman during pregnancy and postdelivery; assistance with the physical well-being of the woman during pregnancy and the newborn; assistance with food, shelter, clothing, health care, child care, and employment; and other supportive programs and services. The department shall award grants to service providers that have been in existence for at least one year prior to the awarding of the grant, are qualified and experienced in providing core pregnancy support services that support childbirth and parenting support services, including qualified Medicaid providers, social service agencies, and adoption agencies. Actual provision and delivery of services and counseling shall be dependent on client needs and not otherwise prioritized by agency[6] or agencies administering the program.

Sec. 31. CIVIL MONETARY PENALTIES — DIRECT CARE WORKERS. Of the funds received by the department of human services through federal civil monetary penalties from nursing facilities, during the fiscal year beginning July 1, 2008, and ending June 30, 2009, $70,000 shall be used to provide conference scholarships to direct care workers, subject to approval by the centers for Medicare and Medicaid services of the United States department of health and human services.

Sec. 32. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE DEPARTMENT OF HUMAN SERVICES.

1. a. (1) For the fiscal year beginning July 1, 2008, the total state funding amount for the nursing facility budget shall not exceed $183,367,323.

(2) For the state fiscal year beginning July 1, 2008, the patient-day weighted medians used in rate setting for nursing facilities shall be recalculated and the rates adjusted to provide an increase in nursing facility rates by applying the skilled nursing facility market basket inflation factor from the mid-point of the cost report to July 1, 2007, plus 1 percent. Nursing facility rates calculated in accordance with this subparagraph shall in no instance exceed the rate component limits as defined in 441 IAC 81.6(16).

(3) The department, in cooperation with nursing facility representatives, shall review projections for state funding expenditures for reimbursement of nursing facilities on a quarterly basis and the department shall determine if an adjustment to the medical assistance reimbursement rate is necessary in order to provide reimbursement within the state funding amount. Any temporary enhanced federal financial participation that may become available to the Iowa medical assistance program during the fiscal year shall not be used in projecting the nursing facility budget. Notwithstanding 2001 Iowa Acts, chapter 192, section 4, subsection 2, paragraph "c", and subsection 3, paragraph "a", subparagraph (2), if the state funding expenditures for the nursing facility budget for the fiscal year beginning July 1, 2008, are projected to exceed the amount specified in subparagraph (1), the department shall adjust the reimbursement for nursing facilities reimbursed under the case-mix reimbursement system to maintain expenditures of the nursing facility budget within the specified amount. The department shall revise such reimbursement as necessary to adjust the annual accountability measures payment in accordance with the amendment in this division of this Act to 2001 Iowa Acts, chapter 192, section 4, subsection 4.

b. For the fiscal year beginning July 1, 2008, the department shall reimburse pharmacy dispensing fees using a single rate of $4.57 per prescription or the pharmacy's usual and customary fee, whichever is lower.

c. (1) (a) For the fiscal year beginning July 1, 2008, reimbursement rates for inpatient and outpatient hospital services shall be increased by 1 percent over the rates in effect on June 30, 2008.

(b) If the centers for Medicare and Medicaid services of the United States department of health and human services does not approve the increased reimbursement for hospitals provided pursuant to subparagraph subdivision (a), of the funds appropriated to the department

[6] According to enrolled Act; the phrase "the agency" probably intended

for reimbursement to medical assistance providers for the fiscal year beginning July 1, 2008, $1,700,000 shall be used as nonmedical assistance payments to hospitals paid under the prospective payment system methodology under the medical assistance program for the purposes of addressing health care workforce shortages by increasing salaries for registered nurses who are permanent employees, eligible for benefits, and who provide direct care to patients.

(c) Hospitals paid under the prospective payment system methodology under the medical assistance program shall report to the department the total amount of nurse salary increases compared to the total amount of the medical assistance payment increase for the fiscal year beginning July 1, 2008. Nurse salary information shall only include information for registered nurses who are permanent employees, eligible for benefits, and who provide direct care to patients. Reports submitted shall be a public record.

(d) 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", unless the department adopts the Medicare ambulatory payment classification methodology authorized in subparagraph (2).

(2) The department may implement the Medicare ambulatory payment classification methodology for reimbursement of outpatient hospital services. Any change in hospital reimbursement shall be budget neutral.

(3) In order to ensure the efficient use of limited state funds in procuring health care services for low-income Iowans, funds appropriated in this Act for hospital services shall not be used for activities which would be excluded from a determination of reasonable costs under the federal Medicare program pursuant to 42 U.S.C. § 1395X(v)(1)(N).

d. For the fiscal year beginning July 1, 2008, reimbursement rates for rural health clinics, hospices, independent laboratories, and acute mental hospitals shall be increased in accordance with increases under the federal Medicare program or as supported by their Medicare audited costs.

e. (1) For the fiscal year beginning July 1, 2008, reimbursement rates for home health agencies shall be increased by 1 percent over the rates in effect on June 30, 2008, not to exceed a home health agency's actual allowable cost.

(2) The department shall establish a fixed fee reimbursement schedule for home health agencies under the medical assistance program beginning July 1, 2009.

f. For the fiscal year beginning July 1, 2008, 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. For the fiscal year beginning July 1, 2008, the reimbursement rates for dental services shall be increased by 1 percent over the rates in effect on June 30, 2008.

h. For the fiscal year beginning July 1, 2008, the maximum reimbursement rate for psychiatric medical institutions for children shall be $167.19 per day.

i. For the fiscal year beginning July 1, 2008, unless otherwise specified in this Act, all noninstitutional medical assistance provider reimbursement rates shall be increased by 1 percent over the rates in effect on June 30, 2008, 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.

j. Notwithstanding any provision to the contrary, for the fiscal year beginning July 1, 2008, the reimbursement rate for anesthesiologists shall be increased by 1 percent over the medical assistance rate for anesthesiologists in effect on July 1, 2007.

k. Notwithstanding section 249A.20, for the fiscal year beginning July 1, 2008, the average reimbursement rate for health care providers eligible for use of the federal Medicare resource-based relative value scale reimbursement methodology under that section shall be increased by 1 percent over the rate in effect on June 30, 2008; however, this rate shall not exceed the maximum level authorized by the federal government.

l. For the fiscal year beginning July 1, 2008, the reimbursement rate for residential care facilities shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement. The flat reimburse-

ment rate for facilities electing not to file semiannual cost reports shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement.

m. For the fiscal year beginning July 1, 2008, inpatient mental health services provided at hospitals shall be reimbursed at the cost of the services, subject to Medicaid program upper payment limit rules; community mental health centers and providers of mental health services to county residents pursuant to a waiver approved under section 225C.7, subsection 3, shall be reimbursed at 100 percent of the reasonable costs for the provision of services to recipients of medical assistance; and psychiatrists shall be reimbursed at the medical assistance program fee for service rate.

2. For the fiscal year beginning July 1, 2008, the reimbursement rate for providers reimbursed under the in-home-related care program shall not be less than the minimum payment level as established by the federal government to meet the federally mandated maintenance of effort requirement.

3. Unless otherwise directed in this section, when the department's reimbursement methodology for any provider reimbursed in accordance with this section includes an inflation factor, this factor shall not exceed the amount by which the consumer price index for all urban consumers increased during the calendar year ending December 31, 2002.

4. For the fiscal year beginning July 1, 2008, the foster family basic daily maintenance rate paid in accordance with section 234.38, the maximum adoption subsidy rate, and the maximum supervised apartment living foster care rate for children ages 0 through 5 years shall be $16.36, the rate for children ages 6 through 11 years shall be $17.01, the rate for children ages 12 through 15 years shall be $18.62, and the rate for children ages 16 and older shall be $18.87.

5. For the fiscal year beginning July 1, 2008, the maximum reimbursement rates for social services providers reimbursed under a purchase of social services contract shall be increased by 1 percent over the rates in effect on June 30, 2008, or the provider's actual and allowable cost plus inflation for each service, whichever is less. However, the rates may be adjusted under any of the following circumstances:

a. If a new service was added after June 30, 2008, 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.

6. For the fiscal year beginning July 1, 2008, the reimbursement rates for family-centered service providers, family foster care service providers, group foster care service providers, and the resource family recruitment and retention contractor shall be increased by 1 percent over rates in effect on June 30, 2008.

7. The group foster care reimbursement rates paid for placement of children out of state shall be calculated according to the same rate-setting principles as those used for in-state providers, unless the director of human services or the director's designee determines that appropriate care cannot be provided within the state. The payment of the daily rate shall be based on the number of days in the calendar month in which service is provided.

8. For the fiscal year beginning July 1, 2008, remedial service providers shall receive cost-based reimbursement for 100 percent of the reasonable costs plus 1 percent not to exceed the established limit for the provision of services to recipients of medical assistance.

9. a. For the fiscal year beginning July 1, 2008, the combined service and maintenance components of the reimbursement rate paid for shelter care services purchased under a contract shall be based on the financial and statistical report submitted to the department. The maximum reimbursement rate shall be $92.36 per day. The department shall reimburse a shelter care provider at the provider's actual and allowable unit cost, plus inflation, not to exceed the maximum reimbursement rate.

b. Notwithstanding section 232.141, subsection 8, for the fiscal year beginning July 1, 2008, the amount of the statewide average of the actual and allowable rates for reimbursement of

juvenile shelter care homes that is utilized for the limitation on recovery of unpaid costs shall be increased by $0.91 over the amount in effect for this purpose in the preceding fiscal year.

10. For the fiscal year beginning July 1, 2008, 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, 2008, for child care providers reimbursed under the state child care assistance program, the department shall set provider reimbursement rates based on the rate reimbursement survey completed in December 2004. Effective October 1, 2008, the child care provider reimbursement rates shall be increased by 2 percent over the rates in effect on September 30, 2008. The department shall set rates in a manner so as to provide incentives for a nonregistered provider to become registered by applying the increase only to registered and licensed providers.

12. For the fiscal year beginning July 1, 2008, 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. 33. 2001 Iowa Acts, chapter 192, section 4, subsection 4, is amended to read as follows:

4. ACCOUNTABILITY ~~MEASURERS~~ MEASUREMENTS — ANNUAL ACCOUNTABILITY PAYMENTS.

a. It is the intent of the general assembly that the department of human services initiate a system to measure a variety of elements to determine a nursing facility's capacity to provide quality of life and appropriate access to medical assistance program beneficiaries in a cost-effective manner. Beginning July 1, 2001, the department shall implement a process to collect data for these measurements and shall develop procedures to increase nursing facility reimbursements based upon a nursing facility's achievement of multiple favorable outcomes as determined by these measurements. Any increased reimbursement shall not exceed 3 percent of the calculation of the modified price-based case-mix reimbursement median. The increased reimbursement shall be included in the calculation of nursing facility modified price-based payment rates beginning July 1, 2002, with the exception of Medicare-certified hospital-based nursing facilities, state-operated nursing facilities, and special population nursing facilities.

~~b. It is the intent of the general assembly that increases in payments to nursing facilities under the case-mix adjusted component shall be used for the provision of direct care with an emphasis on compensation to direct care workers. The department shall compile and provide a detailed analysis to demonstrate growth of direct care costs, increased acuity, and care needs of residents. The department shall also provide analysis of cost reports submitted by providers and the resulting desk review and field audit adjustments to reclassify and amend provider cost and statistical data. The results of these analyses shall be submitted to the general assembly for evaluation to determine payment levels following the transition funding period.~~

b. Beginning July 1, 2008, notwithstanding any law or rule to the contrary, the increased nursing facility reimbursement available pursuant to paragraph "a" shall be based upon the accountability measures and calculations existing on July 1, 2008, pursuant to 441 IAC 81.6(16)(g), as adjusted in accordance with the following provisions, and the increased reimbursement shall be disbursed to each qualifying nursing facility as an accountability payment[7] at the end of each fiscal year. The department of human services shall request any medical assistance state plan amendment necessary to implement the modified accountability payment[8] methodology. If the department does not receive approval of the state plan amendment, the funds designated for the purposes of providing the accountability measures payment shall instead be disbursed through the case-mix reimbursement system:

(1) If a nursing facility receives a citation resulting in actual harm pursuant to the federal certification guidelines at a G level scope and severity or higher, the increased reimbursement calculated for payment under this paragraph "b" shall be reduced by 25 percent for each such citation during the year. Additionally, if a nursing facility fails to cure any deficiency cited

[7] According to enrolled Act; the phrase "accountability measures payment" probably intended

[8] According to enrolled Act; the phrase "accountability measures payment" probably intended

within the time required by the department of inspections and appeals, the increased reimbursement calculated for payment under this paragraph shall be forfeited and the nursing facility shall not receive any accountability measure[9] payment for the year.

(2) If a nursing facility receives a deficiency resulting in actual harm or immediate jeopardy, pursuant to the federal certification guidelines at an H level scope and severity or higher, regardless of the amount of any fines assessed, the increased reimbursement calculated for payment under this paragraph "b" shall be forfeited and the nursing facility shall not receive any accountability measure[10] payment for the year.

(3) Beginning July 1, 2008, accountability measure[11] payments to providers shall be reduced by 20 percent of the calculated amount. The percentage reduction shall continue until June 30, 2009, or until such time as the general assembly adopts a modification of the accountability measures system.

c. It is the intent of the general assembly that the department of human services assemble a workgroup to develop recommendations to redesign the accountability measures for implementation in the fiscal year beginning July 1, 2009. The workgroup shall include long-term care services stakeholders and advocates including but not limited to representatives of the AARP Iowa chapter, direct care workers, long-term care provider entities, the state and local offices of the long-term care resident's advocate, the older Iowans' legislature, area agencies on aging, the consumer members of the senior living coordinating unit, the department of elder affairs, the department of inspections and appeals, and the chairpersons and ranking members of the joint appropriations subcommittee on health and human services. The workgroup shall submit its recommendations for the redesigned accountability measures which shall meet all of the following specifications:

(1) Acknowledge and establish higher benchmarks for performance-based reimbursement to those nursing facilities meeting the identified and weighted components recommended by the workgroup.

(2) Reinforce the expectation that the performance-based payments will be used to support direct care and support care staff through increased wages, enhanced benefits, and expanded training opportunities and provide a system for determining compliance with this expectation.

(3) Identify the best practices that are used in facilities receiving a performance-based payment and create a system to assist other facilities in the implementation of those best practices.

Sec. 34. REVIEW — DRUG PRODUCT SELECTION. On or after the effective date of this section, the chairpersons of the joint appropriations subcommittee on health and human services shall convene a group of representatives of appropriate entities to review current law regarding drug product selection. The representatives shall include but are not limited to representatives of the Iowa pharmacy association, the Iowa medical society, pharmacy industry representatives of the Iowa retail federation, advocacy groups, the department of human services, the board of pharmacy, and the department of public health. The legislative services agency shall provide administrative support to the group. The group shall complete its deliberations on or before December 15, 2008.

Sec. 35. VISUAL ASSESSMENTS AND REPAIR OF LEAD HAZARDS. The department of human services and the department of education shall adopt rules to require programs and facilities under the purview of the respective department to conduct visual assessments for lead hazards and to repair lead hazards identified.

Sec. 36. EMERGENCY RULES. If specifically authorized by a provision of this division of this Act, the department of human services or the mental health, mental retardation, developmental disabilities, and brain injury commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review

[9] According to enrolled Act; the word "measures" probably intended

[10] According to enrolled Act; the word "measures" probably intended

[11] According to enrolled Act; the word "measures" probably intended

* Item veto; see message at end of the Act

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. 37. REPORTS. Any reports or information required to be compiled and submitted under this Act shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, and the legislative caucus staffs on or before the dates specified for submission of the reports or information.

Sec. 38. EFFECTIVE DATE. 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 2008-2009 fiscal year.

2. The section directing the chairpersons of the joint appropriations subcommittee on health and human services to convene a group to review drug product selection.

DIVISION II
SENIOR LIVING TRUST FUND, PHARMACEUTICAL SETTLEMENT ACCOUNT, IOWACARE ACCOUNT, HEALTH CARE TRANSFORMATION ACCOUNT, AND PROPERTY TAX RELIEF FUND

Sec. 39. DEPARTMENT OF ELDER AFFAIRS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of elder affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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 case management only if the monthly cost per client for case management for the frail elderly services provided does not exceed an average of $70, and including program administration and costs associated with implementation:

. . . . . $ 8,442,707

1. Of the funds appropriated in this section, $2,196,967 shall be used for case management for the frail elderly. Of the funds allocated in this subsection, $1,010,000 shall be transferred to the department of human services in equal amounts on a quarterly basis for reimbursement of case management services provided under the medical assistance elderly waiver. The monthly cost per client for case management for the frail elderly services provided shall not exceed an average of $70.

2. Notwithstanding section 249H.7, the department of elder affairs shall distribute up to $400,000 of the funds appropriated in this section in a manner that will supplement and maximize federal funds under the federal Older Americans Act and shall not use the amount distributed for any administrative purposes of either the department of elder affairs or the area agencies on aging.

3. Of the funds appropriated in this section, $60,000 shall be used to provide dementia-specific education to direct care workers and other providers of long-term care to enhance existing or scheduled efforts through the Iowa caregivers association, the Alzheimer's association, and other organizations identified as appropriate by the department.

Sec. 40. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the senior living trust fund created in section 249H.4 to the department of inspections and appeals for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the inspection and certification of assisted living facilities and adult day care services, including program administration and costs associated with implementation:

. . . . . $ 1,183,303

Sec. 41. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the senior living trust fund created in section 249H.4 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the medical assistance appropriations made in this Act, including program administration and costs associated with implementation:

. . . . . $ 111,753,195

In order to carry out the purposes of this section, the department may transfer funds appropriated in this section to supplement other appropriations made to the department of human services.

Sec. 42. IOWA FINANCE AUTHORITY. There is appropriated from the senior living trust fund created in section 249H.4 to the Iowa finance authority for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To provide reimbursement for rent expenses to eligible persons:

. . . . . $ 700,000

Participation in the rent subsidy program shall be limited to only those persons who meet the requirements for the nursing facility level of care for home and community-based services waiver services as in effect on July 1, 2008, and to those individuals who are eligible for the federal money follows the person grant program under the medical assistance program.

Sec. 43. PHARMACEUTICAL SETTLEMENT ACCOUNT. There is appropriated from the pharmaceutical settlement account created in section 249A.33 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriations made for medical contracts under the medical assistance program:

. . . . . $ 1,323,833

Sec. 44. APPROPRIATIONS FROM IOWACARE ACCOUNT.

1. There is appropriated from the IowaCare account created in section 249J.24 to the state board of regents for distribution to the university of Iowa hospitals and clinics for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, equipment, and miscellaneous purposes, for the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, and for medical education:

. . . . . $ 27,284,584

a. Funds appropriated in this subsection 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 subsection, 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.

b. Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection shall be allocated in twelve equal monthly payments as provided in section 249J.24.

2. There is appropriated from the IowaCare account created in section 249J.24 to the state board of regents for distribution to the university of Iowa hospitals and clinics for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, equipment, and miscellaneous purposes, for the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, and for medical education:

. . . . . $ 35,969,365

The amount appropriated in this subsection shall be distributed only if expansion population claims adjudicated and paid by the Iowa Medicaid enterprise exceed the appropriation to the state board of regents for distribution to the university of Iowa hospitals and clinics provided in subsection 1. The amount appropriated in this subsection shall be distributed monthly for expansion population claims adjudicated and approved for payment by the Iowa Medicaid enterprise using medical assistance program reimbursement rates.

3. There is appropriated from the IowaCare account created in section 249J.24 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For distribution to a publicly owned acute care teaching hospital located in a county with a population over three hundred fifty thousand for the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, and for medical education:

. . . . . $ 40,000,000

Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection shall be allocated in twelve equal monthly payments as provided in section 249J.24. Any amount appropriated in this subsection in excess of $37,000,000 shall be allocated only if federal funds are available to match the amount allocated.

4. There is appropriated from the IowaCare account created in section 249J.24 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For the state mental health institute at Cherokee, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 3,164,766

b. For the state mental health institute at Clarinda, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 687,779

c. For the state mental health institute at Independence, for salaries, support, maintenance,

and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 3,146,494

d. For the state mental health institute at Mount Pleasant, for salaries, support, maintenance, and miscellaneous purposes, including services to members of the expansion population pursuant to chapter 249J:

. . . . . $ 2,000,961

Sec. 45. APPROPRIATIONS FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. Notwithstanding any provision to the contrary, there is appropriated from the account for health care transformation created in section 249J.23 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the costs of medical examinations and development of personal health improvement plans for the expansion population pursuant to section 249J.6:

. . . . . $ 556,800

2. For the provision of a medical information hotline for the expansion population as provided in section 249J.6:

. . . . . $ 150,000

3. For other health promotion partnership activities pursuant to section 249J.14:

. . . . . $ 900,000

4. For the costs related to audits, performance evaluations, and studies required pursuant to chapter 249J:

. . . . . $ 400,000

5. For administrative costs associated with chapter 249J:

. . . . . $ 1,132,412

6. For planning and development, in cooperation with the department of public health, of a phased-in program to provide a dental home for children:

. . . . . $ 1,000,000

The department shall issue a request for proposals for a performance-based contract to implement the dental home for children and shall apply for any waivers from the centers for Medicare and Medicaid services of the United States department of health and human services as necessary to pursue a phased-in approach. The department shall submit progress reports regarding the planning and development of the dental home for children to the medical assistance projections and assessment council on a periodic basis.

7. For a mental health transformation pilot program:

. . . . . $ 250,000

8. For the tuition assistance for individuals serving individuals with disabilities pilot program as enacted in this Act:

. . . . . $ 500,000

9. For payment to the publicly owned acute care teaching hospital located in a county with a population of over 350,000 that is a participating provider pursuant to chapter 249J:

. . . . . $ 230,000

Disbursements under this subsection shall be made monthly. The hospital shall submit a report following the close of the fiscal year regarding use of the funds appropriated in this subsection to the persons specified in this Act to receive reports.

Notwithstanding section 8.39, subsection 1, without the prior written consent and approval of the governor and the director of the department of management, the director of human services may transfer funds among the appropriations made in this section as necessary to carry out the purposes of the account for health care transformation. The department shall report any transfers made pursuant to this section to the legislative services agency.

Sec. 46. TRANSFER FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION. There is transferred from the account for health care transformation created pursuant to sec-

tion 249J.23 to the IowaCare account created in section 249J.24 a total of $3,000,000 for the fiscal year beginning July 1, 2008, and ending June 30, 2009.

Sec. 47. IOWACARE PLAN REPORT. The department of human services, in cooperation with the members of the expansion population provider network as specified in chapter 249J and other interested parties, shall review the current IowaCare program and shall develop a plan for continuation, expansion, or elimination of the IowaCare program beyond June 30, 2010. The plan shall address the issue of establishing a procedure to either transfer an expansion population member who seeks medical care or treatment for a covered service from a nonparticipating provider to a participating provider in the expansion population provider network, or to compensate the nonparticipating provider for medical care or treatment for a covered service provided to an expansion population member, if transfer is not medically possible or if the transfer is refused and if no other third party is liable for reimbursement for the services provided. The review shall also address the issue of the future of the IowaCare program beyond June 30, 2010, including but not limited to expansion of the provider network beyond the initial network, expansion population member growth projections, member benefits, alternatives for providing health care coverage to the expansion population, and other issues pertinent to the continuation, expansion, or elimination of the program. The department shall report its findings and recommendations to the medical assistance projections and assessment council no later than December 15, 2008.

Sec. 48. PROPERTY TAX RELIEF FUND. There is appropriated from the property tax relief fund created in section 426B.1 to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the medical assistance program in addition to the appropriation made in section 426B.1, subsection 3, and other appropriations made for purposes of the program:

. . . . . $ 624,000

The appropriation made in this section consists of the revenues credited to the property tax relief fund pursuant to sections 437A.8 and 437A.15 after November 1, 2007, and before April 1, 2008.

Sec. 49. Section 426B.2, subsection 3, Code 2007, is amended to read as follows:

3. a. The director of human services shall draw warrants on the property tax relief fund, payable to the county treasurer in the amount due to a county in accordance with subsection 1 and mail the warrants to the county auditors in July and January of each year.

b. Any replacement generation tax in the property tax relief fund as of ~~November~~ May 1 shall be paid to the county treasurers in July and January of the fiscal year beginning the following July 1. The department of management shall determine the amount each county will be paid pursuant to this lettered paragraph for the following fiscal year. The department shall reduce by the determined amount the amount of each county's certified budget to be raised by property tax for that fiscal year which is to be expended for mental health, mental retardation, and developmental disabilities services and shall revise the rate of taxation as necessary to raise the reduced amount. The department of management shall report the reduction in the certified budget and the revised rate of taxation to the county auditors by June 15.

Sec. 50. MEDICAL ASSISTANCE PROGRAM — REVERSION TO SENIOR LIVING TRUST FUND FOR FY 2008-2009. Notwithstanding section 8.33, if moneys appropriated for purposes of the medical assistance program for the fiscal year beginning July 1, 2008, and ending June 30, 2009, from the general fund of the state, the senior living trust fund, the healthy Iowans tobacco trust fund, the health care trust fund, and the property tax relief fund are in excess of actual expenditures for the medical assistance program and remain unencumbered or unobligated at the close of the fiscal year, the excess moneys shall not revert but shall be transferred to the senior living trust fund created in section 249H.4.

DIVISION III
MH/MR/DD/BI SERVICES
ALLOWED GROWTH FUNDING —
FY 2008-2009

Sec. 51. Section 225C.5, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. ii. One member shall be an active board member of an agency serving persons with a substance abuse problem selected from nominees submitted by the Iowa behavioral health association.

Sec. 52. NEW SECTION. 225C.19 EMERGENCY MENTAL HEALTH CRISIS SERVICES SYSTEM.

1. For the purposes of this section:

a. "Emergency mental health crisis services provider" means a provider accredited or approved by the department to provide emergency mental health crisis services.

b. "Emergency mental health crisis services system" or "services system" means a coordinated array of crisis services for providing a response to assist an individual adult or child who is experiencing a mental health crisis or who is in a situation that is reasonably likely to cause the individual to have a mental health crisis unless assistance is provided.

2. a. The division shall implement an emergency mental health crises[12] services system in consultation with counties, and community mental health centers and other mental health and social service providers, in accordance with this section.

b. The purpose of the services system is to provide a statewide array of time-limited intervention services to reduce escalation of crisis situations, relieve the immediate distress of individuals experiencing a crisis situation, reduce the risk of individuals in a crisis situation doing harm to themselves or others, and promote timely access to appropriate services for those who require ongoing mental health services.

c. The services system shall be available twenty-four hours per day, seven days per week to any individual who is determined by self or others to be in a crisis situation, regardless of whether the individual has been diagnosed with a mental illness or a co-occurring mental illness and substance abuse disorder, and shall address all ages, income levels, and health coverage statuses.

d. The goals of an intervention offered by a provider under the services system shall include but are not limited to symptom reduction, stabilization of the individual receiving the intervention, and restoration of the individual to a previous level of functioning.

e. The elements of the services system shall be specified in administrative rules adopted by the commission.

3. The services system elements shall include but are not limited to all of the following:

a. Standards for accrediting or approving emergency mental health crisis services providers. Such providers may include but are not limited to a community mental health center, a provider approved in a waiver adopted by the commission to provide services to a county in lieu of a community mental health center, a unit of the department or other state agency, a county, or any other public or private provider who meets the accreditation or approval standards for an emergency mental health crisis services provider.

b. Identification by the division of geographic regions, service areas, or other means of distributing and organizing the emergency mental health crisis services system to ensure statewide availability of the services.

c. Coordination of emergency mental health crisis services with all of the following:

(1) The district and juvenile courts.

(2) Law enforcement.

(3) Judicial district departments of correctional services.

(4) County central point of coordination processes.

[12] According to enrolled Act; the word "crisis" probably intended

(5) Other mental health, substance abuse, and co-occurring mental illness and substance abuse services available through the state and counties to serve both children and adults.

d. Identification of basic services to be provided through each accredited or approved emergency mental health crisis services provider which may include but are not limited to face-to-face crisis intervention, stabilization, support, counseling, preadmission screening for individuals who may require psychiatric hospitalization, transportation, and follow-up services.

e. Identification of operational requirements for emergency mental health crisis services provider accreditation or approval which may include providing a telephone hotline, mobile crisis staff, collaboration protocols, follow-up with community services, information systems, and competency-based training.

4. The division shall initially implement the program through a competitive block grant process. The implementation shall be limited to the extent of the appropriations provided for the program.

Sec. 53. NEW SECTION. 225C.51 DEFINITIONS.

For the purposes of this division:

1. "Child" or "children" means a person or persons under eighteen years of age.

2. "Children's system" or "mental health services system for children and youth" means the mental health services system for children and youth implemented pursuant to this division.

3. "Functional impairment" means difficulties that substantially interfere with or limit a person from achieving or maintaining one or more developmentally appropriate social, behavioral, cognitive, communicative, or adaptive skills and that substantially interfere with or limit the person's role or functioning in family, school, or community activities. "Functional impairment" includes difficulties of episodic, recurrent, and continuous duration. "Functional impairment" does not include difficulties resulting from temporary and expected responses to stressful events in a person's environment.

4. "Other qualifying mental health disorder" means a mental health crisis or any diagnosable mental health disorder that is likely to lead to mental health crisis unless there is an intervention.

5. "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified within the most current diagnostic and statistical manual of mental disorders published by the American psychiatric association that results in a functional impairment. "Serious emotional disturbance" does not include substance use and developmental disorders unless such disorders co-occur with such a diagnosable mental, behavioral, or emotional disorder.

6. "Youth" means a person eighteen years of age or older but under twenty-two years of age who met the criteria for having a serious emotional disturbance prior to the age of eighteen.

Sec. 54. NEW SECTION. 225C.52 MENTAL HEALTH SERVICES SYSTEM FOR CHILDREN AND YOUTH — PURPOSE.

1. Establishing a comprehensive community-based mental health services system for children and youth is part of fulfilling the requirements of the division and the commission to facilitate a comprehensive, continuous, and integrated state mental health services plan in accordance with sections 225C.4, 225C.6, and 225C.6A, and other provisions of this chapter. The purpose of establishing the children's system is to improve access for children and youth with serious emotional disturbances and youth with other qualifying mental health disorders to mental health treatment, services, and other support in the least restrictive setting possible so the children and youth can live with their families and remain in their communities. The children's system is also intended to meet the needs of children and youth who have mental health disorders that co-occur with substance abuse, mental retardation, developmental disabilities, or other disabilities. The children's system shall emphasize community-level collaborative efforts between children and youth and the families and the state's systems of education, child welfare, juvenile justice, health care, substance abuse, and mental health.

2. The goals and outcomes desired for the children's system shall include but are not limited to all of the following:

a. Identifying the mental health needs of children and youth.

b. Performing comprehensive assessments of children and youth that are designed to identify functional skills, strengths, and services needed.

c. Providing timely access to available treatment, services, and other support.

d. Offering information and referral services to families to address service needs other than mental health.

e. Improving access to needed mental health services by allowing children and youth to be served with their families in the community.

f. Preventing or reducing utilization of more costly, restrictive care by reducing the unnecessary involvement of children and youth who have mental health needs and their families with law enforcement, the corrections system, and detention, juvenile justice, and other legal proceedings; reducing the involvement of children and youth with child welfare services or state custody; and reducing the placement of children and youth in the state juvenile institutions, state mental health institutes, or other public or private residential psychiatric facilities.

g. Increasing the number of children and youth assessed for functional skill levels.

h. Increasing the capacity to develop individualized, strengths-based, and integrated treatment plans for children, youth, and families.

i. Promoting communications with caregivers and others about the needs of children, youth, and families engaged in the children's system.

j. Developing the ability to aggregate data and information, and to evaluate program, service, and system efficacy for children, youth, and families being served on a local and statewide basis.

k. Implementing and utilizing outcome measures that are consistent with but not limited to the national outcomes measures identified by the substance abuse and mental health services administration of the United States department of health and human services.

l. Identifying children and youth whose mental health or emotional condition, whether chronic or acute, represents a danger to themselves, their families, school students or staff, or the community.

Sec. 55. NEW SECTION. 225C.53 ROLE OF DEPARTMENT AND DIVISION — TRANSITION TO ADULT SYSTEM.

1. The department is the lead agency responsible for the development, implementation, oversight, and management of the mental health services system for children and youth in accordance with this chapter. The department's responsibilities shall be fulfilled by the division.

2. The division's responsibilities relating to the children's system include but are not limited to all of the following:

a. Ensuring that the rules adopted for the children's system provide that, within the limits of appropriations for the children's system, children and youth shall not be inappropriately denied necessary mental health services.

b. Establishing standards for the provision of home and community-based mental health treatment, services, and other support under the children's system.

c. Identifying and implementing eligibility criteria for the treatment, services, and other support available under the children's system.

d. Ongoing implementation of recommendations identified through children's system improvement efforts.

3. An adult person who met the criteria for having a serious emotional disturbance prior to the age of eighteen may qualify to continue services through the adult mental health system.

Sec. 56. NEW SECTION. 225C.54 MENTAL HEALTH SERVICES SYSTEM FOR CHILDREN AND YOUTH — INITIAL IMPLEMENTATION.

1. The mental health services system for children and youth shall be initially implemented by the division commencing with the fiscal year beginning July 1, 2008. The division shall begin implementation by utilizing a competitive bidding process to allocate state block grants to develop services through existing community mental health centers, providers approved in a waiver adopted by the commission to provide services to a county in lieu of a community

mental health center, and other local service partners. The implementation shall be limited to the extent of the appropriations provided for the children's system.

2. In order to maximize federal financial participation in the children's system, the division and the department's Medicaid program staff shall analyze the feasibility of leveraging existing Medicaid options, such as expanding the home and community-based services waiver for children's mental health services, reviewing the feasibility of implementing other Medicaid options such as the federal Tax Equity and Financial Responsibility Act of 1982 (TEFRA) option for children with severe mental illness or emotional disturbance and Medicaid administrative funding, and determining the need for service enhancements through revisions to the Medicaid state plan and the federal state children's health insurance program and the healthy and well kids in Iowa program.

3. Initial block grants shall support a wide range of children, youth, and family services and initiatives including but not limited to school-based mental health projects, system reviews providing service gap analysis, status studies of the mental health needs of children and youth in representative areas of the state, and mental health assessment capacity development based in public and nonpublic schools and clinical settings using standard functional assessment tools. The purpose of developing the assessment capacity is to determine childrens' and youths' degree of impairment in daily functioning due to emotional, behavioral, psychological, psychiatric, or substance use problems.

4. The initial block grants may also support an array of programs and services including but not limited to mobile crisis intervention services, or other support intended to prevent more intensive or in-patient interventions, skills training, intensive care coordination, and cognitive-behavioral and multisystemic family therapy. In addition, support may be provided for prevention-oriented services including mental health consultations regarding home visits, child welfare, juvenile justice, and maternal and child health services, and consultation for preschool programs.

5. The division shall report regularly to the commission, general assembly, and governor concerning the implementation status of the children's system, including but not limited to an annual report submitted each January. The report may address funding requirements and statutory amendments necessary to further develop the children's system.

Sec. 57. Section 331.439, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The county accurately reported by December 1 the county's expenditures for mental health, mental retardation, and developmental disabilities services and the information required under section 225C.6A, subsection 2, paragraph "c", for the previous fiscal year on forms prescribed by rules adopted by the state commission. If the department determines good cause exists, the department may extend a deadline otherwise imposed under this chapter, chapter 225C, or chapter 426B for a county's reporting concerning mental health, mental retardation, or developmental disabilities services or related revenues and expenditures.

Sec. 58. 2007 Iowa Acts, chapter 215, section 1, is amended to read as follows:

SECTION 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, DEVELOPMENTAL DISABILITIES, AND BRAIN INJURY ALLOWED GROWTH APPROPRIATION AND ALLOCATIONS — FISCAL YEAR 2008-2009.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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 for fiscal year 2008-2009, and for the brain injury services program in the department of public health:

..... $ ~~64,600,002~~ 54,081,310

~~2. The amount appropriated in this section shall be allocated as provided in a later enactment of the general assembly.~~

2. There is appropriated from the property tax relief fund to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes 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:

. . . . . $ 7,592,099

Sec. 59. 2007 Iowa Acts, chapter 215, section 1, as amended by this division of this Act, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Of the amount appropriated in subsection 1, $12,000,000 shall be distributed as provided in this subsection.

a. To be eligible to receive a distribution under this subsection, a county must meet the following requirements:

(1) The county is levying for 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, 2008, or the county is levying for at least 90 percent of the maximum amount allowed for the county's services fund and that levy rate is more than $2 per $1,000 of the assessed value of all taxable property in the county.

(2) In the fiscal year beginning July 1, 2007, the county's mental health, mental retardation, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than 15 percent of the county's actual gross expenditures for that fiscal year.

b. A county's allocation of the amount appropriated in this subsection shall be determined based upon the county's proportion of the general population of the counties eligible to receive an allocation under this subsection. The most recent population estimates issued by the United States bureau of the census shall be applied in determining population for the purposes of this paragraph.

c. The allocations made pursuant to this subsection are subject to the distribution provisions and withholding requirements established in this section for the county mental health, mental retardation, and developmental disabilities allowed growth factor adjustment for the fiscal year beginning July 1, 2008.

NEW SUBSECTION. 4. The funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2008-2009, and shall be credited to the allowed growth funding pool created in the property tax relief fund and for distribution in accordance with section 426B.5, subsection 1:

. . . . . $ 49,673,409

NEW SUBSECTION. 5. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for fiscal year 2008-2009 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 a distribution amount for eligible counties from the allowed growth funding pool created in the property tax relief fund in accordance with the requirements in section 426B.5, subsection 1:

. . . . . $ 57,337,985

b. For calculation of a distribution amount for counties from the mental health and developmental disabilities (MH/DD) community services fund in accordance with the formula provided in the appropriation made for the MH/DD community services fund for the fiscal year beginning July 1, 2008:

. . . . . $ 17,727,890

NEW SUBSECTION. 6. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 5 for purposes of producing preliminary distribution totals, the department of human services shall apply a withholding factor to adjust an eligible individual county's preliminary distribution total. In order to be eligible for a distribution under this section, a county must be levying seventy percent or more 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 for which the distribution is payable. 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, 2007, 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. If a county borrowed moneys for purposes of providing services from the county's services fund on or before July 1, 2007, and the county's services fund ending balance for that fiscal year includes the loan proceeds or an amount designated in the county budget to service the loan for the borrowed moneys, those amounts shall not be considered to be part of the county's ending balance for purposes of calculating an ending balance percentage under this subsection. The withholding factor for a county shall be the following applicable percent:

a. For an ending balance percentage of less than 5 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 3 percent of the gross expenditures reported for the county's services fund for the fiscal year.

b. For an ending balance percentage of 5 percent or more but less than 10 percent, a withholding factor of 0 percent. In addition, a county that is subject to this lettered paragraph shall receive an inflation adjustment equal to 2 percent of the gross expenditures reported for the county's services fund for the fiscal year.

c. For an ending balance percentage of 10 percent or more but less than 25 percent, a withholding factor of 25 percent. However, for counties with an ending balance percentage of 10 percent or more but less than 15 percent, the amount withheld shall be limited to the amount by which the county's ending balance was in excess of the ending balance percentage of 10 percent.

d. For an ending balance percentage of 25 percent or more, a withholding percentage of 100 percent.

NEW SUBSECTION. 7. The total withholding amounts applied pursuant to subsection 6 shall be equal to a withholding target amount of $7,664,576. If the department of human services determines that the amount to be withheld in accordance with subsection 6 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 6 as necessary to achieve the target withholding amount. However, in making such adjustments to the withholding factors, the department shall strive to minimize changes to the withholding factors for those ending balance percentage ranges that are lower than others and shall not adjust the zero withholding factor or the inflation adjustment percentage specified in subsection 6, paragraph "a".

NEW SUBSECTION. 8. It is the intent of the general assembly that for distribution of the moneys addressed in this section to counties for the fiscal year beginning July 1, 2009, any factor utilizing services fund ending balances will be based upon the fiscal year beginning July 1, 2007, and a levy rate will be required for the fiscal year beginning July 1, 2009, that is at least 90 percent of the maximum allowed for the county's mental health, mental retardation, and developmental disabilities services fund under section 331.424A.

NEW SUBSECTION. 9. a. The department of human services may implement a pilot project for a regional service network established for mental health, mental retardation, and developmental disabilities services paid from the services funds under section 331.424A. The initial term of the pilot project is limited to the two-year period beginning July 1, 2008, and ending June 30, 2010.

b. Under the pilot project, the department may enter into an agreement with the counties

participating in the pilot project to administer a risk-based contract for the mental health, mental retardation, and developmental disabilities services provided by the participating counties. The pilot project provisions may include but are not limited to all of the following:

(1) Pooling of the participating counties services fund moneys.

(2) Pooling of waiver slots for the participating counties.

(3) To the extent allowed under federal requirements, decategorizing the funding streams for mental health, mental retardation, and developmental disabilities available to the counties participating in the pilot project.

(4) If the department implements a new program, initiative, or service addressing the needs of the populations receiving services paid for by a county services fund, adapting any associated requirements to optimize implementation within the pilot project counties.

c. For purposes of qualifying for the allowed growth and MH/DD community services fund moneys distributed under this section, the minimum levy and services fund ending balances of the counties participating in the pilot project may be combined and an average utilized to qualify for the moneys.

d. For the allowed growth and MH/DD community services fund moneys distributed for the fiscal year beginning July 1, 2009, provided the counties participating in the pilot project do not reduce levies below the required percentages, the combined percentage of those moneys of such counties shall not be less than the combined percentage of such moneys in the preceding fiscal year.

e. A county's participation in the pilot project and the provisions of the pilot project must be agreed upon by the department and the board of supervisors of each of the counties participating in the pilot project.

f. The department may specify a minimum population level and other prerequisites for the consortium of counties participating in the pilot project.

g. The pilot project counties shall provide periodic performance and evaluation information to the department, governor, and general assembly.

Sec. 60. COUNTY-STATE SHARED FUNDING FOR MENTAL HEALTH AND DISABILITY SERVICES COVERED BY THE MEDICAID PROGRAM.

1. The legislative council is requested to authorize for the 2008 legislative interim a task force to consider county-state shared funding for mental health and disability services covered by the Medicaid program. The membership of the task force should include five legislators from each chamber, one member of the mental health, mental retardation, developmental disabilities, and brain injury (MH/MR/DD/BI) commission; three members of county boards of supervisors, with one each from a large, medium, and small population county; three staff members from the county central point of coordination (CPC) office, with one each from a large, medium, and small population county; two individuals representing advocacy organizations, one of which shall be the governor's developmental disabilities council; one current consumer of county MH/MR/DD services; and one MH/MR/DD/BI service provider representative from each of the state's five congressional districts. The task force shall utilize a facilitator to assist the process.

2. The task force should be charged to review and estimate the shared impact for the state and for Iowa counties if financial responsibility for the nonfederal share of the costs of mental health and disability services covered under the Medicaid program is shifted from counties to the state. The task force should be charged to develop an eight-year transition plan that reflects the shared responsibility of costs and service delivery resulting from the shift in responsibilities. It is the intent of the general assembly that the task force will be formed by June 15, 2008, and meet a minimum of four times in 2008.

3. In addition to legislative staff, representatives of the department of management, the Iowa state association of counties, the department of human services, association of community providers, and Iowa substance abuse program directors association shall comprise a team of resource experts to the task force.

4. The task force's final report for consideration by the 2009 regular session of the general

assembly and governor shall include findings and recommendations and a service delivery and funding transition plan.

Sec. 61. COMMUNITY MENTAL HEALTH CENTER LAW UPDATE.

1. The division of mental health and disability services of the department of human services and the mental health, mental retardation, developmental disabilities, and brain injury commission, shall develop a proposal for updating and revising Code chapter 230A, relating to community mental health centers, and for revising the accreditation standards in rule that would result from the statutory revisions. An advisory committee shall be utilized in developing the proposal. In addition to interests represented on the commission, the advisory committee membership shall include but is not limited to representatives of the following: the child welfare advisory committee established pursuant to section 234.3, the coalition for family and children's services in Iowa, the Iowa chapter of the national association of social workers, the Iowa psychological society, and the Iowa psychiatric society.

2. The proposal content shall include but is not limited to addressing Code chapter 230A requirements in the following areas: establishment and support of community mental health centers, services offered, consumer and family involvement, capability to address co-occurring disorders, forms of organization, board of directors, organization meetings, duties and powers of directors, center organization as a nonprofit entity, annual budget, financial support of centers through federal and state block grants, comprehensive community mental health programs, target populations to be served, emergency mental health crisis services, quality improvement programs, use of evidence-based practices, use of functional assessments and outcomes measures, establishment of standards, and review and evaluation processes.

3. The proposal, accompanied by findings and recommendations, shall be submitted to the governor and general assembly on or before December 1, 2008. Until that report has been considered and acted upon by the general assembly, the division administrator may defer consideration of requests for accreditation of a new community mental health center or for approval of a provider to fill the role of a community mental health center.

DIVISION IV
HEALTH CARE TRUST FUND APPROPRIATIONS — HEALTH CARE ACTIVITIES

Sec. 62. DEPARTMENT OF PUBLIC HEALTH. The allocations made in this section may include amounts carried forward from appropriations and allocations made for the same purposes in the previous fiscal year. In addition to any other appropriation made in this Act for the purposes designated, there is appropriated from the health care trust fund created in section 453A.35A to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated, and for not more than the following full-time equivalent positions:

1. ADDICTIVE DISORDERS

..... $ 3,195,164
..... FTEs 5.00

a. Of the funds appropriated in this subsection, $450,000 shall be used for culturally competent substance abuse treatment pilot projects.

(1) The department shall utilize the amount allocated in this lettered paragraph for at least three pilot projects to provide culturally competent substance abuse treatment in various areas of the state. Each pilot project shall target a particular ethnic minority population. The populations targeted shall include but are not limited to African-American, Asian, and Latino.

(2) The pilot project requirements shall provide for documentation or other means to ensure access to the cultural competence approach used by a pilot project so that such approach can be replicated and improved upon in successor programs.

b. Of the funds appropriated in this subsection, $2,747,754 shall be used for tobacco use prevention, cessation, and treatment. The department shall utilize the funds to provide for a vari-

ety of activities related to tobacco use prevention, cessation, and treatment including to support Quitline Iowa, QuitNet cessation counseling and education, grants to school districts and community organizations to support Just Eliminate Lies youth chapters and youth tobacco prevention activities, the Just Eliminate Lies tobacco prevention media campaign, nicotine replacement therapy, and other prevention and cessation materials and media promotion. Of the funds allocated in this lettered paragraph, $255,000 may be utilized by the department for administrative purposes.

c. Of the funds appropriated in this subsection, $922,000 shall be used for substance abuse treatment activities.

2. HEALTHY CHILDREN AND FAMILIES

..... $ 667,700
..... FTEs 1.00

a. Of the funds appropriated in this subsection, $200,000 shall be used to address the healthy mental development of children from birth through five years of age through local evidence-based strategies that engage both the public and private sectors in promoting healthy development, prevention, and treatment for children.

b. Of the funds appropriated in this subsection, $180,000 shall be used for childhood obesity prevention.

c. Of the funds appropriated in this subsection, $39,000 shall be used for the dental screening of children program pursuant to 2007 Iowa Acts, chapter 146, section 1.

d. Of the funds appropriated in this subsection, $10,000 shall be used for public health education and awareness of the children's vision initiatives, including the InfantSee program and the student vision program, administered through a statewide association of optometric professionals for infants and preschool children.

e. Of the funds appropriated in this subsection, $238,500 shall be used to provide audiological services and hearing aids for children. The department may enter into a contract to administer this paragraph.

f. It is the intent of the general assembly that the department of public health shall implement the recommendations of the postnatal tissue and fluid bank task force created in 2007 Iowa Acts, chapter 147, based upon the report submitted to the general assembly in November 2007, as funding becomes available. The department shall notify the Iowa Code editor and the persons specified in this Act to receive reports when such funding becomes available.

3. CHRONIC CONDITIONS

..... $ 1,164,181
..... FTEs 1.00

a. Of the funds appropriated in this subsection, $473,981 shall be used for child health specialty clinics.

b. Of the funds appropriated in this subsection, $500,000 shall be used for the comprehensive cancer control program to reduce the burden of cancer in Iowa through prevention, early detection, effective treatment, and ensuring quality of life. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the activities related to the comprehensive cancer control program.

c. Of the funds appropriated in this subsection, $5,000 shall be used for the hemophilia advisory council[13] pursuant to chapter 135N.

d. Of the funds appropriated in this subsection, $200,000 shall be used for cervical and colon cancer screening.

4. COMMUNITY CAPACITY

..... $ 2,790,000
..... FTEs 6.00

a. Of the funds appropriated in this subsection, $75,000 shall be used to further develop and implement at the state level, and pilot at the local level, the Iowa public health standards approved by the department.

b. Of the funds appropriated in this subsection, $200,000 shall be used for the mental health professional shortage area program implemented pursuant to section 135.80.

[13] According to enrolled Act; the word "committee" probably intended

c. Of the funds appropriated in this subsection, $50,000 shall be used for a grant to a statewide association of psychologists that is affiliated with the American psychological association to be used for continuation of a program to rotate intern psychologists in placements in urban and rural mental health professional shortage areas, as defined in section 135.80.

d. Of the funds appropriated in this subsection, the following amounts shall be allocated to the Iowa collaborative safety net provider network established pursuant to section 135.153 to be used for the purposes designated:

(1) For distribution to the Iowa-Nebraska primary care association for statewide coordination of the Iowa collaborative safety net provider network:
. . . . . $ 100,000

(2) For distribution to the Iowa family planning network agencies for necessary infrastructure, statewide coordination, provider recruitment, service delivery, and provision of assistance to patients in determining an appropriate medical home:
. . . . . $ 100,000

(3) For distribution to the local boards of health that provide direct services for pilot programs in three counties to assist patients in determining an appropriate medical home:
. . . . . $ 100,000

(4) For distribution to maternal and child health centers for pilot programs in three counties to assist patients in determining an appropriate medical home:
. . . . . $ 100,000

(5) For distribution to free clinics for necessary infrastructure, statewide coordination, provider recruitment, service delivery, and provision of assistance to patients in determining an appropriate medical home:
. . . . . $ 250,000

(6) For distribution to rural health clinics for necessary infrastructure, statewide coordination, provider recruitment, service delivery, and provision of assistance to patients in determining an appropriate medical home:
. . . . . $ 150,000

(7) For continuation of the safety net provider patient access to specialty health care initiative as described in 2007 Iowa Acts, ch. 218, section 109:
. . . . . $ 400,000

(8) For continuation of the pharmaceutical infrastructure for safety net providers as described in 2007 Iowa Acts, ch. 218, section 108:
. . . . . $ 400,000

The Iowa collaborative safety net provider network may continue to distribute funds allocated pursuant to this paragraph "d" through existing contracts or renewal of existing contracts.

e. Of the funds appropriated in this subsection, $650,000 shall be used for the incubation grant program to community health centers that receive a total score of 85 based on the evaluation criteria of the health resources and services administration of the United States department of health and human services.

f. Of the funds appropriated in this subsection, $75,000 shall be used for implementation of the recommendations of the direct care worker task force established pursuant to 2005 Iowa Acts, chapter 88, based upon the report submitted to the governor and the general assembly in December 2006.

g. Of the funds appropriated in this subsection, $140,000 shall be used for allocation to an independent statewide direct care worker association for education, outreach, leadership development, mentoring, and other initiatives intended to enhance the recruitment and retention of direct care workers in health and long-term care.

h. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the activities related to the Iowa collaborative safety net provider network.

i. The department shall utilize one of the full-time equivalent positions authorized in this subsection for administration of the voluntary health care provider program pursuant to section 135.24.

Sec. 63. DEPARTMENT OF HUMAN SERVICES. In addition to any other appropriation made in this Act for the purposes designated, there is appropriated from the health care trust fund created in section 453A.35A to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. MEDICAL ASSISTANCE

. . . . . $ 114,943,296

Of the funds appropriated in this subsection, $250,000 shall be used for the grant to the Iowa healthcare collaborative as described in section 135.40.

2. MH/MR/DD ALLOWED GROWTH FACTOR

. . . . . $ 7,592,099

The funds appropriated in this subsection shall be credited to the property tax relief fund created in section 426B.1.

Sec. 64. BEHAVIORAL HEALTH — DEVELOPING WORKFORCE COMPETENCIES.

1. The department of public health shall continue during the fiscal year beginning July 1, 2008, the collaborative work with the departments of corrections, education, elder affairs, and human services, and other state agencies, commenced pursuant to 2007 Iowa Acts, ch. 218, section 111, to enhance the workforce competencies of professional and direct care staff who provide behavioral health services, including but not limited to all of the following:

a. Treatment of persons with co-occurring mental health and substance use disorders.

b. Treatment of children with mental health or substance use disorders.

c. Treatment of persons with serious mental illness.

d. Treatment of veterans of United States or Iowa military service with mental health or substance use disorders.

e. Treatment of older adults with mental health or substance use disorders.

2. The department's collaborative effort shall utilize the findings of the substance abuse and mental health services administration of the United States department of health and human services and materials developed by the Annapolis coalition on the behavioral health workforce in planning and implementing efforts to enhance the competency-based training of the state's behavioral health workforce.

DIVISION V
APPROPRIATION-RELATED CHANGES — EFFECTIVE DATE

Sec. 65. Section 35D.18, subsection 5, Code 2007, is amended to read as follows:

5. Notwithstanding section 8.33, ~~up to five hundred thousand dollars of~~ any balance in the Iowa veterans home ~~revenue~~ annual appropriation or revenues that ~~remain~~ remains unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for specified purposes of the Iowa veterans home until the close of the succeeding fiscal year.

JUVENILE DETENTION HOME FUND

Sec. 66. HEALTHY IOWANS TOBACCO TRUST. 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, 2007, and ending June 30, 2008, for deposit in the juvenile detention home fund created in section 232.142:

. . . . . $ 1,000,000

CHILD WELFARE DECATEGORIZATION
FY 2006-2007 NONREVERSION

Sec. 67. 2006 Iowa Acts, chapter 1184, section 17, subsection 4, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 232.188, subsection 5, mon-

eys from the allocations made in this subsection or made from any other source for the decategorization of child welfare and juvenile justice funding initiative under section 232.188, that are designated as carryover funding and that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2007, shall not revert but shall remain available for expenditure until the close of the succeeding fiscal year to be used for the purposes of continuing the initiative in the succeeding fiscal year.

VIETNAM CONFLICT VETERANS BONUS FUND

Sec. 68. 2007 Iowa Acts, chapter 176, section 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

INJURED VETERANS GRANT PROGRAM

Sec. 69. 2006 Iowa Acts, chapter 1184, section 5, as enacted by 2007 Iowa Acts, chapter 203, section 1, subsection 4, unnumbered paragraph 2, is amended to read as follows:

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 beginning July 1, 2008.

DEPARTMENT OF ELDER AFFAIRS — LIVABLE COMMUNITY INITIATIVE

Sec. 70. 2007 Iowa Acts, chapter 215, section 32, is amended by adding the following new subsection:

NEW SUBSECTION. 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.

CHRONIC CONDITIONS — PKU

Sec. 71. 2007 Iowa Acts, chapter 218, section 2, subsection 3, unnumbered paragraph 2, is amended to read as follows:

Of the funds appropriated in this subsection, $100,000 shall be used as additional funding to provide grants to individual patients who have phenylketonuria (PKU) to assist with the costs of necessary special foods. Notwithstanding section 8.33, moneys appropriated in this subsection and allocated in this paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

PUBLIC PROTECTION — ANTIVIRAL STOCKPILE

Sec. 72. 2007 Iowa Acts, chapter 218, section 2, subsection 8, paragraph d, is amended to read as follows:

d. Of the funds appropriated in this subsection, $150,000 shall be used for management of the antiviral stockpile. Notwithstanding section 8.33, moneys appropriated in this subsection and allocated in this paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION

Sec. 73. 2007 Iowa Acts, chapter 218, section 4, subsection 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, up to $100,000 of the 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 in this paragraph until the close of the succeeding fiscal year. The purposes shall include the sign for the veterans cemetery and other necessary expenses.

COUNTY GRANT PROGRAM

Sec. 74. 2007 Iowa Acts, chapter 218, section 4, subsection 4, unnumbered paragraph 3, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert ~~to the fund from which appropriated but shall be credited to the veterans trust fund~~ but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
BLOCK GRANT — CHILD CARE

Sec. 75. 2007 Iowa Acts, chapter 218, section 7, subsections 1 and 7, are 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:

. . . . . $ ~~36,890,944~~
28,390,944

7. For state child care assistance:

. . . . . $ ~~18,986,177~~
27,486,177

a. Of the funds appropriated in this subsection, up to $18,986,177 shall be transferred to the child care and development block grant appropriation made for the federal fiscal year beginning October 1, 2007, and ending September 30, 2008, in 2007 Iowa Acts, ch. 204, section 14. Of this amount, $200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.

b. ~~The~~ Any funds appropriated in this subsection ~~shall be transferred to the child care and development block grant appropriation~~ that remain unallocated shall be used for state child care assistance payments for individuals enrolled in the family investment program who are employed.

TEMPORARY ASSISTANCE FOR NEEDY FAMILIES
FAMILY DEVELOPMENT AND SELF-SUFFICIENCY GRANT PROGRAM

Sec. 76. 2007 Iowa Acts, chapter 218, section 7, subsection 3, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. 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. However, unless such moneys are encumbered or obligated on or before September 30, 2008, the moneys shall revert.

FAMILY INVESTMENT PROGRAM — TRANSITIONAL BENEFITS

Sec. 77. 2007 Iowa Acts, chapter 218, section 8, subsection 4, paragraph d, is amended to read as follows:

~~d. For developing and implementing a new program to provide transitional benefits to families with members who are employed at the time the family leaves the family investment program in accordance with section 239B.11A, as enacted by this Act:~~

~~..... $ 2,000,000~~

~~The department may adopt emergency rules to implement the new program.~~

CHILDREN'S HEALTH INSURANCE PROGRAM

Sec. 78. 2007 Iowa Acts, chapter 218, section 15, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding sections 8.33 and 514I.11, up to $441,000 of the moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any other fund but shall instead be transferred to the appropriation made in section 16 of this Act for child care assistance to be used for the state child care assistance program until the close of the succeeding fiscal year.

CHILD AND FAMILY SERVICES
TRANSFER FOR CHILD CARE

Sec. 79. 2007 Iowa Acts, chapter 218, section 18, subsection 3, is amended to read as follows:

3. The department may transfer funds appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under the medical assistance program, the state child care assistance program, or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this division of this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

CHILD AND FAMILY SERVICES FY 2007-2008

Sec. 80. 2007 Iowa Acts, chapter 218, section 18, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Notwithstanding sections 8.33 and 232.188, up to $6,600,000 of the funds appropriated in this section that could otherwise be designated as carryover funding under section 232.188 and that would remain unencumbered or unobligated at the close of the fiscal year shall instead be transferred to the appropriation made in section 16 of this Act for child care assistance to be used for the state child care assistance program until the close of the succeeding fiscal year.

CHILD AND FAMILY SERVICES
PROTECTIVE CHILD CARE

Sec. 81. 2007 Iowa Acts, chapter 218, section 18, subsection 9, is amended to read as follows:

9. Of the funds appropriated in this section, at least $3,696,285 shall be used for protective child care assistance.

JUVENILE DETENTION FUNDING

Sec. 82. 2007 Iowa Acts, chapter 218, section 20, is amended to read as follows:

SEC. 20. JUVENILE DETENTION HOME FUND. Moneys deposited in the juvenile deten-

tion home fund created in section 232.142 during the fiscal year beginning July 1, 2007, and ending June 30, 2008, are appropriated to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for distribution as follows:

1. ~~An~~ The following amount which is equal to more than 10 percent of the costs of the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 2006. Moneys appropriated for distribution in accordance with this subsection shall be allocated among eligible detention homes, prorated on the basis of an eligible detention home's proportion of the costs of all eligible detention homes in the fiscal year beginning July 1, 2006~~. Notwithstanding section 232.142, subsection 3, the financial aid payable by the state under that provision for the fiscal year beginning July 1, 2007, shall be limited to the amount appropriated for the purposes of this subsection.~~:

. . . . . $ 3,764,041

2. For renewal of a grant to a county with a population between 189,000 and 196,000 in the latest preceding certified federal census for implementation of the county's runaway treatment plan under section 232.195:

. . . . . $ 80,000

3. For continuation and expansion of the community partnership for child protection sites:

. . . . . $ 418,000

4. For continuation of the department's minority youth and family projects under the redesign of the child welfare system:

. . . . . $ 375,000

5. For funding of the state match for the federal substance abuse and mental health services administration (SAMHSA) system of care grant:

. . . . . $ ~~400,000~~ 300,000

~~6. For transfer to the appropriation made in this Act for child and family services to supplement the statewide expenditure target amount under section 232.143 designated in the appropriation made in this Act for child and family services:~~

~~. . . . . $ 1,324,000~~

~~7. For training of nonlicensed relatives caring for children in the child welfare system:~~

~~. . . . . $ 276,000~~

~~8.~~ 6. The remainder ~~for additional allocations to county or multicounty juvenile detention homes, in accordance with the distribution requirements of subsection 1~~ shall be credited to the appropriation made in section 18 of this Act for child and family services to supplement the statewide expenditure target amount under section 232.143 designated in that appropriation. Notwithstanding section 8.33, moneys credited pursuant to this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for caseload growth in the preparation for adult living program pursuant to section 234.46 until the close of the succeeding fiscal year.

MI/MR/DD STATE CASES
ADDICTIVE DISORDERS

Sec. 83. 2007 Iowa Acts, chapter 218, section 25, subsection 3, is amended to read as follows:

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. The first $300,000 of such moneys shall be transferred to the appropriation made from the general fund of the state to the department of public health for addictive disorders for the fiscal year beginning July 1, 2008, to be used for substance abuse treatment activities.

MH/DD COMMUNITY SERVICES FUND
TRANSFER FOR ADDICTIVE DISORDERS

Sec. 84. 2007 Iowa Acts, chapter 218, section 26, subsection 6, is amended to read as follows:

6. Of the funds appropriated in this section, $260,000 is allocated to the department for continuing the development of an assessment process for use beginning in a subsequent fiscal year as authorized specifically by a statute to be enacted in a subsequent fiscal year, determining on a consistent basis the needs and capacities of persons seeking or receiving mental health, mental retardation, developmental disabilities, or brain injury services that are paid for in whole or in part by the state or a county. The assessment process shall be developed with the involvement of counties and the mental health, mental retardation, developmental disabilities, and brain injury commission. Notwithstanding section 8.33, moneys allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall be transferred to the appropriation made from the general fund of the state to the department of public health for addictive disorders for the fiscal year beginning July 1, 2008, to be used for substance abuse treatment activities.

SEXUALLY VIOLENT PREDATORS

Sec. 85. 2007 Iowa Acts, chapter 218, section 27, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

DEPARTMENT OF HUMAN SERVICES FIELD OPERATIONS

Sec. 86. 2007 Iowa Acts, chapter 218, section 28, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 8.33, up to $1,500,000 of the 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.

DEPARTMENT OF HUMAN SERVICES GENERAL ADMINISTRATION

Sec. 87. 2007 Iowa Acts, chapter 218, section 29, is amended by adding the following new subsections:

NEW SUBSECTION. 4. Of the funds appropriated in this section, $1,000,000 is transferred to the juvenile detention home fund created in section 232.142.

NEW SUBSECTION. 5. Notwithstanding section 8.33, up to $110,000 of the 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.

ADJUSTMENT OF PHARMACY DISPENSING FEE

Sec. 88. 2007 Iowa Acts, chapter 218, section 31, subsection 1, paragraph b, is amended to read as follows:

b. ~~(1)~~ For the fiscal year beginning July 1, 2007, the department shall reimburse pharmacy dispensing fees using a single rate of $4.52 per prescription, or the pharmacy's usual and customary fee, whichever is lower.

~~(2) Beginning July 1, 2007, the department of human services shall adopt rules, pursuant to chapter 17A, to provide for the adjustment of the pharmacy dispensing fee to compensate for any reduction in the drug product cost reimbursement resulting from implementation of the average manufacturer price reimbursement standards for multisource generic drug products imposed pursuant to the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171. In implementing the reimbursement, the department may adjust the reimbursement amount as necessary to provide reimbursement within the state funding appropriated for the fiscal year beginning July 1, 2007, and ending June 30, 2008, for this purpose. The department shall submit a medical assistance state plan amendment to the centers for Medicare and Medicaid services of the United States department of health and human services as necessary to implement this subparagraph (2).~~

PHARMACEUTICAL SETTLEMENT ACCOUNT

Sec. 89. 2007 Iowa Acts, chapter 218, section 72, is amended to read as follows:

SEC. 72. PHARMACEUTICAL SETTLEMENT ACCOUNT. There is appropriated from the pharmaceutical settlement account created in section 249A.33 to the department of human services for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To supplement the appropriations made for medical contracts under the medical assistance program:

. . . . . $ ~~1,323,833~~
1,349,833

Of the funds appropriated in this section, notwithstanding section 249A.33, $26,000 is transferred to the appropriation made in this Act from the general fund of the state to the department of public health for chronic conditions to be used for the center for congenital and inherited disorders established pursuant to section 136A.3.

IOWACARE COSTS

Sec. 90. 2007 Iowa Acts, chapter 218, section 74, is amended by adding the following new subsections:

NEW SUBSECTION. 8. For payment to the publicly owned acute care teaching hospital located in a county with a population of over 350,000 included in the expansion population provider network pursuant to chapter 249J:

. . . . . $ 230,000

Disbursements under this subsection shall be made monthly. The hospital shall submit a report following the close of the fiscal year regarding use of the funds appropriated in this subsection to the persons specified in this Act to receive reports.

NEW SUBSECTION. 9. For the medical assistance program only to the extent all other appropriations made for the program are insufficient:

. . . . . $ 2,500,000

TRANSFER OF BRAIN INJURY FUNDING TO MEDICAL ASSISTANCE

Sec. 91. 2006 Iowa Acts, chapter 1185, section 1, subsection 2, as amended by 2007 Iowa Acts, chapter 218, section 83, subsection 2, paragraph c, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of law to the contrary, moneys that were transferred to the department of public health pursuant to this paragraph "c" that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall instead be transferred to the department of human services to the appropriation made for the medical assistance program in 2007 Iowa Acts, chapter 218, section 11. Notwithstanding section 8.33, the transferred moneys shall not revert at the close of the fiscal year but

shall instead remain available to be used for the medical assistance program in the succeeding fiscal year.

HEALTH CARE TRUST FUND
DEPARTMENT OF PUBLIC HEALTH — ADDICTIVE DISORDERS

Sec. 92. 2007 Iowa Acts, chapter 218, section 97, subsection 1, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding section 8.33, moneys appropriated and allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

HEALTH CARE TRUST FUND — DEPARTMENT OF
PUBLIC HEALTH — HEALTHY CHILDREN AND FAMILIES

Sec. 93. 2007 Iowa Acts, chapter 218, section 97, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Notwithstanding section 8.33, moneys appropriated and allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

HEALTH CARE TRUST FUND — DEPARTMENT OF
PUBLIC HEALTH — CHRONIC CONDITIONS

Sec. 94. 2007 Iowa Acts, chapter 218, section 97, subsection 3, is amended by adding the following new paragraph:

NEW PARAGRAPH. dd. Notwithstanding section 8.33, moneys appropriated and allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

HEALTH CARE TRUST FUND — DEPARTMENT OF
HUMAN SERVICES — STATE CHILDREN'S
HEALTH INSURANCE PROGRAM

Sec. 95. 2007 Iowa Acts, chapter 218, section 98, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Notwithstanding section 8.33, moneys appropriated in this subsection that are allocated for outreach and 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. 96. Section 239B.11A, Code Supplement 2007, is repealed.

Sec. 97. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
PRIOR YEAR APPROPRIATION CHANGES

Sec. 98. 2007 Iowa Acts, chapter 214, section 9, subsection 2, paragraph b, is amended to read as follows:

b. Psychiatric hospital

For salaries, support, maintenance, equipment, miscellaneous purposes, for the care, treat-

ment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

. . . . . $ ~~7,043,056~~ 0

. . . . . FTEs 269.65

Sec. 99. 2007 Iowa Acts, chapter 215, section 15, unnumbered paragraph 1, is amended to read as follows:

There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents except as otherwise provided, and the judicial branch, for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the amount of ~~$106,848,094~~ $106,569,196, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

Sec. 100. 2007 Iowa Acts, chapter 215, section 15, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The amount distributed to the state psychiatric hospital administered by the state board of regents from the appropriation in this section shall be reduced to zero.

Sec. 101. 2007 Iowa Acts, chapter 218, section 11, unnumbered paragraph 2, is amended to read as follows:

For medical assistance reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2007, 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:

. . . . . $ ~~616,771,820~~ 631,593,774

Sec. 102. 2007 Iowa Acts, chapter 218, section 11, is amended by adding the following new subsections:

NEW SUBSECTION. 17. a. Of the funds appropriated in this section, $2,797,719 is allocated for state match for disproportionate share hospital payment of $7,321,954 to hospitals that meet both of the following conditions:

(1) The hospital qualifies for disproportionate share and graduate medical education payments.

(2) The hospital is an Iowa state-owned hospital with more than 500 beds and eight or more distinct residency specialty or subspecialty programs recognized by the American college of graduate medical education.

b. Distribution of the disproportionate share payment shall be made on a monthly basis. The total amount of disproportionate share payments including graduate medical education, enhanced disproportionate share, and Iowa state-owned teaching hospital payments shall not exceed the amount of the state's allotment under Pub. L. No. 102-234. In addition, the total amount of all disproportionate share payments shall not exceed the hospital-specific disproportionate share limits under Pub. L. No. 103-66.

NEW SUBSECTION. 18. Of the funds appropriated in this section, $4,524,235 is transferred to the IowaCare account created in section 249J.24 for the fiscal year beginning July 1, 2007, and ending June 30, 2008.

NEW SUBSECTION. 19. The department shall immediately notify the governor and the general assembly of any changes in federal policies or application of policies that impact the distribution of hospital disproportionate share payments.

Sec. 103. 2007 Iowa Acts, chapter 218, section 73, subsection 2, is amended to read as follows:

2. There is appropriated from the IowaCare account created in section 249J.24 to the state board of regents for distribution to the university of Iowa hospitals and clinics for the fiscal year beginning July 1, 2007, and ending June 30, 2008, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, equipment, and miscellaneous purposes, for the provision of medical and surgical treatment of indigent patients, for provision of services to members of the expansion population pursuant to chapter 249J, and for medical education:

. . . . . $ ~~10,000,000~~
25,684,211

The amount appropriated in this subsection shall be distributed only if expansion population claims adjudicated and paid by the Iowa Medicaid enterprise exceed the appropriation to the state board of regents for distribution to the university of Iowa hospitals and clinics provided in subsection 1. The amount appropriated in this subsection shall be distributed monthly for expansion population claims adjudicated and approved for payment by the Iowa Medicaid enterprise using medical assistance program reimbursement rates.

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.

Sec. 104. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. This division of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to December 21, 2007.

DIVISION VII
CODE CHANGES

Sec. 105. Section 28.9, subsection 5, Code 2007, is amended to read as follows:

5. A ~~community empowerment gifts and grants~~ first years first account is created in the Iowa empowerment fund under the authority of the department of management. The account shall consist of gift or grant moneys obtained from any source, including but not limited to the federal government. Moneys credited to the account are appropriated to the department of management to be used for the community empowerment-related purposes for which the moneys were received.

Sec. 106. Section 135.22B, subsections 3 and 4, Code Supplement 2007, are amended to read as follows:

3. PURPOSE. The purpose of the brain injury services program is to provide services, service funding, or other support for persons with a brain injury under ~~one of~~ the cost-share program component or other components established pursuant to this section. Implementation of the cost-share component or any other component of the program is subject to the funding made available for the program.

~~4. GENERAL REQUIREMENTS — WAIVER-ELIGIBLE COMPONENT.~~

~~a. The component of the brain injury services program for persons eligible for the brain injury services waiver is subject to the requirements provided in this subsection.~~

~~b. If a person is eligible for the brain injury services waiver and is on the waiting list for the waiver but the appropriation for the medical assistance program does not have sufficient funding designated to pay the nonfederal share of the costs to remove the person from the waiting list, the brain injury services program may provide the funding for the nonfederal share of the costs in order for the person to be removed from the waiting list and receive services under the waiver.~~

~~c. A person who receives support under the waiver-eligible component is not eligible to receive support under the cost-share component of the program.~~

~~d. Provision of funding under the waiver-eligible component is not an entitlement. Subject to the department of human services requirements for the brain injury services waiver waiting list, the program administrator shall make the final determination whether funding will be authorized under this component.~~

Sec. 107. Section 135.22B, subsection 5, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

The cost-share component of the brain injury services program shall be directed to persons who have been determined to be ineligible for the brain injury services waiver or persons who are eligible for the waiver but funding was not authorized or available to provide waiver eligibility for the persons ~~under the waiver-eligible component~~. The cost-share component is subject to general requirements which shall include but are not limited to all of the following:

Sec. 108. Section 135.22B, subsection 8, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The application materials for services under ~~both~~ the ~~waiver-eligible and~~ cost-share ~~components~~ component of the brain injury services program shall use the application form and other materials of the brain injury services waiver. In order to apply for the brain injury services program, the applicant must authorize the department of human services to provide the applicant's waiver application materials to the brain injury services program. The application materials provided shall include but are not limited to the waiver application and any denial letter, financial assessment, and functional assessment regarding the person.

Sec. 109. NEW SECTION. 135.155 EARLY CHILDHOOD IOWA COUNCIL.

1. COUNCIL CREATED. An early childhood Iowa council is created as an alliance of stakeholders in early care, health, and education systems that affect children ages zero through five in Iowa.

2. PURPOSE. The purpose of the early childhood Iowa council is to oversee the development of an Iowa early childhood system by integrating the early care, health, and education systems addressing the needs of children ages zero through five and their families. The council shall advise the governor, general assembly, and public and private policy bodies and service providers in coordinating activities throughout the state to fulfill its purpose.

3. VISION STATEMENT. All system development activities addressed by the early childhood Iowa council shall be aligned around the following vision statement for the children of Iowa: "Every child, beginning at birth, will be healthy and successful."

4. MEMBERSHIP. The early childhood Iowa council membership shall include a representative of any organization that touches the lives of young children in the state ages zero through five, has endorsed the purpose and vision statement for the council, has endorsed the guiding principles adopted by the council for the early childhood system, and has formally asked to be a member and remains actively engaged in council activities. The council shall work to ensure there is geographic, cultural, and ethnic diversity among the membership.

5. PROCEDURE. Except as otherwise provided by law, the early childhood Iowa council shall determine its own rules of procedure and operating provisions.

6. STEERING COMMITTEE. The early childhood Iowa council shall operate with a steering committee to organize, manage, and coordinate the activities of the council and its component groups. The steering committee may act on behalf of the council as necessary. The steering committee membership shall consist of the co-chairpersons of the council's component groups, the chairperson of the state agency liaison team, the community empowerment facilitator or the facilitator's designee, and other leaders designated by the council.

7. COMPONENT GROUPS. The early childhood Iowa council shall maintain component groups to address the key components of the Iowa early childhood system. Each component group shall have one private and one public agency co-chairperson. The council may change the component groups as deemed necessary by the advisory council.[14] Initially, there shall be a component group for each of the following:

[14] According to enrolled Act; the phrase "deemed necessary by the council" probably intended

a. Governance planning and administration.
b. Professional development.
c. Public engagement.
d. Quality services and programs.
e. Resources and funding.
f. Results accountability.

8. STATE AGENCY LIAISON TEAM. A state agency liaison team shall provide input into the efforts of the early childhood Iowa council. In addition to designees of the governor, the team shall consist of the directors or chief administrators, or their designees, from the following state agencies and programs:

a. Child health specialty clinics.
b. Office of community empowerment in the department of management.
c. Department of education.
d. Division of libraries and information services of the department of education.
e. Office of the governor.
f. Department of human rights.
g. Department of human services.
h. Postsecondary education institutions, including but not limited to institutions of higher learning under the control of the state board of regents and Iowa community colleges.
i. Department of public health.

9. DUTIES. In addition to the advisory function specified in subsection 2, the early childhood Iowa council's duties shall include but are not limited to all of the following regarding the Iowa early childhood system:

a. Coordinate the development and implementation of a strategic plan.
b. Assist in the development of responsibilities across agencies and other entities to achieve strategic goals.
c. Work with the Iowa empowerment board in developing public-private partnerships to support the early childhood system through the first years first account in the Iowa empowerment fund and other efforts for expanding investment of private funding in the early childhood system. As this and similar efforts to expand and coordinate investments from all public and private sources evolve and mature, make recommendations for designation of or contracting with a private nonprofit organization to serve as a fiscal agent for the early childhood system or another approach for increasing public and private investment in the system.
d. Report annually by December 31 to the governor and general assembly. The report content shall include but is not limited to all of the following:
(1) The status and results of the council's efforts to engage the public regarding the early care, health, and education needs of children ages zero through five and the efforts to develop and promote private sector involvement with the early childhood system.
(2) The status of the community empowerment initiative and the overall early childhood system in achieving the following initial set of desired results identified in section 28.2:
(a) Healthy children.
(b) Children ready to succeed in school.
(c) Safe and supportive communities.
(d) Secure and nurturing families.
(e) Secure and nurturing early care and education environments.

Sec. 110. NEW SECTION. 135.156 LEAD AGENCY AND OTHER STATE AGENCIES.

1. The lead agency for support of the early childhood Iowa council for state agency efforts to develop an early childhood system for Iowa shall be the department of public health.

2. The department shall work with the early childhood Iowa council in integrating early care, health, and education systems to develop an early childhood system for Iowa. The department shall do all of the following in developing the system:

a. Work with state agencies to enter into memorandums of understanding outlining the agencies' responsibilities in the system.

b. Work with private businesses, foundations, and nonprofit organizations in implementing a public-private partnership to develop and provide funding for the system.

c. Maintain an internet site for distributing the information provided through the council and its component groups.

Sec. 111. Section 135B.34, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

135B.34 HOSPITAL EMPLOYEES — CRIMINAL HISTORY AND ABUSE RECORD CHECKS — PENALTY.

1. Prior to employment of a person in a hospital, the hospital shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state. A hospital shall inform all persons prior to employment regarding the performance of the records checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. A hospital shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

2. a. If it is determined that a person being considered for employment in a hospital has committed a crime, the department of public safety shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the hospital.

b. If a department of human services child or dependent adult abuse record check shows that the person has a record of founded child or dependent adult abuse, the department of human services shall notify the hospital that upon the request of the hospital the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of the person's employment in the hospital.

c. An evaluation performed under this subsection shall be performed in accordance with procedures adopted for this purpose by the department of human services.

d. (1) If a person owns or operates more than one hospital, and an employee of one of such hospitals is transferred to another such hospital without a lapse in employment, the hospital is not required to request additional criminal and child and dependent adult abuse records checks of that employee.

(2) If the ownership of a hospital is transferred, at the time of transfer the records checks required by this section shall be performed for each employee for whom there is no documentation that such records checks have been performed. The hospital may continue to employ such employee pending the performance of the records checks and any related evaluation.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. If the department of human services performs an evaluation for the purposes of this section, the department of human services has final authority in determining whether prohibition of the person's employment is warranted.

4. a. Except as provided in paragraph "b" and subsection 2, a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a hospital licensed under this chapter unless an evaluation has been performed by the department of human services.

b. A person with a criminal or abuse record who is employed by a hospital licensed under this chapter and is hired by another licensee without a lapse in employment shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. If an evaluation was previously performed by the department of human services concerning the person's

criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other licensee while the department of human services' evaluation of the latest record checks is pending. Otherwise, the requirements of paragraph "a" remain applicable to the person's employment.

5. a. If a person employed by a hospital that is subject to this section is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the hospital of such information within forty-eight hours of the criminal conviction or entry of the record of founded child or dependent adult abuse. The hospital shall act to verify the information within forty-eight hours of notification. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the hospital to determine whether or not the person's employment is continued. The hospital may continue to employ the person pending the performance of an evaluation by the department of human services to determine whether prohibition of the person's employment is warranted. A person who is required by this subsection to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

b. If a hospital receives credible information, as determined by the hospital, that a person employed by the hospital has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment from a person other than the employee and the employee has not informed the hospital of such information within the period required under paragraph "a", the hospital shall act to verify the credible information within forty-eight hours of receipt of the credible information. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the hospital to determine whether or not the person's employment is continued.

c. The hospital may notify the county attorney for the county where the hospital is located of any violation or failure by an employee to notify the hospital of a criminal conviction or entry of an abuse record within the period required under paragraph "a".

6. 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. 112. Section 135C.33, Code 2007, is amended to read as follows:

135C.33 EMPLOYEES — CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL ~~RECORDS~~ RECORD CHECKS — EVALUATIONS — APPLICATION TO OTHER PROVIDERS — PENALTY.

1. ~~Beginning July 1, 1997, prior~~ Prior to employment of a person in a facility, the facility shall request that the department of public safety perform a criminal history check and the department of human services perform ~~a~~ child and dependent adult abuse record ~~check~~ checks of the person in this state. ~~In addition, the facility may request that the department of human services perform a child abuse record check in this state. Beginning July 1, 1997, a~~ A facility shall inform all persons prior to employment regarding the performance of the records checks and shall obtain, from the persons, a signed acknowledgment of the receipt of the information. ~~Additionally, a~~ A facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

2. a. If ~~the~~ it is determined that a person being considered for employment in a facility has been convicted of a crime under a law of any state ~~or has a record of founded child or dependent adult abuse~~, the department of public safety shall notify the licensee that upon the request of the licensee the department of human services ~~shall, upon the facility's request, perform an evaluation~~ will perform an evaluation to determine whether the crime ~~or founded child or dependent adult abuse~~ warrants prohibition of the person's employment in the facility.

b. If a department of human services child or dependent adult abuse record check shows

that such person has a record of founded child or dependent adult abuse, the department of human services shall notify the licensee that upon the request of the licensee the department of human services will perform an evaluation to determine whether the founded child or dependent adult abuse warrants prohibition of employment in the facility.

c. ~~The~~ An evaluation performed under this subsection shall be performed in accordance with procedures adopted for this purpose by the department of human services.

d. (1) If a person owns or operates more than one facility, and an employee of one of such facilities is transferred to another such facility without a lapse in employment, the facility is not required to request additional criminal and child and dependent adult abuse record checks of that employee.

(2) If the ownership of a facility is transferred, at the time of transfer the records checks required by this section shall be performed for each employee for whom there is no documentation that such records checks have been performed. The facility may continue to employ such employee pending the performance of the records checks and any related evaluation.

~~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 record check 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.~~

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. ~~The~~ If the department of human services performs an evaluation for the purposes of this section, the department of human services has final authority in determining whether prohibition of the person's employment is warranted.

4. a. Except as provided in paragraph "b" and subsection 2, a person who has committed a crime or has a record of founded child or dependent adult abuse shall not be employed in a facility licensed under this chapter unless an evaluation has been performed by the department of human services. ~~If the department of human services determines from the evaluation that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of employment, the person shall not be employed in a facility licensed under this chapter.~~

b. A person with a criminal or abuse record who is employed by a facility licensed under this chapter and is hired by another licensee without a lapse in employment shall be subject to the criminal history and abuse record checks required pursuant to subsection 1. If an evaluation was previously performed by the department of human services concerning the person's criminal or abuse record and it was determined that the record did not warrant prohibition of the person's employment and the latest record checks do not indicate a crime was committed or founded abuse record was entered subsequent to that evaluation, the person may commence employment with the other licensee while the department of human services' evaluation of the latest record checks is pending. Otherwise, the requirements of paragraph "a" remain applicable to the person's employment.

5. a. ~~Beginning July 1, 1998, this~~ This section shall also apply to prospective employees of all of the following, if the provider is regulated by the state or receives any state or federal funding:

~~a.~~ (1) An employee of a homemaker, home-health aide, home-care aide, adult day services, or other provider of in-home services if the employee provides direct services to consumers.

~~b.~~ (2) An employee of a hospice, if the employee provides direct services to consumers.

~~c.~~ (3) An employee who provides direct services to consumers under a federal home and community-based services waiver.

~~d.~~ (4) An employee of an elder group home certified under chapter 231B, if the employee provides direct services to consumers.

~~e.~~ (5) An employee of an assisted living program certified under chapter 231C, if the employee provides direct services to consumers.

b. In substantial conformance with the provisions of this section, prior to the employment of such an employee, the provider shall request the performance of the criminal and child and dependent adult abuse record checks ~~and may request the performance of the child abuse record checks~~. The provider shall inform the prospective employee and obtain the prospective employee's signed acknowledgment. The department of human services shall perform the evaluation of any criminal record or founded child or dependent adult abuse record and shall make the determination of whether a prospective employee of a provider shall not be employed by the provider.

6. a. The department of inspections and appeals, in conjunction with other departments and agencies of state government involved with criminal history and abuse registry information, shall establish a single contact repository for facilities and other providers to have electronic access to data to perform background checks for purposes of employment, as required of the facilities and other providers under this section.

b. The department may access the single contact repository for any of the following purposes:

(1) To verify data transferred from the department's nurse aide registry to the repository.

(2) To conduct record checks of applicants for employment with the department.

7. a. If a person employed by a facility, service, or program employer that is subject to this section is convicted of a crime or has a record of founded child or dependent adult abuse entered in the abuse registry after the person's employment application date, the person shall inform the employer of such information within forty-eight hours of the criminal conviction or entry of the record of founded child or dependent adult abuse. The employer shall act to verify the information within forty-eight hours of notification. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied by the employer to determine whether or not the person's employment is continued. The employer may continue to employ the person pending the performance of an evaluation by the department of human services to determine whether prohibition of the person's employment is warranted. A person who is required by this subsection to inform the person's employer of a conviction or entry of an abuse record and fails to do so within the required period commits a serious misdemeanor.

b. If a facility, service, or program employer receives credible information, as determined by the employer, that a person employed by the employer has been convicted of a crime or a record of founded child or dependent adult abuse has been entered in the abuse registry after employment from a person other than the employee and the employee has not informed the employer of such information within the period required under paragraph "a", the employer shall act to verify the credible information within forty-eight hours of receipt of the credible information. If the information is verified, the requirements of subsections 2, 3, and 4 regarding employability and evaluations shall be applied to determine whether or not the person's employment is continued.

c. The employer may notify the county attorney for the county where the employer is located of any violation or failure by an employee to notify the employer of a criminal conviction or entry of an abuse record within the period required under paragraph "a".

Sec. 113. Section 217.19, Code 2007, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of administrative services shall work with the department of human services to develop and implement an expense policy ap-

plicable to the members of a board, commission, committee, or other body under the auspices of the department of human services who meet the income requirements for payment of per diem in accordance with section 7E.6, subsection 2. The policy shall allow for the payment of the member's expenses to be addressed through use of direct billings, travel purchase card, prepaid expenses, or other alternative means of addressing the expenses in lieu of reimbursement of the member.

Sec. 114. Section 225C.40, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a family appeals the termination of a family member who has attained the age of eighteen years, family support subsidy payments for that family member shall be withheld pending resolution of the appeal.

Sec. 115. NEW SECTION. 234.47 STATE CHILD CARE ASSISTANCE AND ADOPTION SUBSIDY PROGRAMS — EXPENDITURE PROJECTIONS.

The department of human services, the department of management, and the legislative services agency shall utilize a joint process to arrive at consensus projections for expenditures for the state child care assistance program under section 237A.13 and adoption subsidy and other assistance provided under section 600.17.

Sec. 116. Section 235B.6, subsection 2, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. To a person who submits written authorization from an individual allowing the person access to information on the determination only on whether or not the individual who authorized the access is named in a founded dependent adult abuse report as having abused a dependent adult.

Sec. 117. Section 235B.19, subsection 3, paragraph c, Code 2007, is amended to read as follows:

c. Order the provision of other available services necessary to remove conditions creating the danger to health or safety, including the services of peace officers or emergency services personnel and the suspension of the powers granted to a guardian or conservator and the subsequent appointment of a new temporary guardian or new temporary conservator pursuant to subsection 4 pending a decision by the court on whether the powers of the initial guardian or conservator should be reinstated or whether the initial guardian or conservator should be removed.

Sec. 118. Section 235B.19, subsection 4, Code 2007, is amended to read as follows:

4. a. Notwithstanding ~~section~~ sections 633.552 and 633.573, upon a finding that there is probable cause to believe that the dependent adult abuse presents an immediate danger to the health or safety of the dependent adult or is producing irreparable harm to the physical or financial resources or property of the dependent adult, and that the dependent adult lacks capacity to consent to the receipt of services, the court may order the appointment of a temporary guardian or temporary conservator without notice to the dependent adult or the dependent adult's attorney if all of the following conditions are met:

(1) It clearly appears from specific facts shown by affidavit or by the verified petition that a dependent adult's decision-making capacity is so impaired that the dependent adult is unable to care for the dependent adult's personal safety or to attend to or provide for the dependent adult's basic necessities or that immediate and irreparable injury, loss, or damage will result to the physical or financial resources or property of the dependent adult before the dependent adult or the dependent adult's attorney can be heard in opposition.

(2) The department certifies to the court in writing any efforts the department has made to give the notice or the reasons supporting the claim that notice should not be required.

(3) The department files with the court a request for a hearing on the petition for the appointment of a temporary guardian or temporary conservator.

(4) The department certifies that the notice of the petition, order, and all filed reports and affidavits will be sent to the dependent adult by personal service within the time period the court directs but not more than seventy-two hours after entry of the order of appointment.

b. An order of appointment of a temporary guardian or temporary conservator entered by the court under paragraph "a" shall expire as prescribed by the court but within a period of not more than thirty days unless extended by the court for good cause.

c. A hearing on the petition for the appointment of a temporary guardian or temporary conservator shall be held within the time specified in paragraph "b". If the department does not proceed with a hearing on the petition, the court, on the motion of any party or on its own motion, may dismiss the petition.

Sec. 119. Section 237A.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The location at which the child care is provided shall be a single-family residence that is owned, rented, or leased by the person or program providing the child care. For purposes of this subsection, a "single-family residence" includes an apartment, condominium, townhouse, or other individual unit within a multiple unit residential dwelling, but does not include a commercial or industrial building that is primarily used for purposes other than a residence.

Sec. 120. Section 237A.3A, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The rules shall require a child development home to be located in a single-family residence that is owned, rented, or leased by the person or, for dual registrations, at least one of the persons who is named on the child development home's certificate of registration. For purposes of this paragraph, a "single-family residence" includes an apartment, condominium, townhouse, or other individual unit within a multiple unit residential dwelling, but does not include a commercial or industrial building that is primarily used for purposes other than a residence.

Sec. 121. Section 237A.5, subsection 2, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. cc. If a record check performed in accordance with paragraph "b" or "c" identifies that an individual is a person subject to an evaluation, the department shall perform the evaluation in accordance with this subsection, even if the application which made the person subject to the record check is withdrawn or the circumstances which made the person subject to the record check are no longer applicable. If the department's evaluation determines that prohibition of the person's involvement with child care is warranted, the provisions of this subsection regarding such a prohibition shall apply.

Sec. 122. Section 237A.13, subsection 8, Code Supplement 2007, is amended by striking the subsection.

Sec. 123. NEW SECTION. 249A.15A LICENSED MARITAL AND FAMILY THERAPISTS AND LICENSED MASTER SOCIAL WORKERS.

1. The department shall adopt rules pursuant to chapter 17A entitling marital and family therapists who are licensed pursuant to chapter 154D to payment for behavioral health services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

2. The department shall adopt rules pursuant to chapter 17A entitling master social workers who hold a master's degree approved by the board of social work, are licensed as a master social worker pursuant to section 154C.3, subsection 1, paragraph "b", and provide treatment services under the supervision of an independent social worker licensed pursuant to section 154C.3, subsection 1, paragraph "c", to payment for behavioral health services provided to recipients of medial[15] assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

[15] According to enrolled Act; the word "medical" probably intended

Sec. 124. NEW SECTION. 249A.36 HEALTH CARE INFORMATION SHARING.

1. As a condition of doing business in the state, health insurers including self-insured plans, group health plans as defined in the federal Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, service benefit plans, managed care organizations, pharmacy benefits managers, and other parties that are, by statute, contract, or agreement, legally responsible for payment of a claim for a health care item or service, shall do all of the following:

a. Provide, with respect to individuals who are eligible for or are provided medical assistance under the state's medical assistance state plan, upon the request of the state, information to determine during what period the individual or the individual's spouse or dependents may be or may have been covered by a health insurer and the nature of the coverage that is or was provided by the health insurer, including the name, address, and identifying number of the plan, in accordance with section 505.25, in a manner prescribed by the department of human services or as agreed upon by the department and the entity specified in this section.

b. Accept the state's right of recovery and the assignment to the state of any right of an individual or other entity to payment from the party for an item or service for which payment has been made under the medical assistance state plan.

c. Respond to any inquiry by the state regarding a claim for payment for any health care item or service that is submitted no later than three years after the date of the provision of such health care item or service.

d. Agree not to deny any claim submitted by the state solely on the basis of the date of submission of the claim, the type or format of the claim form, or a failure to present proper documentation at the point-of-sale that is the basis of the claim, if all of the following conditions are met:

(1) The claim is submitted to the entity by the state within the three-year period beginning on the date on which the item or service was furnished.

(2) Any action by the state to enforce its rights with respect to such claim is commenced within six years of the date that the claim was submitted by the state.

2. The department of human services may adopt rules pursuant to chapter 17A as necessary to implement this section. Rules governing the exchange of information under this section shall be consistent with all laws, regulations, and rules relating to the confidentiality or privacy of personal information or medical records, including but not limited to the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and regulations promulgated in accordance with that Act and published in 45 C.F.R. pts. 160 through 164.

Sec. 125. Section 249J.20, subsections 2 and 4, Code 2007, are amended to read as follows:

2. The council shall meet as often as deemed necessary, but shall meet at least ~~quarterly~~ annually. The council may use sources of information deemed appropriate, and the department and other agencies of state government shall provide information to the council as requested. The legislative services agency shall provide staff support to the council.

4. The council shall do all of the following:

a. Make ~~quarterly~~ cost projections for the medical assistance program and the expansion population.

b. Review ~~quarterly~~ reports on all initiatives under this chapter, including those provisions in the design, development, and implementation phases, and make additional recommendations for medical assistance program and expansion population reform on an annual basis.

c. Review annual audited financial statements relating to the expansion population submitted by the providers included in the expansion population provider network.

d. Review ~~quarterly~~ reports on the success of the Iowa Medicaid enterprise based upon the contractual performance measures for each Iowa Medicaid enterprise partner.

e. Assure that the expansion population is managed at all times within funding limitations. In assuring such compliance, the council shall assume that supplemental funding will not be available for coverage of services provided to the expansion population.

Sec. 126. NEW SECTION. 256.35A IOWA AUTISM COUNCIL.

1. An Iowa autism council is created to act in an advisory capacity to the state in developing

and implementing a comprehensive, coordinated system to provide appropriate diagnostic, intervention, and support services for children with autism and to meet the unique needs of adults with autism.

2. a. The council shall consist of thirteen voting members appointed by the governor and confirmed by the senate. The majority of the voting members shall be individuals with autism or members of their families. Additionally, each of the following shall be represented among the voting members:

(1) Autism diagnostic and research specialists.

(2) Individuals with recognized expertise in utilizing best practices for diagnosis, intervention, education, and support services for individuals with autism.

(3) Individuals providing residential services for individuals with autism.

(4) Mental health professionals with background or expertise in a pertinent mental health field such as psychiatry, psychology, or behavioral health.

(5) Private insurers.

(6) Teachers and representatives of area education agencies.

b. In addition, representatives of the department of education, the division of vocational rehabilitation of the department of education, the department of public health, the department of human services, the governor's developmental disabilities council, the division of insurance of the department of commerce, and the state board of regents shall serve as ex officio members of the advisory council. Ex officio members shall work together in a collaborative manner to serve as a resource to the advisory council. The council may also form workgroups as necessary to address specific issues within the technical purview of individual members.

c. Voting members shall serve three-year terms beginning and ending as provided in section 69.19, and appointments shall comply with sections 69.16 and 69.16A. Vacancies on the council shall be filled in the same manner as the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term. Public members shall receive reimbursement for actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6.

d. The council shall elect a chairperson from its voting members annually. A majority of the voting members of the council shall constitute a quorum.

e. The department shall convene and provide administrative support to the council.

3. The council shall focus its efforts on addressing the unmet needs of individuals with autism at various levels of severity and their families. The council shall address all of the following:

a. Early identification by medical professionals of autism, including education and training of health care and mental health care professionals and the use of best practice guidelines.

b. Appropriate early and intensive early intervention services with access to models of training.

c. Integration and coordination of the medical community, community educators, childhood educators, health care providers, and community-based services into a seamless support system for individuals and their families.

d. General and special education support services.

e. In-home support services for families requiring behavioral and other supports.

f. Training for educators, parents, siblings, and other family members.

g. Enhancing of community agency responsiveness to the living, learning, and employment needs of adults with autism and provision of services including but not limited to respite services, crisis intervention, employment assistance, case management, and long-term care options.

h. Financing options including but not limited to medical assistance waivers and private health insurance coverage.

i. Data collection.

4. The council shall meet quarterly. The council shall submit a report to the governor and the general assembly, annually by December 15, identifying the needs and making recommendations for improving and enhancing the lives of individuals with autism and their families.

5. For the purposes of this section, "autism" means a spectrum disorder that includes at vari-

ous levels of severity, autism, Asperger's disorder, pervasive developmental disorder not otherwise specified, Rett's syndrome, and childhood disintegrative disorder.

Sec. 127. Section 642.2, subsection 4, Code 2007, is amended to read as follows:

4. Notwithstanding subsections 2, 3, ~~and~~ 6, and 7, any moneys owed to the child support obligor by the state, with the exception of unclaimed property held by the treasurer of state pursuant to chapter 556, and payments owed to the child support obligor through the Iowa public employees' retirement system are subject to garnishment, attachment, execution, or assignment by the child support recovery unit if the child support recovery unit is providing enforcement services pursuant to chapter 252B. Any moneys that are determined payable by the treasurer pursuant to section 556.20, subsection 2, to the child support obligor shall be subject to setoff pursuant to section 8A.504, notwithstanding any administrative rule pertaining to the child support recovery unit limiting the amount of the offset.

Sec. 128. 2005 Iowa Acts, chapter 167, section 61, is amended by striking the section and inserting in lieu thereof the following:

SEC. 61. INMATES, STUDENTS, PATIENTS, AND FORMER INMATES OF STATE INSTITUTIONS — REVIEW.

1. The president of the state board of regents shall convene a workgroup comprised of the president or the president's designee, the director of the department of corrections or the director's designee, the director of the department of human services or the director's designee, and a representative of the university of Iowa hospitals and clinics to review the provision of treatment and care to the inmates, students, patients, and former inmates specified in sections 263.21 and 263.22. The review shall determine all of the following:

a. The actual cost to the university of Iowa hospitals and clinics to provide care and treatment to the inmates, students, patients, and former inmates on an annual basis. The actual cost shall be determined utilizing Medicare cost accounting principles.

b. The number of inmates, students, patients, and former inmates provided treatment at the university of Iowa hospitals and clinics, annually.

c. The specific types of treatment and care provided to the inmates, students, patients, and former inmates.

d. The existing sources of revenue that may be available to pay for the costs of providing care and treatment to the inmates, students, patients, and former inmates.

e. The cost to the department of human services, the Iowa department of corrections, and the state board of regents to provide transportation and staffing relative to provision of care and treatment to the inmates, students, patients, and former inmates at the university of Iowa hospitals and clinics.

f. The effect of any proposed alternatives for provision of care and treatment for inmates, students, patients, or former inmates, including the proposed completion of the hospital unit at the Iowa state penitentiary at Fort Madison.

2. The workgroup shall submit a report of its findings to the governor and the general assembly no later than December 31, 2008. The report shall also include any recommendations for improvement in the provision of care and treatment to inmates, students, patients, and former inmates, under the control of the department of human services, the Iowa department of corrections, and the state board of regents.

Sec. 129. MEDICAID STATE PLAN — MARITAL AND FAMILY THERAPISTS AND LICENSED MASTER SOCIAL WORKERS.

1. The department of human services shall amend the medical assistance state plan to allow marital and family therapists licensed in the state to be participating behavioral health providers under the medical assistance program.

2. The department of human services shall amend the medical assistance state plan to allow master social workers who hold a master's degree approved by the board of social work, are licensed as a master social worker pursuant to section 154C.3, subsection 1, paragraph "b",

and provide treatment services under the supervision of an independent social worker licensed pursuant to section 154C.3, subsection 1, paragraph "c", to be participating behavioral health services providers under the medical assistance program.

DIVISION VIII
TUITION ASSISTANCE — HEALTH CARE
FACILITY EMPLOYEES

Sec. 130. TUITION ASSISTANCE FOR INDIVIDUALS SERVING INDIVIDUALS WITH DISABILITIES — PILOT PROGRAM.

1. If the general assembly appropriates moneys for the establishment of a tuition assistance pilot program for employees of health care facilities serving adults with mental illness or mental retardation, the department of education, in consultation with the department of human services and the community colleges, shall establish a statewide pilot program to provide grants to community colleges for the purpose of awarding tuition assistance to individuals pursuing a course of study leading to a degree applicable to the health care workforce and employment by health care facilities that provide services to adults with mental illness or mental retardation.

2. Within the limits set by the appropriation for this purpose, the departments of education and human services shall work collaboratively to develop a system for determining the number of hours a student shall work in a health care facility in return for a percentage reduction in the student's tuition costs.

3. A participating community college shall enter into an agreement with one or more participating health care facilities, and may also enter into an agreement with one or more local nonprofit public agencies, to match state funds provided on a dollar-for-dollar basis for tuition assistance for an eligible student who is employed by a participating health care facility to provide services to adults with mental illness or mental retardation. A participating health care facility shall agree to provide the community college with the number of hours the student has accrued in order that the community college may determine the percentage reduction in the student's tuition costs.

4. The grant recipient shall compile and submit information regarding the program's implementation and level of local participation in the program in the manner prescribed by the department. The department shall summarize the information and shall submit the information and its findings and recommendations in a report to the general assembly by January 15 of the fiscal year following the completion of the pilot program.

5. For purposes of this section, unless the context otherwise requires:

a. "Eligible student" means an individual who is a resident of Iowa, enrolled in a community college pursuing a course of study leading to a degree applicable to the health care workforce, and employed by a participating health care facility to serve adults with mental illness or mental retardation.

b. "Health care facility" means as defined in section 135C.1.

c. "Participating health care facility" means a health care facility that has entered into an agreement with a community college in accordance with this section and which employs an eligible student.

DIVISION IX
JUVENILE COURT PROCEEDINGS

Sec. 131. Section 232.2, subsection 4, paragraph e, Code Supplement 2007, is amended to read as follows:

e. The most recent information available regarding the child's health and education records, including the date the records were supplied to the agency or individual who is the child's foster care provider. <u>If the child remains in foster care until the age of majority, the child is entitled to receive prior to discharge the most recent information available regarding the child's health and educational records.</u>

Sec. 132. Section 232.46, subsection 4, Code 2007, is amended to read as follows:

4. A consent decree shall remain in force for ~~six months~~ up to one year unless the child is sooner discharged by the court or by the juvenile court officer or other agency or person supervising the child. Upon application of a juvenile court officer or other agency or person supervising the child made prior to the expiration of the decree and after notice and hearing, or upon agreement by the parties, a consent decree may be extended for up to an additional ~~six months~~ year by order of the court.

Sec. 133. Section 232.91, subsection 3, Code Supplement 2007, is amended to read as follows:

3. Any person who is entitled under section 232.88 to receive notice of a hearing concerning a child shall be given the opportunity to be heard in any other review or hearing involving the child. A foster parent, relative, or other individual with whom a child has been placed for preadoptive care shall have the right to be heard in any proceeding involving the child. If a child is of an age appropriate to attend the hearing but the child does not attend, the court shall determine if the child was informed of the child's right to attend the hearing.

DIVISION X
INVESTIGATION OF DEATHS AT INSTITUTIONS

Sec. 134. NEW SECTION. 218.64 INVESTIGATION OF DEATH.

1. For the purposes of this section, unless the context otherwise requires, "institution" and "resident" mean the same as defined in section 218.13.

2. Upon the death of a resident of an institution, the county medical examiner shall conduct a preliminary investigation of the death as provided in section 331.802. The cost of the preliminary investigation shall be paid by the department of human services.

Sec. 135. Section 222.12, Code 2007, is amended to read as follows:

222.12 DEATHS INVESTIGATED.

1. ~~In the event of a sudden or mysterious~~ Upon the death of a patient of a resource center or ~~the~~ special unit ~~or any private institution for persons with mental retardation, an~~, a preliminary investigation of the death shall be ~~held~~ conducted as required by section 218.64 by the county medical examiner as provided in section 331.802. Such a preliminary investigation shall also be conducted in the event of a sudden or mysterious death of a patient in a private institution for persons with mental retardation. The ~~superintendent of a resource center or a special unit or~~ chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner.

2. Notice of the death of the patient, and the cause ~~thereof~~ of death, shall be sent to the county board of supervisors and to the judge of the court ~~having~~ that had jurisdiction over a committed patient. The fact of death with the time, place, and alleged cause shall be entered upon the docket of the court.

3. The parent, guardian, or other person responsible for the admission of a patient to ~~such institutions~~ a private institution for persons with mental retardation may also request ~~an~~ such a preliminary investigation by the county medical examiner in the event of the death of the patient that is not sudden or mysterious. The person or persons making the request ~~shall be~~ are liable for the expense of such preliminary investigation and payment ~~therefor~~ for the expense may be required in advance. ~~The expense of a county medical examiner's investigation when requested by the superintendent of a state resource center or a special unit shall be paid from support funds of that institution.~~

Sec. 136. Section 226.34, Code 2007, is amended to read as follows:

226.34 INVESTIGATION OF DEATH — NOTICE.

1. ~~An~~ Upon the death of a patient, the county medical examiner shall conduct a preliminary investigation ~~by the county medical examiner shall be held in those cases where a death shall~~

~~occur suddenly and without apparent cause, or a patient die and the patient's relatives so request, but in the latter case the relatives making the request shall be liable for the expense of the same, and payment therefor may be required in advance~~ as required by section 218.64, in accordance with section 331.802.

2. ~~When~~ If a patient in ~~any~~ a mental health institute ~~shall die~~ dies from any cause, the superintendent of ~~said~~ the institute shall within three days of the date of death, send by certified mail a written notice of death to all of the following:

~~1.~~ a. The decedent's nearest relative.

~~2.~~ b. The clerk of the district court of the county from which the patient was committed~~, and~~.

~~3.~~ c. The sheriff of the county from which the patient was committed.

Sec. 137. Section 331.802, subsection 2, Code 2007, is amended to read as follows:

2. a. If a person's death affects the public interest, the county medical examiner shall conduct a preliminary investigation of the cause and manner of death, prepare a written report of the findings, promptly submit the full report to the state medical examiner on forms prescribed for that purpose, and submit a copy of the report to the county attorney.

b. ~~For~~ Except as provided in section 218.64 or as otherwise provided by law, for each preliminary investigation and the preparation and submission of the required reports, the county medical examiner shall receive from the county of appointment a fee determined by the board plus the examiner's actual expenses. The fee and expenses paid by the county of appointment shall be reimbursed to the county of appointment by the county of the person's residence. However, if the person's death is caused by a defendant for whom a judgment of conviction and sentence is rendered under section 707.2, 707.3, 707.4, 707.5, or 707.6A, the county of the person's residence may recover from the defendant the fee and expenses.

c. The fee and expenses of the county medical examiner who performs an autopsy or conducts an investigation of a person who dies after being brought into this state for emergency medical treatment by or at the direction of an out-of-state law enforcement officer or public authority shall be paid by the state. A claim for payment shall be filed with the Iowa department of public health. If moneys are not appropriated to the Iowa department of public health for the payment of autopsies under this ~~subsection~~ paragraph, claims for payment shall be forwarded to the state appeal board and, if authorized by the board, shall be paid out of moneys in the general fund of the state not otherwise appropriated.

Sec. 138. Section 331.802, subsection 3, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. Death of a person committed or admitted to a state mental health institute, a state resource center, the state training school, or the Iowa juvenile home.

DIVISION XI
HEALTHY KIDS ACT

Sec. 139. SHORT TITLE. This Act shall be known and may be cited as the "Healthy Kids Act".

Sec. 140. Section 256.7, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Adopt rules establishing nutritional content standards for foods and beverages sold or provided on the school grounds of any school district or accredited nonpublic school during the school day exclusive of the food provided by any federal school food program or pursuant to an agreement with any agency of the federal government in accordance with the provisions of chapter 283A, and exclusive of foods sold for fundraising purposes and foods and beverages sold at concession stands. The standards shall be consistent with the dietary guidelines for Americans issued by the United States department of agriculture food and nutrition service.

Sec. 141. Section 256.9, Code Supplement 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 57. Convene, in collaboration with the department of public health, a nutrition advisory panel to review research in pediatric nutrition conducted in compliance with accepted scientific methods by recognized professional organizations and agencies including but not limited to the institute of medicine. The advisory panel shall submit its findings and recommendations, which shall be consistent with the dietary guidelines for Americans published jointly by the United States department of health and human services and department of agriculture if in the judgment of the advisory panel the guidelines are supported by the research findings, in a report to the state board. The advisory panel may submit to the state board recommendations on standards related to federal school food programs if the recommendations are intended to exceed the existing federal guidelines. The state board shall consider the advisory panel report when establishing or amending the nutritional content standards required pursuant to section 256.7, subsection 29. The director shall convene the advisory panel by July 1, 2008, and every five years thereafter to review the report and make recommendations for changes as appropriate. The advisory panel shall include but is not limited to at least one Iowa state university extension nutrition and health field specialist and at least one representative from each of the following:

a. The Iowa dietetic association.
b. The school nutrition association of Iowa.
c. The Iowa association of school boards.
d. The school administrators of Iowa.
e. The Iowa chapter of the American academy of pediatrics.
f. A school association representing parents.
g. The Iowa grocery industry association.
h. An accredited nonpublic school.
i. The Iowa state education association.
j. The farm-to-school council established pursuant to section 190A.2.

NEW SUBSECTION. 58. Monitor school districts and accredited nonpublic schools for compliance with the nutritional content standards for foods and beverages adopted by the state board in accordance with section 256.7, subsection 29. School districts and accredited nonpublic schools shall annually make the standards available to students, parents, and the local community. A school district or accredited nonpublic school found to be in noncompliance with the nutritional content standards by the director shall submit a corrective action plan to the director for approval which sets forth the steps to be taken to ensure full compliance.

Sec. 142. Section 256.11, subsection 6, Code Supplement 2007, is amended to read as follows:

6. a. A pupil is not required to enroll in either physical education or health courses, or meet the requirements of paragraph "b" or "c", if the pupil's parent or guardian files a written statement with the school principal that the course or activity conflicts with the pupil's religious belief.

b. (1) All physically able students in kindergarten through grade five shall be required to engage in a physical activity for a minimum of thirty minutes per school day.

(2) All physically able students in grades six through twelve shall be required to engage in a physical activity for a minimum of one hundred twenty minutes per week. A student participating in an organized and supervised athletic program or non-school-sponsored extracurricular activity which requires the student to participate in physical activity for a minimum of one hundred twenty minutes per week is exempt from the requirements of this subparagraph.

(3) The department shall collaborate with stakeholders on the development of daily physical activity requirements and the development of models that describe ways in which school districts and schools may incorporate the physical activity requirement of this paragraph into

the educational program. A school district or accredited nonpublic school shall not reduce instructional time for academic courses in order to meet the requirements of this paragraph.

c. Every student by the end of grade twelve shall complete a certification course for cardiopulmonary resuscitation. The administrator of a school may waive this requirement if the student is not physically able to successfully complete the training. A student is exempt from the requirement of this paragraph if the student presents satisfactory evidence to the school district or accredited nonpublic school that the student possesses cardiopulmonary resuscitation certification.

Sec. 143. Section 273.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The board of an area education agency or a consortium of two or more area education agencies shall contract with one or more licensed dieticians for the support of nutritional provisions in individual education plans developed in accordance with chapter 256B and to provide information to support school nutrition coordinators.

Sec. 144. DEPARTMENT OF EDUCATION — FITNESS WORKING GROUP. The department of education shall convene a working group comprised of elementary and secondary education and fitness professionals and stakeholders to assist the department in developing daily physical activity opportunities and requirements and developing models that describe ways in which school districts and schools may incorporate physical activities for students into the educational program as provided in section 256.11, subsection 6, paragraph "b", as enacted by this Act. The working group shall also develop recommendations for a system of implementation that offers every student the opportunity to become physically active. The department of education shall submit its findings and recommendations, including any recommendations for changes in policy or statute, in a report to the general assembly by January 15, 2009.

Sec. 145. EFFECTIVE DATE. The section of this division of this Act that amends section 256.11, subsection 6, takes effect July 1, 2009.

DIVISION XII
MASS TRANSIT

Sec. 146. MASS TRANSIT INTERIM COMMITTEE. The legislative council is requested to establish a legislative interim study committee to conduct a comprehensive study of the ways in which mass transit might be employed to provide public transportation services among Iowa communities. The study should include but not be limited to an examination of the following:

1. The ways in which the availability of mass transit affects various populations within rural and urban communities. In particular, the study should examine the benefits of mass transit for poor, elderly, and disabled individuals who are unable to drive or cannot afford to own a motor vehicle.

2. Any impact that mass transit services among Iowa communities might have on population levels, quality of life, and economic development in urban job centers, smaller satellite communities, and rural towns.

3. The effect of mass transit on statewide greenhouse gas emissions and overall air quality, including the role that mass transit can play in meeting the goals of the Iowa energy independence plan.

4. The level of public need for mass transit among Iowa communities, including any specific areas of the state where the need is most immediate.

5. The feasibility of expanding mass transit services and the types and combinations of services that might comprise a mass transit system for Iowa.

6. The potential costs and possible funding mechanisms for developing and maintaining specific mass transit services.

7. The attitudes and habits of Iowans concerning personal transportation. The study should

include a component for educating the public about the economic, social, and environmental advantages of mass transit.

The committee membership should include ten members representing both political parties and both houses of the general assembly. The committee should consult with the department of transportation, the office of energy independence, the department of human services, local officials, members of the general public who are knowledgeable concerning intercity public transit and passenger rail service, and other interested parties as necessary to accomplish the work of the committee. The committee, if authorized, shall submit a written report of its findings and recommendations to the governor and the general assembly by December 31, 2008.

Approved May 13, 2008, with exception noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit Senate File 2425, an Act relating to and making appropriations for health and human services and including other related provisions and appropriations, providing penalties, making penalties applicable and providing effective, retroactive, and applicability date provisions. Senate File 2425 is approved on this date, with the exception noted below, which I hereby disapprove.

I am unable to approve item designated as Section 34 in its entirety. Section 34 imposes restrictions on how pharmaceutical drugs are included on the State's preferred drug list. With the continual release of generic drugs, and relying on the advice of the Pharmaceutical and Therapeutics Committee, the Department of Human Services should have the latitude to add pharmaceutical drugs to the preferred drug list, as needed, to achieve the greatest possible savings, while meeting the medical needs of people enrolled in Medicaid. The preferred drug list is an effective tool in helping to reduce one of the fastest growing health-care costs within Medicaid — pharmaceutical costs — and the Department of Human Services thoughtfully and responsibly manages additions to the list.

For the above reasons, I respectfully disapprove the designated item in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in Senate File 2425 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1188

HEALTH CARE REFORM AND FUNDING

H.F. 2539

AN ACT relating to health care reform including health care coverage intended for children and adults, health information technology, long-term living planning and patient autonomy in health care, preexisting conditions and dependent children coverage, medical homes, prevention and chronic care management, disease prevention and wellness initiatives, health care transparency, health care access, the direct care workforce, making appropriations, and including effective date and applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
HEALTH CARE COVERAGE INTENT

Section 1. DECLARATION OF INTENT.

1. It is the intent of the general assembly to progress toward achievement of the goal that all Iowans have health care coverage with the following priorities:

a. The goal that all children in the state have health care coverage which meets certain standards of quality and affordability with the following priorities:

(1) Covering all children who are declared eligible for the medical assistance program or the hawk-i program pursuant to chapter 514I no later than January 1, 2011.

(2) Building upon the current hawk-i program by creating a hawk-i expansion program to provide coverage to children who meet the hawk-i program's eligibility criteria but whose income is at or below three hundred percent of the federal poverty level, beginning July 1, 2009.

(3) If federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover such children as an option under the state children's health insurance program, requiring the department of human services to expand coverage under the state children's health insurance program to cover children with family incomes at or below three hundred percent of the federal poverty level, with appropriate cost sharing established for families with incomes above two hundred percent of the federal poverty level.

b. The goal that the Iowa comprehensive health insurance association, in consultation with the Iowa choice health care coverage advisory council established in section 514E.6, develop a comprehensive plan to first cover all children without health care coverage that utilizes and modifies existing public programs including the medical assistance program, the hawk-i program, and the hawk-i expansion program, and then to provide access to private unsubsidized, affordable, qualified health care coverage for children, adults, and families, who are not otherwise eligible for health care coverage through public programs, that is available for purchase by January 1, 2010.

c. The goal of decreasing health care costs and health care coverage costs by instituting health insurance reforms that assure the availability of private health insurance coverage for Iowans by addressing issues involving guaranteed availability and issuance to applicants, preexisting condition exclusions, portability, and allowable or required pooling and rating classifications.

DIVISION II
HAWK-I AND MEDICAID EXPANSION

Sec. 2. Section 249A.3, subsection 1, paragraph l, Code Supplement 2007, is amended to read as follows:

l. Is an infant whose income is not more than two hundred percent of the federal poverty

level, as defined by the most recently revised income guidelines published by the United States department of health and human services. Additionally, effective July 1, 2009, medical assistance shall be provided to an infant whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services, if otherwise eligible.

Sec. 3. Section 249A.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 14. Once initial eligibility for the family medical assistance program-related medical assistance is determined for a child described under subsection 1, paragraphs[1] "b", "f", "g", "j", "k", "l", or "n" or under subsection 2, paragraphs[2] "e", "f", or "h", the department shall provide continuous eligibility for a period of up to twelve months, until the child's next annual review of eligibility under the medical assistance program, if the child would otherwise be determined ineligible due to excess countable income but otherwise remains eligible.

Sec. 4. NEW SECTION. 422.12K INCOME TAX FORM — INDICATION OF DEPENDENT CHILD HEALTH CARE COVERAGE.

1. The director shall draft the income tax form to allow beginning with the tax returns for tax year 2008, a person who files an individual or joint income tax return with the department under section 422.13 to indicate the presence or absence of health care coverage for each dependent child for whom an exemption is claimed.

2. Beginning with the income tax return for tax year 2008, a person who files an individual or joint income tax return with the department under section 422.13, may report on the income tax return, in the form required, the presence or absence of health care coverage for each dependent child for whom an exemption is claimed.

a. If the taxpayer indicates on the income tax return that a dependent child does not have health care coverage, and the income of the taxpayer's tax return does not exceed the highest level of income eligibility standard for the medical assistance program pursuant to chapter 249A or the hawk-i program pursuant to chapter 514I, the department shall send a notice to the taxpayer indicating that the dependent child may be eligible for the medical assistance program or the hawk-i program and providing information about how to enroll in the programs.[3]

b. Notwithstanding any other provision of law to the contrary, a taxpayer shall not be subject to a penalty for not providing the information required under this section.

c. The department shall consult with the department of human services in developing the tax return form and the information to be provided to tax filers under this section.

3. The department, in cooperation with the department of human services, shall adopt rules pursuant to chapter 17A to administer this section, including rules defining "health care coverage" for the purpose of indicating its presence or absence on the tax form.

4. The department, in cooperation with the department of human services, shall report, annually, to the governor and the general assembly all of the following:

a. The number of Iowa families, by income level, claiming the state income tax exemption for dependent children.

b. The number of Iowa families, by income level, claiming the state income tax exemption for dependent children who also indicate the presence or absence of health care coverage for the dependent children.

c. The effect of the reporting requirements and provision of information requirements under this section on the number and percentage of children in the state who are uninsured.

Sec. 5. Section 514I.1, subsection 4, Code 2007, is amended to read as follows:

4. It is the intent of the general assembly that the hawk-i program be an integral part of the continuum of health insurance coverage and that the program be developed and implemented in such a manner as to facilitate movement of families between health insurance providers and to facilitate the transition of families to private sector health insurance coverage. It is the intent

[1] According to enrolled Act; the word "paragraph" probably intended

[2] According to enrolled Act; the word "paragraph" probably intended

[3] According to enrolled Act; the word "program" probably intended

of the general assembly in developing such continuum of health insurance coverage and in facilitating such transition, that beginning July 1, 2009, the department implement the hawk-i expansion program.

Sec. 6. Section 514I.1, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. It is the intent of the general assembly that if federal reauthorization of the state children's health insurance program provides sufficient federal allocations to the state and authorization to cover such children as an option under the state children's health insurance program, the department shall expand coverage under the state children's health insurance program to cover children with family incomes at or below three hundred percent of the federal poverty level.

Sec. 7. Section 514I.2, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Hawk-i expansion program" or "hawk-i expansion" means the healthy and well kids in Iowa expansion program created in section 514I.12 to provide health insurance to children who meet the hawk-i program eligibility criteria pursuant to section 514I.8, with the exception of the family income criteria, and whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Sec. 8. Section 514I.5, subsection 7, paragraph d, Code Supplement 2007, is amended to read as follows:

d. Develop, with the assistance of the department, an outreach plan, and provide for periodic assessment of the effectiveness of the outreach plan. The plan shall provide outreach to families of children likely to be eligible for assistance under the program, to inform them of the availability of and to assist the families in enrolling children in the program. The outreach efforts may include, but are not limited to, solicitation of cooperation from programs, agencies, and other persons who are likely to have contact with eligible children, including but not limited to those associated with the educational system, and the development of community plans for outreach and marketing. Other state agencies shall assist the department in data collection related to outreach efforts to potentially eligible children and their families.

Sec. 9. Section 514I.5, subsection 7, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Develop options and recommendations to allow children eligible for the hawk-i or hawk-i expansion program to participate in qualified employer-sponsored health plans through a premium assistance program. The options and recommendations shall ensure reasonable alignment between the benefits and costs of the hawk-i and hawk-i expansion programs and the employer-sponsored health plans consistent with federal law. The options and recommendations shall be completed by January 1, 2009, and submitted to the governor and the general assembly for consideration as part of the hawk-i and hawk-i expansion programs.

Sec. 10. Section 514I.7, subsection 2, paragraph a, Code 2007, is amended to read as follows:

a. Determine individual eligibility for program enrollment based upon review of completed applications and supporting documentation. The administrative contractor shall not enroll a child who has group health coverage ~~or any child who has dropped coverage in the previous six months, unless the coverage was involuntarily lost or unless the reason for dropping coverage is allowed by rule of the board~~.

Sec. 11. Section 514I.8, subsection 1, Code 2007, is amended to read as follows:

1. Effective July 1, 1998, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible child

under the age of nineteen whose family income does not exceed one hundred thirty-three percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services. Additionally, effective July 1, 2000, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible infant whose family income does not exceed two hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services. Effective July 1, 2009, and notwithstanding any medical assistance program eligibility criteria to the contrary, medical assistance shall be provided to, or on behalf of, an eligible infant whose family income is at or below three hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Sec. 12. Section 514I.10, subsection 2, Code 2007, is amended to read as follows:

2. Cost sharing for eligible children whose family income equals ~~or exceeds~~ one hundred fifty percent but does not exceed two hundred percent of the federal poverty level may include a premium or copayment amount which does not exceed five percent of the annual family income. The amount of any premium or the copayment amount shall be based on family income and size.

Sec. 13. Section 514I.11, subsections 1 and 3, Code 2007, are amended to read as follows:

1. A hawk-i trust fund is created in the state treasury under the authority of the department of human services, in which all appropriations and other revenues of the program and the hawk-i expansion program such as grants, contributions, and participant payments shall be deposited and used for the purposes of the program and the hawk-i expansion program. The moneys in the fund shall not be considered revenue of the state, but rather shall be funds of the program.

3. Moneys in the fund are appropriated to the department and shall be used to offset any program and hawk-i expansion program costs.

Sec. 14. NEW SECTION. 514I.12 HAWK-I EXPANSION PROGRAM.

1. All children less than nineteen years of age who meet the hawk-i program eligibility criteria pursuant to section 514I.8, with the exception of the family income criteria, and whose family income is at or below three hundred percent of the federal poverty level, shall be eligible for the hawk-i expansion program.

2. To the greatest extent possible, the provisions of section 514I.4, relating to the director and department duties and powers, section 514I.5 relating to the hawk-i board, section 514I.6 relating to participating insurers, and section 514I.7 relating to the administrative contractor shall apply to the hawk-i expansion program. The department shall adopt any rules necessary, pursuant to chapter 17A, and shall amend any existing contracts to facilitate the application of such sections to the hawk-i expansion program.

3. The hawk-i board shall establish by rule pursuant to chapter 17A, the cost-sharing amounts, criteria for modification of the cost-sharing amounts, and graduated premiums for children under the hawk-i expansion program.

Sec. 15. MAXIMIZATION OF ENROLLMENT AND RETENTION — MEDICAL ASSISTANCE AND HAWK-I PROGRAMS.

1. The department of human services, in collaboration with the department of education, the department of public health, the division of insurance of the department of commerce, the hawk-i board, consumers who are not recipients of or advocacy groups representing recipients of the medical assistance or hawk-i program, the covering kids and families coalition, and the covering kids now task force, shall develop a plan to maximize enrollment and retention of eligible children in the hawk-i and medical assistance programs. In developing the plan, the collaborative shall review, at a minimum, all of the following strategies:

a. Streamlined enrollment in the hawk-i and medical assistance programs. The collaborative shall identify information and documentation that may be shared across departments and programs to simplify the determination of eligibility or eligibility factors, and any interagency agreements necessary to share information consistent with state and federal confidentiality and other applicable requirements.

b. Conditional eligibility for the hawk-i and medical assistance programs.

c. Expedited renewal for the hawk-i and medical assistance programs.

2. Following completion of the review the department of human services shall compile the plan which shall address all of the following relative to implementation of the strategies specified in subsection 1:

a. Federal limitations and quantifying of the risk of federal disallowance.

b. Any necessary amendment of state law or rule.

c. Budgetary implications and cost-benefit analyses.

d. Any medical assistance state plan amendments, waivers, or other federal approval necessary.

e. An implementation time frame.

3. The department of human services shall submit the plan to the governor and the general assembly no later than December 1, 2008.

Sec. 16. MEDICAL ASSISTANCE, HAWK-I, AND HAWK-I EXPANSION PROGRAMS — COVERING CHILDREN — APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the designated fiscal years, the following amounts, or so much thereof as is necessary, for the purpose designated:

To cover children as provided in this Act under the medical assistance, hawk-i, and hawk-i expansion programs and outreach under the current structure of the programs:

FY 2008-2009	$	4,800,000
FY 2009-2010	$	14,800,000
FY 2010-2011	$	24,800,000

DIVISION III
IOWA CHOICE HEALTH CARE COVERAGE AND ADVISORY COUNCIL

Sec. 17. Section 514E.1, Code 2007, is amended by adding the following new subsections:

NEW SUBSECTION. 14A. "Iowa choice health care coverage advisory council" or "advisory council" means the advisory council created in section 514E.6.

NEW SUBSECTION. 21. "Qualified health care coverage" means creditable coverage which meets minimum standards of quality and affordability as determined by the association by rule.

Sec. 18. Section 514E.2, subsection 3, unnumbered paragraph 1, Code 2007, is amended to read as follows:

The association shall submit to the commissioner a plan of operation for the association and any amendments necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation shall include provisions for the development of a comprehensive health care coverage plan as provided in section 514E.5. In developing the comprehensive plan the association shall give deference to the recommendations made by the advisory council as provided in section 514E.6, subsection 1. The association shall approve or disapprove but shall not modify recommendations made by the advisory council. Recommendations that are approved shall be included in the plan of operation submitted to the commissioner. Recommendations that are disapproved shall be submitted to the commissioner with reasons for the disapproval. The plan of operation becomes effective upon approval in writing by the commissioner prior to the date on which the coverage under this chapter must be made available. After notice and hearing, the commissioner shall approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable ad-

ministration of the association, and provides for the sharing of association losses, if any, on an equitable and proportionate basis among the member carriers. If the association fails to submit a suitable plan of operation within one hundred eighty days after the appointment of the board of directors, or if at any later time the association fails to submit suitable amendments to the plan, the commissioner shall adopt, pursuant to chapter 17A, rules necessary to implement this section. The rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. In addition to other requirements, the plan of operation shall provide for all of the following:

Sec. 19. NEW SECTION. 514E.5 IOWA CHOICE HEALTH CARE COVERAGE.

1. The association, in consultation with the Iowa choice health care coverage advisory council, shall develop a comprehensive health care coverage plan to provide health care coverage to all children without such coverage, that utilizes and modifies existing public programs including the medical assistance program, hawk-i program, and hawk-i expansion program, and to provide access to private unsubsidized, affordable, qualified health care coverage to children who are not otherwise eligible for health care coverage through public programs.

2. The comprehensive plan developed by the association and the advisory council, shall also consider and recommend options to provide access to private unsubsidized, affordable, qualified health care coverage to all Iowa children less than nineteen years of age with a family income that is more than three hundred percent of the federal poverty level and to adults and families who are not otherwise eligible for health care coverage through public programs.

3. As part of the comprehensive plan developed, the association, in consultation with the advisory council, shall define what constitutes qualified health care coverage for children less than nineteen years of age. For the purposes of this definition and for designing health care coverage options for children, the association, in consultation with the advisory council, shall recommend the benefits to be included in such coverage and shall explore the value of including coverage for the treatment of mental and behavioral disorders. The association and the advisory council shall perform a cost analysis as part of their consideration of benefit options. The association and the advisory council shall also consider whether to include coverage of the following benefits:

a. Inpatient hospital services including medical, surgical, intensive care unit, mental health, and substance abuse services.

b. Nursing care services including skilled nursing facility services.

c. Outpatient hospital services including emergency room, surgery, lab, and x-ray services and other services.

d. Physician services, including surgical and medical, office visits, newborn care, well-baby and well-child care, immunizations, urgent care, specialist care, allergy testing and treatment, mental health visits, and substance abuse visits.

e. Ambulance services.

f. Physical therapy.

g. Speech therapy.

h. Durable medical equipment.

i. Home health care.

j. Hospice services.

k. Prescription drugs.

l. Dental services including preventive services.

m. Medically necessary hearing services.

n. Vision services including corrective lenses.

o. No underwriting requirements and no preexisting condition exclusions.

p. Chiropractic services.

4. As part of the comprehensive plan developed, the association, in consultation with the advisory council, shall consider and recommend affordable health care coverage options for purchase for children less than nineteen years of age with a family income that is more than three hundred percent of the federal poverty level, with the goal of including health care cover-

age options for which the contribution requirement for all cost-sharing expenses is no more than two percent of family income per each child covered, up to a maximum of six and one-half percent of family income per family. The association, in consultation with the advisory council, shall also consider and recommend whether such health care coverage options should require a copayment for services received in an amount determined by the association.

5. As part of the comprehensive plan, the association, in consultation with the advisory council, shall define what constitutes qualified health care coverage for adults and families who are not eligible for a public program. The association, in consultation with the advisory council, shall develop and recommend affordable health care coverage options for purchase by such adults and families that provide a selection of health benefit plans and standardized benefits with the goal of including health care coverage options for which the contribution requirement for all cost-sharing expenses is no more than six and one-half percent of family income.

6. As part of the comprehensive plan the association and the advisory council may collaborate with health insurance carriers to do the following, including but not limited to:

a. Design solutions to issues relating to guaranteed issuance of insurance, preexisting condition exclusions, portability, and allowable pooling and rating classifications.

b. Formulate principles that ensure fair and appropriate practices relating to issues involving individual health care policies such as recision and preexisting condition clauses, and that provide for a binding third-party review process to resolve disputes related to such issues.

c. Design affordable, portable health care coverage options for low-income children, adults, and families.

d. Design a proposed premium schedule for health care coverage options that are recommended which includes the development of rating factors that are consistent with market conditions.

e. Design protocols to limit the transfer from employer-sponsored or other private health care coverage to state-developed health care coverage plans.

7. The association shall submit the comprehensive plan required by this section to the governor and the general assembly by December 15, 2008. The appropriations to cover children under the medical assistance, hawk-i, and hawk-i expansion programs as provided in this Act and to provide related outreach for fiscal year 2009-2010 and fiscal year 2010-2011 are contingent upon enactment of a comprehensive plan during the 2009 regular session of the Eighty-third General Assembly that provides health care coverage for all children in the state. Enactment of a comprehensive plan shall include a determination of what the prospects are of federal action which may impact the comprehensive plan and the fiscal impact of the comprehensive plan on the state budget.

Sec. 20. NEW SECTION. 514E.6 IOWA CHOICE HEALTH CARE COVERAGE ADVISORY COUNCIL.

1. The Iowa choice health care coverage advisory council is created for the purpose of assisting the association with developing a comprehensive health care coverage plan as provided in section 514E.5. The advisory council shall make recommendations concerning the design and implementation of the comprehensive plan including but not limited to a definition of what constitutes qualified health care coverage, suggestions for the design of health care coverage options, and implementation of a health care coverage reporting requirement.

2. The advisory council consists of the following persons who are voting members unless otherwise provided:

a. The two most recent former governors, or if one or both of them are unable or unwilling to serve, a person or persons appointed by the governor.

b. Seven members appointed by the director of public health:

(1) A representative of the federation of Iowa insurers.

(2) A health economist who resides in Iowa.

(3) Two consumers, one of whom shall be a representative of a children's advocacy organization and one of whom shall be a member of a minority.

(4) A representative of organized labor.
(5) A representative of an organization of employers.
(6) A representative of the Iowa association of health underwriters.
c. The following members shall be ex officio, nonvoting members of the council:
(1) The commissioner of insurance, or a designee.
(2) The director of human services, or a designee.
(3) The director of public health, or a designee.
(4) Four members of the general assembly, one appointed by the speaker of the house of representatives, one appointed by the minority leader of the house of representatives, one appointed by the majority leader of the senate, and one appointed by the minority leader of the senate.

3. The members of the council appointed by the director of public health shall be appointed for terms of six years beginning and ending as provided in section 69.19. Such a member of the board is eligible for reappointment. The director shall fill a vacancy for the remainder of the unexpired term.

4. The members of the council shall annually elect one voting member as chairperson and one as vice chairperson. Meetings of the council shall be held at the call of the chairperson or at the request of a majority of the council's members.

5. The members of the council shall not receive compensation for the performance of their duties as members but each member shall be paid necessary expenses while engaged in the performance of duties of the council. Any legislative member shall be paid the per diem and expenses specified in section 2.10.

6. The members of the council are subject to and are officials within the meaning of chapter 68B.

DIVISION IV
HEALTH INSURANCE OVERSIGHT

Sec. 21. Section 505.8, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. The commissioner shall have regulatory authority over health benefit plans and adopt rules under chapter 17A as necessary, to promote the uniformity, cost efficiency, transparency, and fairness of such plans for physicians licensed under chapters 148, 150, and 150A, and hospitals licensed under chapter 135B, for the purpose of maximizing administrative efficiencies and minimizing administrative costs of health care providers and health insurers.

Sec. 22. HEALTH INSURANCE OVERSIGHT — APPROPRIATION. There is appropriated from the general fund of the state to the insurance division of the department of commerce for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For identification and regulation of procedures and practices related to health care as provided in section 505.8, subsection 5A:

. . . . . $ 80,000

DIVISION V
IOWA HEALTH INFORMATION TECHNOLOGY SYSTEM
DIVISION XXI
IOWA HEALTH INFORMATION TECHNOLOGY SYSTEM

Sec. 23. NEW SECTION. 135.154 DEFINITIONS.

As used in this division, unless the context otherwise requires:

1. "Board" means the state board of health created pursuant to section 136.1.
2. "Department" means the department of public health.

3. "Health care professional" means a person 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.

4. "Health information technology" means the application of information processing, involving both computer hardware and software, that deals with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication, decision making, quality, safety, and efficiency of clinical practice, and may include but is not limited to:

a. An electronic health record that electronically compiles and maintains health information that may be derived from multiple sources about the health status of an individual and may include a core subset of each care delivery organization's electronic medical record such as a continuity of care record or a continuity of care document, computerized physician order entry, electronic prescribing, or clinical decision support.

b. A personal health record through which an individual and any other person authorized by the individual can maintain and manage the individual's health information.

c. An electronic medical record that is used by health care professionals to electronically document, monitor, and manage health care delivery within a care delivery organization, is the legal record of the patient's encounter with the care delivery organization, and is owned by the care delivery organization.

d. A computerized provider order entry function that permits the electronic ordering of diagnostic and treatment services, including prescription drugs.

e. A decision support function to assist physicians and other health care providers in making clinical decisions by providing electronic alerts and reminders to improve compliance with best practices, promote regular screenings and other preventive practices, and facilitate diagnoses and treatments.

f. Tools to allow for the collection, analysis, and reporting of information or data on adverse events, the quality and efficiency of care, patient satisfaction, and other health care-related performance measures.

5. "Interoperability" means the ability of two or more systems or components to exchange information or data in an accurate, effective, secure, and consistent manner and to use the information or data that has been exchanged and includes but is not limited to:

a. The capacity to connect to a network for the purpose of exchanging information or data with other users.

b. The ability of a connected, authenticated user to demonstrate appropriate permissions to participate in the instant transaction over the network.

c. The capacity of a connected, authenticated user to access, transmit, receive, and exchange usable information with other users.

6. "Recognized interoperability standard" means interoperability standards recognized by the office of the national coordinator for health information technology of the United States department of health and human services.

Sec. 24. NEW SECTION. 135.155 IOWA ELECTRONIC HEALTH — PRINCIPLES — GOALS.

1. Health information technology is rapidly evolving so that it can contribute to the goals of improving access to and quality of health care, enhancing efficiency, and reducing costs.

2. To be effective, the health information technology system shall comply with all of the following principles:

a. Be patient-centered and market-driven.

b. Be based on approved standards developed with input from all stakeholders.

c. Protect the privacy of consumers and the security and confidentiality of all health information.

d. Promote interoperability.

e. Ensure the accuracy, completeness, and uniformity of data.

3. Widespread adoption of health information technology is critical to a successful health information technology system and is best achieved when all of the following occur:

a. The market provides a variety of certified products from which to choose in order to best fit the needs of the user.

b. The system provides incentives for health care professionals to utilize the health information technology and provides rewards for any improvement in quality and efficiency resulting from such utilization.

c. The system provides protocols to address critical problems.

d. The system is financed by all who benefit from the improved quality, efficiency, savings, and other benefits that result from use of health information technology.

Sec. 25. NEW SECTION. 135.156 ELECTRONIC HEALTH INFORMATION — DEPARTMENT DUTIES — ADVISORY COUNCIL — EXECUTIVE COMMITTEE.

1. a. The department shall direct a public and private collaborative effort to promote the adoption and use of health information technology in this state in order to improve health care quality, increase patient safety, reduce health care costs, enhance public health, and empower individuals and health care professionals with comprehensive, real-time medical information to provide continuity of care and make the best health care decisions. The department shall provide coordination for the development and implementation of an interoperable electronic health records system, telehealth expansion efforts, the health information technology infrastructure, and other health information technology initiatives in this state. The department shall be guided by the principles and goals specified in section 135.155.

b. All health information technology efforts shall endeavor to represent the interests and meet the needs of consumers and the health care sector, protect the privacy of individuals and the confidentiality of individuals' information, promote physician best practices, and make information easily accessible to the appropriate parties. The system developed shall be consumer-driven, flexible, and expandable.

2. a. An electronic health information advisory council is established which shall consist of the representatives of entities involved in the electronic health records system task force established pursuant to section 217.41A, Code 2007, a pharmacist, a licensed practicing physician, a consumer who is a member of the state board of health, a representative of the state's Medicare quality improvement organization, the executive director of the Iowa communications network, a representative of the private telecommunications industry, a representative of the Iowa collaborative safety net provider network created in section 135.153, a nurse informaticist from the university of Iowa, and any other members the department or executive committee of the advisory council determines necessary and appoints to assist the department or executive committee at various stages of development of the electronic health information system. Executive branch agencies shall also be included as necessary to assist in the duties of the department and the executive committee. Public members of the advisory council shall receive reimbursement for actual expenses incurred while serving in their official capacity only if they are not eligible for reimbursement by the organization that they represent. Any legislative members shall be paid the per diem and expenses specified in section 2.10.

b. An executive committee of the electronic health information advisory council is established. Members of the executive committee of the advisory council shall receive reimbursement for actual expenses incurred while serving in their official capacity only if they are not eligible for reimbursement by the organization that they represent. The executive committee shall consist of the following members:

(1) Three members, each of whom is the chief information officer of one of the three largest private health care systems in the state.

(2) One member who is the chief information officer of the university of Iowa hospitals and clinics, or the chief information officer's designee, selected by the director of the university of Iowa hospitals and clinics.

(3) One member who is a representative of a rural hospital who is a member of the Iowa hospital association, selected by the Iowa hospital association.

(4) One member who is a consumer member of the state board of health, selected by the state board of health.

(5) One member who is a licensed practicing physician, selected by the Iowa medical society.

(6) One member who is licensed to practice nursing, selected by the Iowa nurses association.

(7) One representative of an insurance carrier selected by the federation of Iowa insurers.

3. The executive committee, with the technical assistance of the advisory council and the support of the department shall do all of the following:

a. Develop a statewide health information technology plan by July 1, 2009. In developing the plan, the executive committee shall seek the input of providers, payers, and consumers. Standards and policies developed for the plan shall promote and be consistent with national standards developed by the office of the national coordinator for health information technology of the United States department of health and human services and shall address or provide for all of the following:

(1) The effective, efficient, statewide use of electronic health information in patient care, health care policymaking, clinical research, health care financing, and continuous quality improvement. The executive committee shall recommend requirements for interoperable electronic health records in this state including a recognized interoperability standard.

(2) Education of the public and health care sector about the value of health information technology in improving patient care, and methods to promote increased support and collaboration of state and local public health agencies, health care professionals, and consumers in health information technology initiatives.

(3) Standards for the exchange of health care information.

(4) Policies relating to the protection of privacy of patients and the security and confidentiality of patient information.

(5) Policies relating to information ownership.

(6) Policies relating to governance of the various facets of the health information technology system.

(7) A single patient identifier or alternative mechanism to share secure patient information. If no alternative mechanism is acceptable to the executive committee, all health care professionals shall utilize the mechanism selected by the executive committee by July 1, 2010.

(8) A standard continuity of care record and other issues related to the content of electronic transmissions. All health care professionals shall utilize the standard continuity of care record by July 1, 2010.

(9) Requirements for electronic prescribing.

(10) Economic incentives and support to facilitate participation in an interoperable system by health care professionals.

b. Identify existing and potential health information technology efforts in this state, regionally, and nationally, and integrate existing efforts to avoid incompatibility between efforts and avoid duplication.

c. Coordinate public and private efforts to provide the network backbone infrastructure for the health information technology system. In coordinating these efforts, the executive committee shall do all of the following:

(1) Develop policies to effectuate the logical cost-effective usage of and access to the state-owned network, and support of telecommunication carrier products, where applicable.

(2) Consult with the Iowa communications network, private fiberoptic networks, and any other communications entity to seek collaboration, avoid duplication, and leverage opportunities in developing a network backbone.

(3) Establish protocols to ensure compliance with any applicable federal standards.

(4) Determine costs for accessing the network at a level that provides sufficient funding for the network.

d. Promote the use of telemedicine.

(1) Examine existing barriers to the use of telemedicine and make recommendations for eliminating these barriers.

(2) Examine the most efficient and effective systems of technology for use and make recommendations based on the findings.

e. Address the workforce needs generated by increased use of health information technology.

f. Recommend rules to be adopted in accordance with chapter 17A to implement all aspects of the statewide health information technology plan and the network.

g. Coordinate, monitor, and evaluate the adoption, use, interoperability, and efficiencies of the various facets of health information technology in this state.

h. Seek and apply for any federal or private funding to assist in the implementation and support of the health information technology system and make recommendations for funding mechanisms for the ongoing development and maintenance costs of the health information technology system.

i. Identify state laws and rules that present barriers to the development of the health information technology system and recommend any changes to the governor and the general assembly.

4. Recommendations and other activities resulting from the work of the department or the executive committee shall be presented to the board for action or implementation.

Sec. 26. Section 8D.13, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Access shall be offered to the Iowa hospital association only for the purposes of collection, maintenance, and dissemination of health and financial data for hospitals and for hospital education services. The Iowa hospital association shall be responsible for all costs associated with becoming part of the network, as determined by the commission.

Sec. 27. Section 136.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Perform those duties authorized pursuant to section 135.156.

Sec. 28. Section 217.41A, Code 2007, is repealed.

Sec. 29. IOWA HEALTH INFORMATION TECHNOLOGY SYSTEM — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For administration of the Iowa health information technology system, and for not more than the following full-time equivalent positions:

.....	$	190,600
.....	FTEs	2.00

DIVISION VI
LONG-TERM LIVING PLANNING AND
PATIENT AUTONOMY IN HEALTH CARE

Sec. 30. NEW SECTION. 231.62 END-OF-LIFE CARE INFORMATION.

1. The department shall consult with the Iowa medical society, the Iowa end-of-life coalition, the Iowa hospice organization, the university of Iowa palliative care program, and other health care professionals whose scope of practice includes end-of-life care to develop educational and patient-centered information on end-of-life care for terminally ill patients and health care professionals.

2. For the purposes of this section, "end-of-life care" means care provided to meet the physical, psychological, social, spiritual, and practical needs of terminally ill patients and their caregivers.

Sec. 31. END-OF-LIFE CARE INFORMATION — APPROPRIATION. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For activities associated with the end-of-life care information requirements of this division:
. . . . . $ 10,000

Sec. 32. LONG-TERM LIVING PLANNING TOOLS — PUBLIC EDUCATION CAMPAIGN. The legal services development and substitute decision maker programs of the department of elder affairs, in collaboration with other appropriate agencies and interested parties, shall research existing long-term living planning tools that are designed to increase quality of life and contain health care costs and recommend a public education campaign strategy on long-term living to the general assembly by January 1, 2009.

Sec. 33. LONG-TERM CARE OPTIONS PUBLIC EDUCATION CAMPAIGN. The department of elder affairs, in collaboration with the insurance division of the department of commerce, shall implement a long-term care options public education campaign. The campaign may utilize such tools as the "Own Your Future Planning Kit" administered by the centers for Medicare and Medicaid services, the administration on aging, and the office of the assistant secretary for planning and evaluation of the United States department of health and human services, and other tools developed through the aging and disability resource center program of the administration on aging and the centers for Medicare and Medicaid services designed to promote health and independence as Iowans age, assist older Iowans in making informed choices about the availability of long-term care options, including alternatives to facility-based care, and to streamline access to long-term care.

Sec. 34. LONG-TERM CARE OPTIONS PUBLIC EDUCATION CAMPAIGN — APPROPRIATION. There is appropriated from the general fund of the state to the department of elder affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For activities associated with the long-term care options public education campaign requirements of this division:
. . . . . $ 75,000

Sec. 35. HOME AND COMMUNITY-BASED SERVICES PUBLIC EDUCATION CAMPAIGN. The department of elder affairs shall work with other public and private agencies to identify resources that may be used to continue the work of the aging and disability resource center established by the department through the aging and disability resource center grant program efforts of the administration on aging and the centers for Medicare and Medicaid services of the United States department of health and human services, beyond the federal grant period ending September 30, 2008.

Sec. 36. PATIENT AUTONOMY IN HEALTH CARE DECISIONS PILOT PROJECT.

1. The department of public health shall establish a two-year community coalition for patient treatment wishes across the health care continuum pilot project, beginning July 1, 2008, and ending June 30, 2010, in a county with a population of between fifty thousand and one hundred thousand. The pilot project shall utilize the process based upon the national physicians orders for life sustaining treatment program initiative, including use of a standardized physician order for scope of treatment form. The process shall require validation of the physician order for scope of treatment form by the signature of an individual other than the patient or the patient's legal representative who is not an employee of the patient's physician. The pilot project may include applicability to chronically ill, frail, and elderly or terminally ill individuals in hospitals licensed pursuant to chapter 135B, nursing facilities or residential care facilities licensed pursuant to chapter 135C, or hospice programs as defined in section 135J.1.

2. The department of public health shall convene an advisory council, consisting of representatives of entities with interest in the pilot project, including but not limited to the Iowa hospital association, the Iowa medical society, organizations representing health care facilities, representatives of health care providers, and the Iowa trial lawyers association, to develop rec-

ommendations for expanding the pilot project statewide. The advisory council shall report its findings and recommendations, including recommendations for legislation, to the governor and the general assembly by January 1, 2010.

3. The pilot project shall not alter the rights of individuals who do not execute a physician order for scope of treatment.

a. If an individual is a qualified patient as defined in section 144A.2, the individual's declaration executed under chapter 144A shall control health care decision making for the individual in accordance with chapter 144A. A physician order for scope of treatment shall not supersede a declaration executed pursuant to chapter 144A. If an individual has not executed a declaration pursuant to chapter 144A, health care decision making relating to life-sustaining procedures for the individual shall be governed by section 144A.7.

b. If an individual has executed a durable power of attorney for health care pursuant to chapter 144B, the individual's durable power of attorney for health care shall control health care decision making for the individual in accordance with chapter 144B. A physician order for scope of treatment shall not supersede a durable power of attorney for health care executed pursuant to chapter 144B.

c. In the absence of actual notice of the revocation of a physician order for scope of treatment, a physician, health care provider, or any other person who complies with a physician order for scope of treatment shall not be subject to liability, civil or criminal, for actions taken under this section which are in accordance with reasonable medical standards. Any physician, health care provider, or other person against whom criminal or civil liability is asserted because of conduct in compliance with this section may interpose the restriction on liability in this paragraph as an absolute defense.

DIVISION VII
HEALTH CARE COVERAGE

Sec. 37. NEW SECTION. 505.31 REIMBURSEMENT ACCOUNTS.

The commissioner of insurance shall assist employers with twenty-five or fewer employees with implementing and administering plans under section 125 of the Internal Revenue Code, including medical expense reimbursement accounts and dependent care accounts. The commissioner shall provide information about the assistance available to small employers on the insurance division's internet site.

Sec. 38. Section 509.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A provision that the insurer will permit continuation of existing coverage for an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

Sec. 39. NEW SECTION. 509A.13B CONTINUATION OF DEPENDENT COVERAGE.[4]

If a governing body, a county board of supervisors, or a city council has procured accident or health care coverage for its employees under this chapter such coverage shall permit continuation of existing coverage for an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

Sec. 40. Section 513C.7, subsection 2, paragraph a, Code 2007, is amended to read as follows:

~~a.~~ The individual basic or standard health benefit plan shall not deny, exclude, or limit benefits for a covered individual for losses incurred more than twelve months following the effec-

[4] According to enrolled Act; the phrase "CONTINUATION OF COVERAGE" probably intended

tive date of the individual's coverage due to a preexisting condition. A preexisting condition shall not be defined more restrictively than any of the following:

~~(1)~~ a. A condition that would cause an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve months immediately preceding the effective date of coverage.

~~(2)~~ b. A condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve months immediately preceding the effective date of coverage.

~~(3)~~ c. A pregnancy existing on the effective date of coverage.

Sec. 41. Section 513C.7, subsection 2, paragraph b, Code 2007, is amended by striking the paragraph.

Sec. 42. NEW SECTION. 514A.3B ADDITIONAL REQUIREMENTS.

1. An insurer which accepts an individual for coverage under an individual policy or contract of accident and health insurance shall waive any time period applicable to a preexisting condition exclusion or limitation period requirement of the policy or contract with respect to particular services in an individual health benefit plan for the period of time the individual was previously covered by qualifying previous coverage as defined in section 513C.3 that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three days prior to the effective date of the new policy or contract. Any days of coverage provided to an individual pursuant to chapter 249A or 514I, or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act, do not constitute qualifying previous coverage. Such days of chapter 249A or 514I or Medicare coverage shall be counted as part of the maximum sixty-three-day grace period and shall not constitute a basis for the waiver of any preexisting condition exclusion or limitation period.

2. An insurer issuing an individual policy or contract of accident and health insurance which provides coverage for children of the insured shall permit continuation of existing coverage for an unmarried child of an insured or enrollee who so elects, at least through the policy anniversary date on or after the date the child marries, ceases to be a resident of this state, or attains the age of twenty-five years old, whichever occurs first, or so long as the unmarried child maintains full-time status as a student in an accredited institution of postsecondary education.

Sec. 43. APPLICABILITY. This division of this Act applies to policies or contracts of accident and health insurance delivered or issued for delivery or continued or renewed in this state on or after July 1, 2008.

DIVISION VIII
MEDICAL HOME
DIVISION XXII
MEDICAL HOME

Sec. 44. NEW SECTION. 135.157 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Board" means the state board of health created pursuant to section 136.1.

2. "Department" means the department of public health.

3. "Health care professional" means a person 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.

4. "Medical home" means a team approach to providing health care that originates in a primary care setting; fosters a partnership among the patient, the personal provider, and other health care professionals, and where appropriate, the patient's family; utilizes the partnership to access all medical and nonmedical health-related services needed by the patient and the patient's family to achieve maximum health potential; maintains a centralized, comprehensive record of all health-related services to promote continuity of care; and has all of the characteristics specified in section 135.158.

5. "National committee for quality assurance" means the nationally recognized, independent nonprofit organization that measures the quality and performance of health care and health care plans in the United States; provides accreditation, certification, and recognition programs for health care plans and programs; and is recognized in Iowa as an accrediting organization for commercial and Medicaid-managed care organizations.

6. "Personal provider" means the patient's first point of contact in the health care system with a primary care provider who identifies the patient's health needs, and, working with a team of health care professionals, provides for and coordinates appropriate care to address the health needs identified.

7. "Primary care" means health care which emphasizes providing for a patient's general health needs and utilizes collaboration with other health care professionals and consultation or referral as appropriate to meet the needs identified.

8. "Primary care provider" means any of the following who provide primary care and meet certification standards:

a. A physician who is a family or general practitioner, a pediatrician, an internist, an obstetrician, or a gynecologist.

b. An advanced registered nurse practitioner.

c. A physician assistant.

d. A chiropractor licensed pursuant to chapter 151.

Sec. 45. NEW SECTION. 135.158 MEDICAL HOME PURPOSES — CHARACTERISTICS.

1. The purposes of a medical home are the following:

a. To reduce disparities in health care access, delivery, and health care outcomes.

b. To improve quality of health care and lower health care costs, thereby creating savings to allow more Iowans to have health care coverage and to provide for the sustainability of the health care system.

c. To provide a tangible method to document if each Iowan has access to health care.

2. A medical home has all of the following characteristics:

a. A personal provider. Each patient has an ongoing relationship with a personal provider trained to provide first contact and continuous and comprehensive care.

b. A provider-directed medical practice. The personal provider leads a team of individuals at the practice level who collectively take responsibility for the ongoing health care of patients.

c. Whole person orientation. The personal provider is responsible for providing for all of a patient's health care needs or taking responsibility for appropriately arranging health care by other qualified health care professionals. This responsibility includes health care at all stages of life including provision of acute care, chronic care, preventive services, and end-of-life care.

d. Coordination and integration of care. Care is coordinated and integrated across all elements of the complex health care system and the patient's community. Care is facilitated by registries, information technology, health information exchanges, and other means to assure that patients receive the indicated care when and where they need and want the care in a culturally and linguistically appropriate manner.

e. Quality and safety. The following are quality and safety components of the medical home:

(1) Provider-directed medical practices advocate for their patients to support the attainment of optimal, patient-centered outcomes that are defined by a care planning process driven by a compassionate, robust partnership between providers, the patient, and the patient's family.

(2) Evidence-based medicine and clinical decision-support tools guide decision making.

(3) Providers in the medical practice accept accountability for continuous quality improvement through voluntary engagement in performance measurement and improvement.

(4) Patients actively participate in decision making and feedback is sought to ensure that the patients' expectations are being met.

(5) Information technology is utilized appropriately to support optimal patient care, performance measurement, patient education, and enhanced communication.

(6) Practices participate in a voluntary recognition process conducted by an appropriate nongovernmental entity to demonstrate that the practice has the capabilities to provide patient-centered services consistent with the medical home model.

(7) Patients and families participate in quality improvement activities at the practice level.

f. Enhanced access to health care. Enhanced access to health care is available through systems such as open scheduling, expanded hours, and new options for communication between the patient, the patient's personal provider, and practice staff.

g. Payment. The payment system appropriately recognizes the added value provided to patients who have a patient-centered medical home. The payment structure framework of the medical home provides all of the following:

(1) Reflects the value of provider and nonprovider staff and patient-centered care management work that is in addition to the face-to-face visit.

(2) Pays for services associated with coordination of health care both within a given practice and between consultants, ancillary providers, and community resources.

(3) Supports adoption and use of health information technology for quality improvement.

(4) Supports provision of enhanced communication access such as secure electronic mail and telephone consultation.

(5) Recognizes the value of provider work associated with remote monitoring of clinical data using technology.

(6) Allows for separate fee-for-service payments for face-to-face visits. Payments for health care management services that are in addition to the face-to-face visit do not result in a reduction in the payments for face-to-face visits.

(7) Recognizes case mix differences in the patient population being treated within the practice.

(8) Allows providers to share in savings from reduced hospitalizations associated with provider-guided health care management in the office setting.

(9) Allows for additional payments for achieving measurable and continuous quality improvements.

Sec. 46. NEW SECTION. 135.159 MEDICAL HOME SYSTEM — ADVISORY COUNCIL — DEVELOPMENT AND IMPLEMENTATION.

1. The department shall administer the medical home system. The department shall adopt rules pursuant to chapter 17A necessary to administer the medical home system.

2. a. The department shall establish an advisory council which shall include but is not limited to all of the following members, selected by their respective organizations, and any other members the department determines necessary to assist in the department's duties at various stages of development of the medical home system:

(1) The director of human services, or the director's designee.

(2) The commissioner of insurance, or the commissioner's designee.

(3) A representative of the federation of Iowa insurers.

(4) A representative of the Iowa dental association.

(5) A representative of the Iowa nurses association.

(6) A physician licensed pursuant to chapter 148 and a physician licensed pursuant to chapter 150 who are family physicians and members of the Iowa academy of family physicians.

(7) A health care consumer.

(8) A representative of the Iowa collaborative safety net provider network established pursuant to section 135.153.

(9) A representative of the governor's developmental disabilities council.

(10) A representative of the Iowa chapter of the American academy of pediatrics.

(11) A representative of the child and family policy center.

(12) A representative of the Iowa pharmacy association.

(13) A representative of the Iowa chiropractic society.

(14) A representative of the university of Iowa college of public health.

b. Public members of the advisory council shall receive reimbursement for actual expenses incurred while serving in their official capacity only if they are not eligible for reimbursement by the organization that they represent.

3. The department shall develop a plan for implementation of a statewide medical home system. The department, in collaboration with parents, schools, communities, health plans, and providers, shall endeavor to increase healthy outcomes for children and adults by linking the children and adults with a medical home, identifying health improvement goals for children and adults, and linking reimbursement strategies to increasing healthy outcomes for children and adults. The plan shall provide that the medical home system shall do all of the following:

a. Coordinate and provide access to evidence-based health care services, emphasizing convenient, comprehensive primary care and including preventive, screening, and well-child health services.

b. Provide access to appropriate specialty care and inpatient services.

c. Provide quality-driven and cost-effective health care.

d. Provide access to pharmacist-delivered medication reconciliation and medication therapy management services, where appropriate.

e. Promote strong and effective medical management including but not limited to planning treatment strategies, monitoring health outcomes and resource use, sharing information, and organizing care to avoid duplication of service. The plan shall provide that in sharing information, the priority shall be the protection of the privacy of individuals and the security and confidentiality of the individual's information. Any sharing of information required by the medical home system shall comply and be consistent with all existing state and federal laws and regulations relating to the confidentiality of health care information and shall be subject to written consent of the patient.

f. Emphasize patient and provider accountability.

g. Prioritize local access to the continuum of health care services in the most appropriate setting.

h. Establish a baseline for medical home goals and establish performance measures that indicate a child or adult has an established and effective medical home. For children, these goals and performance measures may include but are not limited to childhood immunizations[5] rates, well-child care utilization rates, care management for children with chronic illnesses, emergency room utilization, and oral health service utilization.

i. For children, coordinate with and integrate guidelines, data, and information from existing newborn and child health programs and entities, including but not limited to the healthy opportunities to experience, success[6] – healthy families Iowa program, the community empowerment program, the center for congenital and inherited disorders screening and health care programs, standards of care for pediatric health guidelines, the office of multicultural health established in section 135.12, the oral health bureau established in section 135.15, and other similar programs and services.

4. The department shall develop an organizational structure for the medical home system in this state. The organizational structure plan shall integrate existing resources, provide a strategy to coordinate health care services, provide for monitoring and data collection on medical homes, provide for training and education to health care professionals and families, and provide for transition of children to the adult medical care system. The organizational structure may be based on collaborative teams of stakeholders throughout the state such as local public health agencies, the collaborative safety net provider network established in section 135.153, or a combination of statewide organizations. Care coordination may be provided through regional offices or through individual provider practices. The organizational structure may also include the use of telemedicine resources, and may provide for partnering with pediatric and family practice residency programs to improve access to preventive care for children. The organizational structure shall also address the need to organize and provide health care to increase accessibility for patients including using venues more accessible to patients and having hours of operation that are conducive to the population served.

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[5] According to enrolled Act; the word "immunization" probably intended

[6] According to enrolled Act; the phrase "healthy opportunities for parents to experience success" probably intended

5. The department shall adopt standards and a process to certify medical homes based on the national committee for quality assurance standards. The certification process and standards shall provide mechanisms to monitor performance and to evaluate, promote, and improve the quality of health of and health care delivered to patients through a medical home. The mechanism shall require participating providers to monitor clinical progress and performance in meeting applicable standards and to provide information in a form and manner specified by the department. The evaluation mechanism shall be developed with input from consumers, providers, and payers. At a minimum the evaluation shall determine any increased quality in health care provided and any decrease in cost resulting from the medical home system compared with other health care delivery systems. The standards and process shall also include a mechanism for other ancillary service providers to become affiliated with a certified medical home.

6. The department shall adopt education and training standards for health care professionals participating in the medical home system.

7. The department shall provide for system simplification through the use of universal referral forms, internet-based tools for providers, and a central medical home internet site for providers.

8. The department shall recommend a reimbursement methodology and incentives for participation in the medical home system to ensure that providers enter and remain participating in the system. In developing the recommendations for incentives, the department shall consider, at a minimum, providing incentives to promote wellness, prevention, chronic care management, immunizations, health care management, and the use of electronic health records. In developing the recommendations for the reimbursement system, the department shall analyze, at a minimum, the feasibility of all of the following:

a. Reimbursement under the medical assistance program to promote wellness and prevention, provide care coordination, and provide chronic care management.

b. Increasing reimbursement to Medicare levels for certain wellness and prevention services, chronic care management, and immunizations.

c. Providing reimbursement for primary care services by addressing the disparities between reimbursement for specialty services and primary care services.

d. Increased funding for efforts to transform medical practices into certified medical homes, including emphasizing the implementation of the use of electronic health records.

e. Targeted reimbursement to providers linked to health care quality improvement measures established by the department.

f. Reimbursement for specified ancillary support services such as transportation for medical appointments and other such services.

g. Providing reimbursement for medication reconciliation and medication therapy management service, where appropriate.

9. The department shall coordinate the requirements and activities of the medical home system with the requirements and activities of the dental home for children as described in section 249J.14, subsection 7, and shall recommend financial incentives for dentists and nondental providers to promote oral health care coordination through preventive dental intervention, early identification of oral disease risk, health care coordination and data tracking, treatment, chronic care management, education and training, parental guidance, and oral health promotions for children.

10. The department shall integrate the recommendations and policies developed by the prevention and chronic care management advisory council into the medical home system.

11. Implementation phases.

a. Initial implementation shall require participation in the medical home system of children who are recipients of full benefits under the medical assistance program. The department shall work with the department of human services and shall recommend to the general assembly a reimbursement methodology to compensate providers participating under the medical assistance program for participation in the medical home system.

b. The department shall work with the department of human services to expand the medical

home system to adults who are recipients of full benefits under the medical assistance program and the expansion population under the IowaCare program. The department shall work with the centers for Medicare and Medicaid services of the United States department of health and human services to allow Medicare recipients to utilize the medical home system.

c. The department shall work with the department of administrative services to allow state employees to utilize the medical home system.

d. The department shall work with insurers and self-insured companies, if requested, to make the medical home system available to individuals with private health care coverage.

12. The department shall provide oversight for all certified medical homes. The department shall review the progress of the medical home system and recommend improvements to the system, as necessary.

13. The department shall annually evaluate the medical home system and make recommendations to the governor and the general assembly regarding improvements to and continuation of the system.

14. Recommendations and other activities resulting from the duties authorized for the department under this section shall require approval by the board prior to any subsequent action or implementation.

Sec. 47. Section 136.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Perform those duties authorized pursuant to section 135.159.

Sec. 48. Section 249J.14, subsection 7, Code 2007, is amended to read as follows:

7. DENTAL HOME FOR CHILDREN. By ~~July 1, 2008~~ December 31, 2010, every recipient of medical assistance who is a child twelve years of age or younger shall have a designated dental home and shall be provided with the dental screenings~~, and~~ preventive ~~care identified in the oral health standards~~ services, diagnostic services, treatment services, and emergency services as defined under the early and periodic screening, diagnostic, and treatment program.

Sec. 49. MEDICAL HOME SYSTEM — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For activities associated with the medical home system requirements of this division and for not more than the following full-time equivalent positions:

.....	$	165,600
.....	FTEs	4.00

DIVISION IX
PREVENTION AND CHRONIC CARE MANAGEMENT
DIVISION XXIII
PREVENTION AND CHRONIC CARE MANAGEMENT

Sec. 50. NEW SECTION. 135.160 DEFINITIONS.

For the purpose of this division, unless the context otherwise requires:

1. "Board" means the state board of health created pursuant to section 136.1.

2. "Chronic care" means health care services provided by a health care professional for an established clinical condition that is expected to last a year or more and that requires ongoing clinical management attempting to restore the individual to highest function, minimize the negative effects of the chronic condition, and prevent complications related to the chronic condition.

3. "Chronic care information system" means approved information technology to enhance the development and communication of information to be used in providing chronic care, including clinical, social, and economic outcomes of chronic care.

4. "Chronic care management" means a system of coordinated health care interventions

and communications for individuals with chronic conditions, including significant patient self-care efforts, systemic supports for the health care professional and patient relationship, and a chronic care plan emphasizing prevention of complications utilizing evidence-based practice guidelines, patient empowerment strategies, and evaluation of clinical, humanistic, and economic outcomes on an ongoing basis with the goal of improving overall health.

5. "Chronic care plan" means a plan of care between an individual and the individual's principal health care professional that emphasizes prevention of complications through patient empowerment including but not limited to providing incentives to engage the patient in the patient's own care and in clinical, social, or other interventions designed to minimize the negative effects of the chronic condition.

6. "Chronic care resources" means health care professionals, advocacy groups, health departments, schools of public health and medicine, health plans, and others with expertise in public health, health care delivery, health care financing, and health care research.

7. "Chronic condition" means an established clinical condition that is expected to last a year or more and that requires ongoing clinical management.

8. "Department" means the department of public health.

9. "Director" means the director of public health.

10. "Eligible individual" means a resident of this state who has been diagnosed with a chronic condition or is at an elevated risk for a chronic condition and who is a recipient of medical assistance, is a member of the expansion population pursuant to chapter 249J, or is an inmate of a correctional institution in this state.

11. "Health care professional" means health care professional as defined in section 135.157.

12. "Health risk assessment" means screening by a health care professional for the purpose of assessing an individual's health, including tests or physical examinations and a survey or other tool used to gather information about an individual's health, medical history, and health risk factors during a health screening.

Sec. 51. NEW SECTION. 135.161 PREVENTION AND CHRONIC CARE MANAGEMENT INITIATIVE — ADVISORY COUNCIL.

1. The director, in collaboration with the prevention and chronic care management advisory council, shall develop a state initiative for prevention and chronic care management. The state initiative consists of the state's plan for developing a chronic care organizational structure for prevention and chronic care management, including coordinating the efforts of health care professionals and chronic care resources to promote the health of residents and the prevention and management of chronic conditions, developing and implementing arrangements for delivering prevention services and chronic care management, developing significant patient self-care efforts, providing systemic support for the health care professional-patient relationship and options for channeling chronic care resources and support to health care professionals, providing for community development and outreach and education efforts, and coordinating information technology initiatives with the chronic care information system.

2. The director may accept grants and donations and shall apply for any federal, state, or private grants available to fund the initiative. Any grants or donations received shall be placed in a separate fund in the state treasury and used exclusively for the initiative or as federal law directs.

3. a. The director shall establish and convene an advisory council to provide technical assistance to the director in developing a state initiative that integrates evidence-based prevention and chronic care management strategies into the public and private health care systems, including the medical home system. Public members of the advisory council shall receive their actual and necessary expenses incurred in the performance of their duties and may be eligible to receive compensation as provided in section 7E.6.

b. The advisory council shall elicit input from a variety of health care professionals, health care professional organizations, community and nonprofit groups, insurers, consumers, businesses, school districts, and state and local governments in developing the advisory council's recommendations.

c. The advisory council shall submit initial recommendations to the director for the state ini-

tiative for prevention and chronic care management no later than July 1, 2009. The recommendations shall address all of the following:

(1) The recommended organizational structure for integrating prevention and chronic care management into the private and public health care systems. The organizational structure recommended shall align with the organizational structure established for the medical home system developed pursuant to division XXII. The advisory council shall also review existing prevention and chronic care management strategies used in the health insurance market and in private and public programs and recommend ways to expand the use of such strategies throughout the health insurance market and in the private and public health care systems.

(2) A process for identifying leading health care professionals and existing prevention and chronic care management programs in the state, and coordinating care among these health care professionals and programs.

(3) A prioritization of the chronic conditions for which prevention and chronic care management services should be provided, taking into consideration the prevalence of specific chronic conditions and the factors that may lead to the development of chronic conditions; the fiscal impact to state health care programs of providing care for the chronic conditions of eligible individuals; the availability of workable, evidence-based approaches to chronic care for the chronic condition; and public input into the selection process. The advisory council shall initially develop consensus guidelines to address the two chronic conditions identified as having the highest priority and shall also specify a timeline for inclusion of additional specific chronic conditions in the initiative.

(4) A method to involve health care professionals in identifying eligible patients for prevention and chronic care management services, which includes but is not limited to the use of a health risk assessment.

(5) The methods for increasing communication between health care professionals and patients, including patient education, patient self-management, and patient follow-up plans.

(6) The educational, wellness, and clinical management protocols and tools to be used by health care professionals, including management guideline materials for health care delivery.

(7) The use and development of process and outcome measures and benchmarks, aligned to the greatest extent possible with existing measures and benchmarks such as the best in class estimates utilized in the national healthcare quality report of the agency for health care research and quality of the United States department of health and human services, to provide performance feedback for health care professionals and information on the quality of health care, including patient satisfaction and health status outcomes.

(8) Payment methodologies to align reimbursements and create financial incentives and rewards for health care professionals to utilize prevention services, establish management systems for chronic conditions, improve health outcomes, and improve the quality of health care, including case management fees, payment for technical support and data entry associated with patient registries, and the cost of staff coordination within a medical practice.

(9) Methods to involve public and private groups, health care professionals, insurers, third-party administrators, associations, community and consumer groups, and other entities to facilitate and sustain the initiative.

(10) Alignment of any chronic care information system or other information technology needs with other health care information technology initiatives.

(11) Involvement of appropriate health resources and public health and outcomes researchers to develop and implement a sound basis for collecting data and evaluating the clinical, social, and economic impact of the initiative, including a determination of the impact on expenditures and prevalence and control of chronic conditions.

(12) Elements of a marketing campaign that provides for public outreach and consumer education in promoting prevention and chronic care management strategies among health care professionals, health insurers, and the public.

(13) A method to periodically determine the percentage of health care professionals who are participating, the success of the empowerment-of-patients approach, and any results of health outcomes of the patients participating.

(14) A means of collaborating with the health professional licensing boards pursuant to

chapter 147 to review prevention and chronic care management education provided to licensees, as appropriate, and recommendations regarding education resources and curricula for integration into existing and new education and training programs.

4. Following submission of initial recommendations to the director for the state initiative for prevention and chronic care management by the advisory council, the director shall submit the state initiative to the board for approval. Subject to approval of the state initiative by the board, the department shall initially implement the state initiative among the population of eligible individuals. Following initial implementation, the director shall work with the department of human services, insurers, health care professional organizations, and consumers in implementing the initiative beyond the population of eligible individuals as an integral part of the health care delivery system in the state. The advisory council shall continue to review and make recommendations to the director regarding improvements to the initiative. Any recommendations are subject to approval by the board.

Sec. 52. NEW SECTION. 135.162 CLINICIANS ADVISORY PANEL.

1. The director shall convene a clinicians advisory panel to advise and recommend to the department clinically appropriate, evidence-based best practices regarding the implementation of the medical home as defined in section 135.157 and the prevention and chronic care management initiative pursuant to section 135.161. The director shall act as chairperson of the advisory panel.

2. The clinicians advisory panel shall consist of nine members representing licensed medical health care providers selected by their respective professional organizations. Terms of members shall begin and end as provided in section 69.19. Any vacancy shall be filled in the same manner as regular appointments are made for the unexpired portion of the regular term. Members shall serve terms of three years. A member is eligible for reappointment for three successive terms.

3. The clinicians advisory panel shall meet on a quarterly basis to receive updates from the director regarding strategic planning and implementation progress on the medical home and the prevention and chronic care management initiative and shall provide clinical consultation to the department regarding the medical home and the initiative.

Sec. 53. Section 136.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Perform those duties authorized pursuant to section 135.161.

Sec. 54. PREVENTION AND CHRONIC CARE MANAGEMENT — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For activities associated with the prevention and chronic care management requirements of this division:

. . . . . $ 190,500

DIVISION X
FAMILY OPPORTUNITY ACT

Sec. 55. 2007 Iowa Acts, chapter 218, section 126, subsection 1, is amended to read as follows:

1. The provision in this division of this Act relating to eligibility for certain persons with disabilities under the medical assistance program shall ~~only~~ be implemented ~~if the department of human services determines that funding is available in appropriations made in this Act, in combination with federal allocations to the state, for the state children's health insurance program, in excess of the amount needed to cover the current and projected enrollment under the state children's health insurance program~~ beginning January 1, 2009. ~~If such a determination is made, the department of human services shall transfer funding from the appropriations made in this Act for the state children's health insurance program, not otherwise required for~~

~~that program, to the appropriations made in this Act for medical assistance, as necessary, to implement such provision of this division of this Act.~~[7]

DIVISION XI
MEDICAL ASSISTANCE QUALITY IMPROVEMENT

Sec. 56. NEW SECTION. 249A.36 MEDICAL ASSISTANCE QUALITY IMPROVEMENT COUNCIL.

1. A medical assistance quality improvement council is established. The council shall evaluate the clinical outcomes and satisfaction of consumers and providers with the medical assistance program. The council shall coordinate efforts with the cost and quality performance evaluation completed pursuant to section 249J.16.

2. a. The council shall consist of seven voting members appointed by 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. At least one member of the council shall be a consumer and at least one member shall be a medical assistance program provider. An individual who is employed by a private or nonprofit organization that receives one million dollars or more in compensation or reimbursement from the department, annually, is not eligible for appointment to the council. The members shall serve terms of two years beginning and ending as provided in section 69.19, and appointments shall comply with sections 69.16 and 69.16A. Members shall receive reimbursement for actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Vacancies shall be filled by the original appointing authority and in the manner of the original appointment. A person appointed to fill a vacancy shall serve only for the unexpired portion of the term.

b. The members shall select a chairperson, annually, from among the membership. The council shall meet at least quarterly and at the call of the chairperson. A majority of the members of the council constitutes a quorum. Any action taken by the council must be adopted by the affirmative vote of a majority of its voting membership.

c. The department shall provide administrative support and necessary supplies and equipment for the council.

3. The council shall consult with and advise the Iowa Medicaid enterprise in establishing a quality assessment and improvement process.

a. The process shall be consistent with the health plan employer data and information set developed by the national committee for quality assurance and with the consumer assessment of health care providers and systems developed by the agency for health care research and quality of the United States department of health and human services. The council shall also coordinate efforts with the Iowa healthcare collaborative and the state's Medicare quality improvement organization to create consistent quality measures.

b. The process may utilize as a basis the medical assistance and state children's health insurance quality improvement efforts of the centers for Medicare and Medicaid services of the United States department of health and human services.

c. The process shall include assessment and evaluation of both managed care and fee-for-service programs, and shall be applicable to services provided to adults and children.

d. The initial process shall be developed and implemented by December 31, 2008, with the initial report of results to be made available to the public by June 30, 2009. Following the initial report, the council shall submit a report of results to the governor and the general assembly, annually, in January.

DIVISION XII
HEALTH AND LONG-TERM CARE ACCESS
DIVISION XXIV

Sec. 57. NEW SECTION. 135.163 HEALTH AND LONG-TERM CARE ACCESS.

The department shall coordinate public and private efforts to develop and maintain an ap-

[7] See chapter 1187, §9 herein

propriate health care delivery infrastructure and a stable, well-qualified, diverse, and sustainable health care workforce in this state. The health care delivery infrastructure and the health care workforce shall address the broad spectrum of health care needs of Iowans throughout their lifespan including long-term care needs. The department shall, at a minimum, do all of the following:

1. Develop a strategic plan for health care delivery infrastructure and health care workforce resources in this state.

2. Provide for the continuous collection of data to provide a basis for health care strategic planning and health care policymaking.

3. Make recommendations regarding the health care delivery infrastructure and the health care workforce that assist in monitoring current needs, predicting future trends, and informing policymaking.

Sec. 58. NEW SECTION. 135.164 STRATEGIC PLAN.

1. The strategic plan for health care delivery infrastructure and health care workforce resources shall describe the existing health care system, describe and provide a rationale for the desired health care system, provide an action plan for implementation, and provide methods to evaluate the system. The plan shall incorporate expenditure control methods and integrate criteria for evidence-based health care. The department shall do all of the following in developing the strategic plan for health care delivery infrastructure and health care workforce resources:

a. Conduct strategic health planning activities related to preparation of the strategic plan.

b. Develop a computerized system for accessing, analyzing, and disseminating data relevant to strategic health planning. The department may enter into data sharing agreements and contractual arrangements necessary to obtain or disseminate relevant data.

c. Conduct research and analysis or arrange for research and analysis projects to be conducted by public or private organizations to further the development of the strategic plan.

d. Establish a technical advisory committee to assist in the development of the strategic plan. The members of the committee may include but are not limited to health economists, representatives of the university of Iowa college of public health, health planners, representatives of health care purchasers, representatives of state and local agencies that regulate entities involved in health care, representatives of health care providers and health care facilities, and consumers.

2. The strategic plan shall include statewide health planning policies and goals related to the availability of health care facilities and services, the quality of care, and the cost of care. The policies and goals shall be based on the following principles:

a. That a strategic health planning process, responsive to changing health and social needs and conditions, is essential to the health, safety, and welfare of Iowans. The process shall be reviewed and updated as necessary to ensure that the strategic plan addresses all of the following:

(1) Promoting and maintaining the health of all Iowans.

(2) Providing accessible health care services through the maintenance of an adequate supply of health facilities and an adequate workforce.

(3) Controlling excessive increases in costs.

(4) Applying specific quality criteria and population health indicators.

(5) Recognizing prevention and wellness as priorities in health care programs to improve quality and reduce costs.

(6) Addressing periodic priority issues including disaster planning, public health threats, and public safety dilemmas.

(7) Coordinating health care delivery and resource development efforts among state agencies including those tasked with facility, services, and professional provider licensure; state and federal reimbursement; health service utilization data systems; and others.

(8) Recognizing long-term care as an integral component of the health care delivery infrastructure and as an essential service provided by the health care workforce.

b. That both consumers and providers throughout the state must be involved in the health

planning process, outcomes of which shall be clearly articulated and available for public review and use.

c. That the supply of a health care service has a substantial impact on utilization of the service, independent of the effectiveness, medical necessity, or appropriateness of the particular health care service for a particular individual.

d. That given that health care resources are not unlimited, the impact of any new health care service or facility on overall health expenditures in this state must be considered.

e. That excess capacity of health care services and facilities places an increased economic burden on the public.

f. That the likelihood that a requested new health care facility, service, or equipment will improve health care quality and outcomes must be considered.

g. That development and ongoing maintenance of current and accurate health care information and statistics related to cost and quality of health care and projections of the need for health care facilities and services are necessary to developing an effective health care planning strategy.

h. That the certificate of need program as a component of the health care planning regulatory process must balance considerations of access to quality care at a reasonable cost for all Iowans, optimal use of existing health care resources, fostering of expenditure control, and elimination of unnecessary duplication of health care facilities and services, while supporting improved health care outcomes.

i. That strategic health care planning must be concerned with the stability of the health care system, encompassing health care financing, quality, and the availability of information and services for all residents.

3. The health care delivery infrastructure and health care workforce resources strategic plan developed by the department shall include all of the following:

a. A health care system assessment and objectives component that does all of the following:

(1) Describes state and regional population demographics, health status indicators, and trends in health status and health care needs.

(2) Identifies key policy objectives for the state health care system related to access to care, health care outcomes, quality, and cost-effectiveness.

b. A health care facilities and services plan that assesses the demand for health care facilities and services to inform state health care planning efforts and direct certificate of need determinations, for those facilities and services subject to certificate of need. The plan shall include all of the following:

(1) An inventory of each geographic region's existing health care facilities and services.

(2) Projections of the need for each category of health care facility and service, including those subject to certificate of need.

(3) Policies to guide the addition of new or expanded health care facilities and services to promote the use of quality, evidence-based, cost-effective health care delivery options, including any recommendations for criteria, standards, and methods relevant to the certificate of need review process.

(4) An assessment of the availability of health care providers, public health resources, transportation infrastructure, and other considerations necessary to support the needed health care facilities and services in each region.

c. A health care data resources plan that identifies data elements necessary to properly conduct planning activities and to review certificate of need applications, including data related to inpatient and outpatient utilization and outcomes information, and financial and utilization information related to charity care, quality, and cost. The plan shall provide all of the following:

(1) An inventory of existing data resources, both public and private, that store and disclose information relevant to the health care planning process, including information necessary to conduct certificate of need activities. The plan shall identify any deficiencies in the inventory of existing data resources and the data necessary to conduct comprehensive health care planning activities. The plan may recommend that the department be authorized to access existing data sources and conduct appropriate analyses of such data or that other agencies expand

their data collection activities as statutory authority permits. The plan may identify any computing infrastructure deficiencies that impede the proper storage, transmission, and analysis of health care planning data.

(2) Recommendations for increasing the availability of data related to health care planning to provide greater community involvement in the health care planning process and consistency in data used for certificate of need applications and determinations. The plan shall also integrate the requirements for annual reports by hospitals and health care facilities pursuant to section 135.75, the provisions relating to analyses and studies by the department pursuant to section 135.76, the data compilation provisions of section 135.78, and the provisions for contracts for assistance with analyses, studies, and data pursuant to section 135.83.

d. An assessment of emerging trends in health care delivery and technology as they relate to access to health care facilities and services, quality of care, and costs of care. The assessment shall recommend any changes to the scope of health care facilities and services covered by the certificate of need program that may be warranted by these emerging trends. In addition, the assessment may recommend any changes to criteria used by the department to review certificate of need applications, as necessary.

e. A rural health care resources plan to assess the availability of health resources in rural areas of the state, assess the unmet needs of these communities, and evaluate how federal and state reimbursement policies can be modified, if necessary, to more efficiently and effectively meet the health care needs of rural communities. The plan shall consider the unique health care needs of rural communities, the adequacy of the rural health care workforce, and transportation needs for accessing appropriate care.

f. A health care workforce resources plan to assure a competent, diverse, and sustainable health care workforce in Iowa and to improve access to health care in underserved areas and among underserved populations. The plan shall include the establishment of an advisory council to inform and advise the department and policymakers regarding issues relevant to the health care workforce in Iowa. The health care workforce resources plan shall recognize long-term care as an essential service provided by the health care workforce.

4. The department shall submit the initial statewide health care delivery infrastructure and resources strategic plan to the governor and the general assembly by January 1, 2010, and shall submit an updated strategic plan to the governor and the general assembly every two years thereafter.

Sec. 59. HEALTH CARE ACCESS — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For activities associated with the health care access requirements of this division, and for not more than the following full-time equivalent positions:

.....	$	172,200
.....	FTEs	3.00

DIVISION XIII
PREVENTION AND WELLNESS INITIATIVES

Sec. 60. Section 135.27, Code 2007, is amended by striking the section and inserting in lieu thereof the following:

135.27 IOWA HEALTHY COMMUNITIES INITIATIVE — GRANT PROGRAM.

1. PROGRAM GOALS. The department shall establish a grant program to energize local communities to transform the existing culture into a culture that promotes healthy lifestyles and leads collectively, community by community, to a healthier state. The grant program shall expand an existing healthy communities initiative to assist local boards of health, in collaboration with existing community resources, to build community capacity in addressing the pre-

vention of chronic disease that results from risk factors including overweight and obesity conditions.

2. DISTRIBUTION OF GRANTS. The department shall distribute the grants on a competitive basis and shall support the grantee communities in planning and developing wellness strategies and establishing methodologies to sustain the strategies. Grant criteria shall be consistent with the existing statewide initiative between the department and the department's partners that promotes increased opportunities for physical activity and healthy eating for Iowans of all ages, or its successor, and the statewide comprehensive plan developed by the existing statewide initiative to increase physical activity, improve nutrition, and promote healthy behaviors. Grantees shall demonstrate an ability to maximize local, state, and federal resources effectively and efficiently.

3. DEPARTMENTAL SUPPORT. The department shall provide support to grantees including capacity-building strategies, technical assistance, consultation, and ongoing evaluation.

4. ELIGIBILITY. Local boards of health representing a coalition of health care providers and community and private organizations are eligible to submit applications.

Sec. 61. NEW SECTION. 135.27A GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND NUTRITION.

1. A governor's council on physical fitness and nutrition is established consisting of twelve members appointed by the governor who have expertise in physical activity, physical fitness, nutrition, and promoting healthy behaviors. At least one member shall be a representative of elementary and secondary physical education professionals, at least one member shall be a health care professional, at least one member shall be a registered dietician, at least one member shall be recommended by the department of elder affairs, and at least one member shall be an active nutrition or fitness professional. In addition, at least one member shall be a member of a racial or ethnic minority. The governor shall select a chairperson for the council. Members shall serve terms of three years beginning and ending as provided in section 69.19. Appointments are subject to sections 69.16 and 69.16A. Members are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A member of the council may also be eligible to receive compensation as provided in section 7E.6.

2. The council shall assist in developing a strategy for implementation of the statewide comprehensive plan developed by the existing statewide initiative to increase physical activity, improve physical fitness, improve nutrition, and promote healthy behaviors. The strategy shall include specific components relating to specific populations and settings including early childhood, educational, local community, worksite wellness, health care, and older Iowans. The initial draft of the implementation plan shall be submitted to the governor and the general assembly by December 1, 2008.

3. The council shall assist the department in establishing and promoting a best practices internet site. The internet site shall provide examples of wellness best practices for individuals, communities, workplaces, and schools and shall include successful examples of both evidence-based and nonscientific programs as a resource.

4. The council shall provide oversight for the governor's physical fitness challenge. The governor's physical fitness challenge shall be administered by the department and shall provide for the establishment of partnerships with communities or school districts to offer the physical fitness challenge curriculum to elementary and secondary school students. The council shall develop the curriculum, including benchmarks and rewards, for advancing the school wellness policy through the challenge.

Sec. 62. IOWA HEALTHY COMMUNITIES INITIATIVE — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For Iowa healthy communities initiative grants distributed beginning January 1, 2009, and for not more than the following full-time equivalent positions:

..... $ 900,000
..... FTEs 3.00

Sec. 63. GOVERNOR'S COUNCIL ON PHYSICAL FITNESS AND NUTRITION — APPROPRIATION. There is appropriated from the general fund of the state to the department of public health for the fiscal period beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For the governor's council on physical fitness:

..... $ 112,100

Sec. 64. SMALL BUSINESS QUALIFIED WELLNESS PROGRAM TAX CREDIT — PLAN. The department of public health, in consultation with the insurance division of the department of commerce and the department of revenue, shall develop a plan to provide a tax credit to small businesses that provide qualified wellness programs to improve the health of their employees. The plan shall include specification of what constitutes a small business for the purposes of the qualified wellness program, the minimum standards for use by a small business in establishing a qualified wellness program, the criteria and a process for certification of a small business qualified wellness program, and the process for claiming a small business qualified wellness program tax credit. The department of public health shall submit the plan including any recommendations for changes in law to implement a small business qualified wellness program tax credit to the governor and the general assembly by December 15, 2008.

DIVISION XIV
HEALTH CARE TRANSPARENCY
DIVISION XXV
HEALTH CARE TRANSPARENCY

Sec. 65. NEW SECTION. 135.165 HEALTH CARE TRANSPARENCY — REPORTING REQUIREMENTS — HOSPITALS AND NURSING FACILITIES.

Each hospital and nursing facility in this state that is recognized by the Internal Revenue Code as a nonprofit organization or entity shall submit to the department of public health and the legislative services agency, annually, a copy of the hospital's internal revenue service form 990, including but not limited to schedule J or any successor schedule that provides compensation information for certain officers, directors, trustees, and key employees, information about the highest compensated employees, and information regarding revenues, expenses, excess or surplus revenues, and reserves within ninety days following the due date for filing the hospital's or nursing facility's return for the taxable year.

Sec. 66. Section 136.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 14. To the greatest extent possible integrate the efforts of the governing entities of the Iowa health information technology system pursuant to division XXI, the medical home pursuant to division XXII, the prevention and chronic care management initiative pursuant to division XXIII, and health and long-term care access pursuant to division XXIV.

Sec. 67. HEALTH CARE QUALITY AND COST TRANSPARENCY — WORKGROUP.

1. A health care quality and cost transparency workgroup is created to develop recommendations for legislation and policies regarding health care quality and cost including measures to be utilized in providing transparency to consumers of health care and health care coverage. Membership of the workgroup shall be determined by the legislative council in consultation with the chairpersons and ranking members of the joint appropriations subcommittee on health and human services and the chairpersons and ranking members of the committees on

human resources of the senate and house of representatives. Membership of the workgroup shall include but is not limited to representatives of the Iowa healthcare collaborative, the department of public health, the department of human services, the insurance division of the department of commerce, the Iowa hospital association, the Iowa medical society, the Iowa health buyers alliance, the AARP Iowa chapter, the university of Iowa public policy center, and other interested consumers, advocates, purchasers, providers, and legislators. The legislative services agency shall provide staffing assistance to the workgroup.

2. The workgroup shall do all of the following:

a. Review the approaches of other states quality[8] and cost in addressing health care transparency information.

b. Develop and compile recommendations and strategies to lower health care costs and health care coverage costs for consumers and businesses.

c. Make recommendations, including any necessary legislation, regarding reporting of health care quality and cost measures. The measures recommended for adoption shall be those measures endorsed by the national quality forum. However, if an area of measurement is deemed important by the workgroup, but the national quality forum has not endorsed such area of measurement, the workgroup may recommend, in order of priority, the measures of other national accreditation organizations such as the national committee for quality assurance, the joint commission, the centers for Medicare and Medicaid services of the United States department of health and human services, or the agency for healthcare research and quality. Any measure recommended for adoption shall be evidence-based and clinically important, reasonably feasible to implement, and easily understood by the health care consumer.

d. Make recommendations regarding the collection and publishing of health care quality and cost measures. Measures shall be collected from health plans, hospitals, and physicians and published on a public internet site available to the general public. The recommendations shall include how the internet site will be maintained and utilization of a format to ensure that the information provided is understood by the health care consumer.

e. Submit a written report of all recommendations to the general assembly on or before December 15, 2008.

3. The legislative council, pursuant to its authority in section 2.42, may allocate to the workgroup funding from moneys available to it in section 2.12 for the purpose of providing expert support to the workgroup.

Sec. 68. EFFECTIVE DATE. The provision in this division of this Act creating a health care quality and cost transparency workgroup, being deemed of immediate importance, takes effect upon enactment.

DIVISION XV
DIRECT CARE WORKFORCE

Sec. 69. DIRECT CARE WORKER ADVISORY COUNCIL — DUTIES — REPORT.

1. As used in this section, unless the context otherwise requires:

a. "Department" means the department of public health.

b. "Direct care" means environmental or chore services, health monitoring and maintenance, assistance with instrumental activities of daily living, assistance with personal care activities of daily living, personal care support, or specialty skill services.

c. "Direct care worker" means an individual who directly provides or assists a consumer in the care of the consumer by providing direct care in a variety of settings which may or may not require supervision of the direct care worker, depending on the setting and the skills that the direct care workers possess,[9] based on education or certification.

d. "Director" means the director of public health.

2. A direct care worker advisory council shall be appointed by the director and shall include representatives of direct care workers, consumers of direct care services, educators of direct care workers, other health professionals, employers of direct care workers, and appropriate state agencies.

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[8] According to enrolled Act; the phrase "other states to quality" probably intended

[9] According to enrolled Act; the phrase "worker possesses" probably intended

3. Membership, terms of office, quorum, and expenses shall be determined by the director in accordance with the applicable provisions of section 135.11.

4. The direct care worker advisory council shall advise the director regarding regulation and certification of direct care workers, based on the work of the direct care workers task force established pursuant to 2005 Iowa Acts, chapter 88, and shall develop recommendations regarding but not limited to all of the following:

a. Direct care worker classifications based on functions and services provided by direct care workers.

b. Functions for each direct care worker classification.

c. An education and training orientation to be provided by employers.

d. Education and training requirements for each direct care worker classification.

e. The standard curriculum required for each direct care worker classification.

f. Education and training equivalency standards for each direct care worker classification.

g. Guidelines that allow individuals who are members of the direct care workforce prior to the date of required certification to be incorporated into the new regulatory system.

h. Continuing education requirements for each direct care worker classification.

i. Standards for direct care worker educators and trainers.

j. Certification requirements for each direct care worker classification.

k. Protections for the title "certified direct care worker".

l. Standardized requirements for supervision of each direct care worker classification, as applicable, and the roles and responsibilities of supervisory positions.

m. Responsibility for maintenance of credentialing and continuing education and training.

n. Provision of information to income maintenance workers and case managers under the purview of the department of human services about the education and training requirements for direct care workers to provide the care and services to meet consumer needs.

5. The direct care worker advisory council shall report its recommendations to the director by November 30, 2008, including recommendations for any changes in law or rules necessary.

6. Implementation of certification of direct care workers shall begin July 1, 2009.

Sec. 70. DIRECT CARE WORKER COMPENSATION ADVISORY COMMITTEE — REVIEWS.

1. a. The general assembly recognizes that direct care workers play a vital role and make a valuable contribution in providing care to Iowans with a variety of needs in both institutional and home and community-based settings. Recruiting and retaining qualified, highly competent direct care workers is a challenge across all employment settings. High rates of employee vacancies and staff turnover threaten the ability of providers to achieve the core mission of providing safe and high quality support to Iowans.

b. It is the intent of the general assembly to address the long-term care workforce shortage and turnover rates in order to improve the quality of health care delivered in the long-term care continuum by reviewing wages and other compensation paid to direct care workers in the state.

c. It is the intent of the general assembly that the initial review of and recommendations for improving wages and other compensation paid to direct care workers focus on nonlicensed direct care workers in the nursing facility setting. However, following the initial review of wages and other compensation paid to direct care workers in the nursing facility setting, the department of human services shall convene subsequent advisory committees with appropriate representatives of public and private organizations and consumers to review the wages and other compensation paid to and turnover rates of the entire spectrum of direct care workers in the various settings in which they are employed as a means of demonstrating the general assembly's commitment to ensuring a stable and quality direct care workforce in this state.

2. The department of human services shall convene an initial direct care worker compensation advisory committee to develop recommendations for consideration by the general assembly during the 2009 legislative session regarding wages and other compensation paid to direct

care workers in nursing facilities. The committee shall consist of the following members, selected by their respective organizations:

a. The director of human services, or the director's designee.

b. The director of public health, 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 inspections and appeals, or the director's designee.

e. A representative of the Iowa caregivers association.

f. A representative of the Iowa health care association.

g. A representative of the Iowa association of homes and services for the aging.

h. A representative of the AARP Iowa chapter.

3. The advisory committee shall also include two members of the senate and two members of the house of representatives, with not more than one member from each chamber being from the same political party. The legislative members shall serve in an ex officio, nonvoting capacity. The two senators shall be appointed respectively by the majority leader of the senate and the minority leader of the senate, and the two representatives shall be appointed respectively by the speaker of the house of representatives and the minority leader of the house of representatives.

4. Public members of the committee shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Legislative members of the committee are eligible for per diem and reimbursement of actual expenses as provided in section 2.10.

5. The department of human services shall provide administrative support to the committee and the director of human services or the director's designee shall serve as chairperson of the committee.

6. The department shall convene the committee no later than July 1, 2008. Prior to the initial meeting, the department of human services shall provide all members of the committee with a detailed analysis of trends in wages and other compensation paid to direct care workers.

7. The committee shall consider options related but not limited to all of the following:

a. The shortening of the time delay between a nursing facility's submittal of cost reports and receipt of the reimbursement based upon these cost reports.

b. The targeting of appropriations to provide increases in direct care worker compensation.

c. Creation of a nursing facility provider tax.

8. Any option considered by the committee shall be consistent with federal law and regulations.

9. Following its deliberations, the committee shall submit a report of its findings and recommendations regarding improvement in direct care worker wages and other compensation in the nursing facility setting to the governor and the general assembly no later than December 12, 2008.

10. For the purposes of the initial review, "direct care worker" means nonlicensed nursing facility staff who provide hands-on care including but not limited to certified nurse aides and medication aides.

Sec. 71. DIRECT CARE WORKER IN NURSING FACILITIES — TURNOVER REPORT. The department of human services shall modify the nursing facility cost reports utilized for the medical assistance program to capture data by the distinct categories of nonlicensed direct care workers and other employee categories for the purposes of documenting the turnover rates of direct care workers and other employees of nursing facilities. The department shall submit a report on an annual basis to the governor and the general assembly which provides an analysis of direct care worker and other nursing facility employee turnover by individual nursing facility, a comparison of the turnover rate in each individual nursing facility with the state average, and an analysis of any improvement or decline in meeting any accountability goals or other measures related to turnover rates. The annual reports shall also include any data available regarding turnover rate trends, and other information the department deems

appropriate. The initial report shall be submitted no later than December 1, 2008, and subsequent reports shall be submitted no later than December 1, annually, thereafter.

Sec. 72. VOLUNTARY EMPLOYER-SPONSORED HEALTH CARE COVERAGE DEMONSTRATION PROJECT — DIRECT CARE WORKERS.

1. a. The department of human services in collaboration with the insurance division of the department of commerce shall design a demonstration project to provide a health care coverage premium assistance program for nonlicensed direct care workers. Participation in the demonstration project shall be offered to employers and nonlicensed direct care workers on a voluntary basis.

b. The department in collaboration with the division shall convene an advisory council consisting of representatives of the Iowa caregivers association, the Iowa child and family policy center, the Iowa association of homes and services for the aging, the Iowa health care association, the federation of Iowa insurers, the AARP Iowa chapter, the senior living coordinating unit, and other public and private entities with interest in the demonstration project to assist in designing the project. The department in collaboration with the division shall also review the experiences of other states and the medical assistance premium assistance program in designing the demonstration project.

c. The department and the division, in consultation with the advisory council, shall establish criteria to determine which nonlicensed direct care workers shall be eligible to participate in the demonstration project, the coverage and cost parameters of the health care coverage which an employer shall provide to be eligible for participation in the project, the minimum premium contribution required of an employer to be eligible for participation in the project, income eligibility parameters for direct care workers participating in the project, minimum hours of work required of an employee to be eligible for participation in the project, and maximum premium cost limits for an employee participating in the project.

d. The project design shall allow up to 250 direct care workers and their dependents to access health care coverage sponsored by the direct care worker's employer.

e. To the extent possible, the design of the demonstration project shall incorporate a medical home, wellness and prevention services, and chronic care management.

2. The department and the division shall submit the design for the demonstration project to the governor and the general assembly for review by December 15, 2008. If the general assembly enacts legislation to implement the demonstration project and appropriates funding for the demonstration project, the department in collaboration with the division shall implement the demonstration project for an initial two-year period.

Sec. 73. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 13, 2008

CHAPTER 1189

APPROPRIATIONS —
AGRICULTURE AND NATURAL RESOURCES

H.F. 2662

AN ACT relating to and making appropriations involving state government, by providing for agriculture, natural resources, and environmental protection.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP
GENERAL APPROPRIATIONS

Section 1. GENERAL FUND — DEPARTMENT. 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, 2008, and ending June 30, 2009, 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, regulation, and programs; for salaries, support, maintenance, and miscellaneous purposes; and for not more than the following full-time equivalent positions:

..... $ 19,049,509
..... FTEs 445.00

DESIGNATED APPROPRIATIONS — ANIMAL HUSBANDRY

Sec. 2. GENERAL FUND — CHRONIC WASTING DISEASE CONTROL PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a chronic wasting disease control program for the control of chronic wasting disease which threatens farm deer as provided in chapter 170, including for salaries, support, maintenance, and miscellaneous purposes:

..... $ 100,000

The program may include procedures for the inspection and testing of farm deer, responses to reported cases of chronic wasting disease, and methods to ensure that owners of farm deer may engage in the movement and sale of farm deer.

Sec. 3. HORSE AND DOG RACING. There is appropriated from the moneys available under section 99D.13 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department's administration and enforcement of horse and dog racing law pursuant to section 99D.22, including for salaries, support, maintenance, and miscellaneous purposes:

..... $ 305,516

Sec. 4. GENERAL FUND — DAIRY PRODUCTS CONTROL. 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, 2008, and ending June 30, 2009, 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, including for salaries, support, maintenance, and miscellaneous purposes:

..... $ 950,000

Sec. 5. GENERAL FUND — AVIAN INFLUENZA CONTROL. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of controlling avian influenza by conducting testing and monitoring:

. . . . . $ 50,000

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 to be used for the continued testing and monitoring of avian influenza.

DESIGNATED APPROPRIATIONS — PLANT PROTECTION AND CROP PRODUCTION

Sec. 6. GENERAL FUND — APIARY LAW. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering and enforcing apiary law as provided in chapter 160, including for salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 75,000

Sec. 7. GYPSY MOTH CONTROL. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the control of the pest commonly referred to as the gypsy moth, including but not limited to the detection, surveillance, and eradication of the gypsy moth:

. . . . . $ 50,000

Sec. 8. EMERALD ASH BORER PUBLIC AWARENESS 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the support of a public awareness project to inform persons regarding the presence and danger of the pest commonly known as the emerald ash borer:

. . . . . $ 50,000

Sec. 9. GENERAL FUND — SOIL AND WATER CONSERVATION DISTRICTS. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of reimbursing commissioners of soil and water conservation districts for administrative expenses including but not limited to travel expenses, technical training, and professional dues:

. . . . . $ 400,000

A soil and water conservation district receiving moneys from an allocation provided pursuant to this section shall submit a report to the soil conservation division of the department of agriculture and land stewardship by July 1, 2009, accounting for moneys which have been expended or unexpended or which have been obligated or encumbered. The report shall state how the moneys were used.

Sec. 10. AGRICHEMICAL REMEDIATION FUND — SOIL AND WATER CONSERVATION NEEDS ASSESSMENT ASSOCIATED WITH THE LITTLE SIOUX RIVER. There is appropriated from the agrichemical remediation fund created in section 161.7 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending

June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For a grant to the governing body of a soil and water conservation district of a county bordering the Missouri river through which the Little Sioux and Big Sioux rivers flow for purposes of supporting a needs assessment of soil and water conservation structures associated with the Little Sioux river, which may include the identification and evaluation of aging and deteriorating soil and water conservation structures subject to major renovation in the watershed:

. . . . . $ 15,000

DESIGNATED APPROPRIATIONS — FOOD MARKETING AND SECURITY

Sec. 11. GENERAL FUND — SENIOR FARMERS' MARKET NUTRITION PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of administering a senior farmers' market nutrition program, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 75,000

Sec. 12. EMERGENCY VETERINARIAN RAPID RESPONSE SERVICES PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting veterinary emergency preparedness and response services necessary to prevent or control a serious threat to the public health, public safety, or the state's economy caused by the transmission of disease among livestock or agricultural animals, including as provided in section 163.3A:

. . . . . $ 130,000

Sec. 13. ORGANIC AGRICULTURAL PRODUCTS. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department's regulation and promotion of organic agricultural products as provided in chapter 190C, including salaries, support, maintenance, miscellaneous purposes:

. . . . . $ 50,000

Sec. 14. FARM-TO-SCHOOL PROGRAM. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the farm-to-school program created in chapter 190A to encourage and promote the purchase of locally and regionally produced or processed food in order to improve child nutrition and strengthen local and regional farm economies:

. . . . . $ 80,000

Sec. 15. GRAPE AND WINE DEVELOPMENT FUND. There is appropriated from the general fund of the state to the grape and wine development fund created in section 175A.5 for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For carrying out the purposes of the fund:

. . . . . $ 280,000

DESIGNATED APPROPRIATIONS — MOTOR FUEL

Sec. 16. MOTOR FUEL INSPECTION. There is appropriated from the renewable fuel infrastructure fund created in section 15G.205 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of the inspection of motor fuel, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 300,000

The department shall establish and administer programs for the auditing of motor fuel including biofuel processing and production plants, for screening and testing motor fuel, including renewable fuel, and for the inspection of motor fuel sold by dealers including retail dealers who sell and dispense motor fuel from motor fuel pumps.

DIVISION II
DEPARTMENT OF NATURAL RESOURCES
GENERAL APPROPRIATIONS

Sec. 17. GENERAL FUND — DEPARTMENT. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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, regulation, and programs; for salaries, support, maintenance, and miscellaneous purposes; and for not more than the following full-time equivalent positions:

. . . . . $ 19,994,822
. . . . . FTEs 1,169.95

Sec. 18. STATE FISH AND GAME PROTECTION FUND — 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the division of fish and wildlife, including for administration, regulation, and programs; and for salaries, support, maintenance, equipment, and miscellaneous purposes:

. . . . . $ 37,626,733

b. Notwithstanding section 455A.10, the department may use the unappropriated balance remaining in the state fish and game protection fund to provide for the funding of health and life insurance premium payments from unused sick leave balances of 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 state 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 services agency and the chairpersons and ranking members of the joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 19. GROUNDWATER PROTECTION FUND — WATER QUALITY. There is appropriated from the groundwater protection fund created in section 455E.11 to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, from those moneys which are not allocated pursuant to that section, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the department's protection of the state's groundwater, includ-

ing for administration, regulation, and programs, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

. . . . . $ 3,455,832

Sec. 20. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT FUND. There is appropriated from the national pollutant discharge elimination system permit fund created in section 455B.196 to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of expediting the department's processing of national pollutant discharge elimination system applications and the issuance of permits, including salaries, support, maintenance, and miscellaneous purposes:

. . . . . $ 700,000

DESIGNATED APPROPRIATIONS — MISCELLANEOUS

Sec. 21. SPECIAL SNOWMOBILE FUND — SNOWMOBILE PROGRAM. There is transferred on July 1, 2008, from the fees required to be deposited in the special snowmobile fund 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of administering and enforcing the state snowmobile program:

. . . . . $ 100,000

Sec. 22. UNASSIGNED REVENUE FUND — UNDERGROUND STORAGE TANK SECTION EXPENSES. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of paying for administration expenses of the department's underground storage tank section:

. . . . . $ 200,000

Sec. 23. UNASSIGNED REVENUE FUND — FUNDING RESTORATION. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To be credited to and used for snowmobile programs as provided for the special snowmobile fund created under section 321G.7, in order to restore funding transferred pursuant to 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 10:

. . . . . $ 950,000

2. To be credited to and used for all-terrain vehicle programs as provided for the special all-terrain vehicle fund created under section 321I.8, in order to restore funding transferred pursuant to 2002 Iowa Acts, Second Extraordinary Session, chapter 1001, section 11:

. . . . . $ 775,000

Sec. 24. STORM WATER DISCHARGE PERMIT FEES — SUPPORT FOR SPECIAL PURPOSES. Notwithstanding any contrary provision of state law, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the department of natural resources may use additional moneys available to the department collected from storm water discharge permit fees as provided in section 455B.103A or 455B.197 for the staffing of the following additional full-time equivalent positions for the purposes designated:

1. For purposes of reducing the department's floodplain permit backlog:

. . . . . FTEs 2.00

2. For purposes of implementing the federal total maximum daily load program:
..... FTEs 2.00

DIVISION III
IOWA STATE UNIVERSITY

Sec. 25. AGRICHEMICAL REMEDIATION FUND — OPEN FEEDLOT WATER QUALITY RESEARCH PROJECT. There is appropriated from the agrichemical remediation fund created in section 161.7 to Iowa state university of science and technology for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting a water quality research project which studies the effectiveness of alternative technologies used to reduce risks to water quality from effluent originating from open feedlots which house beef cattle:
..... $ 50,000

In conducting the project, Iowa state university of science and technology shall cooperate with the Iowa cattlemen's association, the department of natural resources, the department of agriculture and land stewardship, and the United States department of agriculture natural resource conservation service.

Sec. 26. VETERINARY DIAGNOSTIC LABORATORY.

1. There is appropriated from the general fund of the state to Iowa state university of science and technology for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory and for not more than the following full-time equivalent positions:
..... $ 2,068,706
..... FTEs 17.79

2. Iowa state university of science and technology shall not reduce the amount that it allocates to support the college of veterinary medicine from any other source due to the appropriation made in this section.

3. If by the end of the fiscal year, Iowa state university of science and technology fails to allocate the moneys appropriated in this section to the college of veterinary medicine in accordance with this section, the moneys appropriated in this section for that fiscal year shall revert to the general fund of the state.

Sec. 27. VETERINARY DIAGNOSTIC LABORATORY — FUTURE YEAR. It is the intent of the general assembly that a future general assembly appropriate moneys to Iowa state university of science and technology for the designated fiscal year, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting the college of veterinary medicine for the operation of the veterinary diagnostic laboratory:
FY 2009-2010 ..... $ 4,000,000

DIVISION IV
ENVIRONMENT FIRST FUND — GENERAL APPROPRIATIONS

Sec. 28. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. There is appropriated from the environment first fund created in section 8.57A to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. CONSERVATION RESERVE ENHANCEMENT PROGRAM (CREP)

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

b. Not more than 8 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

2. WATERSHED PROTECTION

a. For continuation of a program that provides multiobjective resource protections for flood control, water quality, erosion control, and natural resource conservation:

. . . . . $ 2,550,000

b. Not more than 8 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

3. FARM MANAGEMENT DEMONSTRATION PROGRAM

a. 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

b. Not more than 8 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

c. Of the amount appropriated in paragraph "a", $400,000 shall be allocated to the Iowa soybean association's agriculture and environment performance program.

4. AGRICULTURE DRAINAGE WELL WATER QUALITY ASSISTANCE FUND

a. For deposit in the agricultural drainage well water quality assistance fund created in section 460.303 to be used for purposes of supporting the agricultural drainage well water quality assistance program as provided in section 460.304:

. . . . . $ 1,500,000

b. Not more than 8 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

5. SOIL AND WATER CONSERVATION PRACTICES

a. For use by the soil conservation division, to provide financial assistance for the establishment of permanent soil and water conservation practices:

. . . . . $ 7,000,000

b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be allocated for cost sharing to abate complaints filed under section 161A.47.

c. Of the moneys appropriated in paragraph "a", 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.

d. Not more than 30 percent of a soil and water conservation 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.

e. The state soil conservation committee created in section 161A.4 may allocate moneys appropriated in paragraph "a" to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

f. The allocation of moneys as financial incentives as provided in section 161A.73 may be used in combination with moneys allocated by the department of natural resources.

g. Not more than 10 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

6. CONSERVATION RESERVE PROGRAM (CRP)

a. To encourage and assist farmers in enrolling in and the implementation of the federal conservation program and to work with them to enhance their revegetation efforts to improve water quality and habitat:

. . . . . $ 1,500,000

b. Not more than 8 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

7. LOESS HILLS DEVELOPMENT AND CONSERVATION FUND

a. For deposit in the loess hills development and conservation fund created in section 161D.2:

. . . . . $ 600,000

b. (1) Of the amount appropriated in paragraph "a", $400,000 shall be allocated to the fund's hungry canyons account.

(2) Not more than 10 percent of the moneys allocated to the hungry canyons account as provided in subparagraph (1) may be used for administrative costs.

c. (1) Of the amount appropriated in paragraph "a", $200,000 shall be allocated to the fund's loess hills alliance account.

(2) Not more than 10 percent of the moneys allocated to the loess hills alliance account as provided in subparagraph (1) may be used for administrative costs.

8. SOUTHERN IOWA DEVELOPMENT AND CONSERVATION FUND

a. For deposit in the southern Iowa development and conservation fund created in section 161D.12:

. . . . . $ 300,000

b. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for administrative costs.

Sec. 29. DEPARTMENT OF ECONOMIC DEVELOPMENT. There is appropriated from the environment first fund created in section 8.57A to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the brownfield redevelopment fund created in section 15.293 to provide financial and technical assistance under the brownfield redevelopment program as provided in section 15.292:

. . . . . $ 500,000

Sec. 30. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from the environment first fund created in section 8.57A to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. KEEPERS OF THE LAND

For statewide coordination of volunteer efforts under the water quality and keepers of the land programs:

. . . . . $ 100,000

2. STATE PARKS MAINTENANCE AND OPERATIONS

For regular maintenance of state parks and staff time associated with these activities:

. . . . . $ 2,470,000

3. GEOGRAPHIC INFORMATION SYSTEM (GIS)

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

4. WATER QUALITY MONITORING

For continuing the establishment and operation of water quality monitoring stations:

. . . . . $ 2,955,000

5. PUBLIC WATER SUPPLY SYSTEM ACCOUNT

For deposit in the public water supply system account of the water quality protection fund created in section 455B.183A:

. . . . . $ 500,000

6. REGULATION OF ANIMAL FEEDING OPERATIONS

For the regulation of animal feeding operations, including as provided for in chapters 459 and 459A:

. . . . . $ 360,000

7. AMBIENT AIR QUALITY

For the abatement, control, and prevention of ambient air pollution in this state, including measures as necessary to assure attainment and maintenance of ambient air quality standards from particulate matter:

. . . . . $ 325,000

8. WATER QUANTITY REGULATION

For regulating water quantity from surface and subsurface sources by providing for the allocation and use of water resources, the protection and management of water resources, and the preclusion of conflicts among users of water resources, including as provided in chapter 455B, division III, part 4:

. . . . . $ 495,000

9. RESOURCE CONSERVATION AND DEVELOPMENT (RCD)

a. For resource conservation and development associated with the development of projects relating to natural resource-based business opportunities:

. . . . . $ 250,000

b. Local resource conservation and development groups sponsored by county governments or sponsored by soil and water conservation districts shall be eligible to receive moneys appropriated in paragraph "a" on the condition that such groups receive the moneys on a dollar-for-dollar matching basis.

c. Not more than 5 percent of the moneys appropriated in paragraph "a" may be used for the costs of implementing and administering this subsection.

10. IOWA CLIMATE CHANGE ADVISORY COUNCIL

For support of the Iowa climate change advisory council established in section 455B.851:

. . . . . $ 50,000

Sec. 31. REVERSION.

1. Except as provided in subsection 2, and notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2008, in this division of this Act that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for the purposes designated until the close of the fiscal year beginning July 1, 2009, or until the project for which the appropriation was made is completed, whichever is earlier.

2. Notwithstanding section 8.33, moneys appropriated in this division of this Act to the department of agriculture and land stewardship 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 beginning July 1, 2011.

DIVISION V
ENVIRONMENT FIRST FUND — RESOURCE ENHANCEMENT AND PROTECTION

Sec. 32. IOWA RESOURCES ENHANCEMENT AND PROTECTION FUND. Notwithstanding the amount of the standing appropriation from the general fund of the state to the Iowa resources enhancement and protection fund as provided in section 455A.18, there is appropriated from the environment first fund created in section 8.57A 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, 2008, and ending June 30, 2009, the following amount, to be allocated as provided in section 455A.19:

. . . . . $ 16,000,000

DIVISION VI
CODE PROVISIONS

Sec. 33. Section 466A.3, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. A voting member other than a representative of a state agency shall be compensated as provided in section 7E.6 and is allowed actual and necessary expens-

es incurred in the performance of their duties. The moneys used to pay for compensation and expenses shall be paid from available interest or earnings on moneys in the fund.

Approved May 13, 2008

CHAPTER 1190

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 2699

AN ACT relating to and making appropriations to the department of cultural affairs, the department of economic development, certain board of regents institutions, the department of workforce development, and the public employment relations board, and related matters and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. DEPARTMENT OF CULTURAL AFFAIRS. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 255,418
..... FTEs 2.35

The department of cultural affairs shall coordinate activities with the tourism office 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:

..... $ 299,240

3. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,763,782
..... FTEs 58.08

From the moneys appropriated under this subsection, the department shall use $50,000 for purposes of planning commemoration activities for the sesquicentennial anniversary of the civil war and Iowa's participation in the civil war. Such activities may include activities in Iowa, activities through partnerships with other states, and activities on a national level.

4. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 576,395
..... FTEs 8.25

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:
..... $ 1,246,392
..... FTEs 11.12
6. GREAT PLACES
For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 322,231
..... FTEs 3.00
7. ARCHIVE IOWA GOVERNORS' RECORDS
For archiving the records of Iowa governors and for not more than the following full-time equivalent positions:
..... $ 82,171
..... FTEs 0.97
8. RECORDS CENTER RENT
For payment of rent for the state records center:
..... $ 241,068
9. IOWA CULTURAL CAUCUS
For administration of the Iowa cultural caucus:
..... $ 20,000

Sec. 2. GOALS AND ACCOUNTABILITY — ECONOMIC DEVELOPMENT.
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.

Sec. 3. SUSTAINABLE COMMUNITY DEVELOPMENT — APPROPRIATION. There is appropriated from any interest or earnings on moneys in the grow Iowa values fund to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:
For the administration of a sustainable community development initiative:
..... $ 500,000
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.

Sec. 4. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:
1. ADMINISTRATION DIVISION
a. General administration
For salaries, support, maintenance, miscellaneous purposes, and programs; for transfer to the Iowa state commission grant program; and for not more than the following full-time equivalent positions:
..... $ 2,175,661
..... FTEs 28.75

From the money appropriated under this subsection, the department shall use $50,000 for administration of the generation Iowa commission.

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 administration division shall coordinate with other state agencies to ensure 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, the film office, international trade, export assistance, workforce recruitment, and the partner state program; for transfer to the strategic investment fund; for transfer to the value-added agricultural products and processes financial assistance fund; for salaries, support, maintenance, miscellaneous purposes; and for not more than the following full-time equivalent positions:

..... $ 6,611,963
..... FTEs 62.00

The department shall utilize 1.00 of the full-time equivalent positions authorized under this subsection for marketing and compliance activities of the targeted small business program.

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. A business creating jobs with economic development assistance through moneys appropriated in this subsection shall be subject to contract provisions stating that new and retained jobs shall be filled by individuals who are citizens of the United States who reside within the United States or any person authorized to work in the United States pursuant to federal law, including legal resident aliens in the United States. Any vendor who receives such public moneys shall adhere to such contract provisions and provide periodic assurances as the state shall require that the jobs are filled solely by citizens of the United States who reside within the United States or any person authorized to work in the United States pursuant to federal law, including legal resident aliens in the United States.

d. From the moneys appropriated in this subsection, the department may provide financial assistance in the form of a grant to a community economic development entity for conducting a local workforce recruitment effort designed to recruit former citizens of the state and former students at colleges and universities in the state to meet the needs of local employers.

e. From the moneys appropriated in this subsection, the department may provide financial assistance to early-stage industry companies being established by women entrepreneurs.

f. From the moneys appropriated in this subsection, the department may provide financial assistance in the form of grants, loans, or forgivable loans for advanced research and commercialization projects involving value-added agriculture, advanced technology, or biotechnology.

g. 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.

3. COMMUNITY DEVELOPMENT DIVISION

a. Community development programs

For salaries, support, maintenance, miscellaneous purposes, community economic development programs, tourism operations, community assistance, plans for Iowa green corps and summer youth programs, 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:

..... $ 6,448,716
..... FTEs 58.26

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 appropriated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any fund but shall remain available for expenditure for the designated purposes during the succeeding fiscal year.[1]

4. For allocating moneys for the world food prize:
..... $ 1,000,000

5. For use as matching funds for the United States department of housing and urban development's main street challenge grants for historic building preservation:
..... $ 200,000

Sec. 5. 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 2.25 full-time equivalent positions above those otherwise authorized in this Act.

Sec. 6. COUNCILS OF GOVERNMENTS.

1. There is appropriated from loan repayments on loans made 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, 2008, and ending June 30, 2009, any funds available in the rural community 2000 fund.

2. There is appropriated from any interest or earning on moneys in the grow Iowa values fund created in section 15G.108 to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of:
..... $ 160,000

3. Moneys appropriated under subsections 1 and 2 of this section shall be used for providing financial assistance to Iowa's councils of governments that provide technical and planning assistance to local governments.

Sec. 7. INSURANCE ECONOMIC DEVELOPMENT. From the moneys collected by the division of insurance in excess of the anticipated gross revenues under section 505.7, subsection 3, during the fiscal year beginning July 1, 2008, $100,000 shall be transferred to the department of economic development for insurance economic development and international insurance economic development.

Sec. 8. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsection 5, there is appropriated from the Iowa community development loan fund all the moneys available during the fiscal year beginning July 1, 2008, and ending June 30, 2009, to the department of economic development for the community development program to be used by the department for the purposes of the program.

Sec. 9. 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, 2008, and ending June 30, 2009, 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

[1] See chapter 1191, §89 herein

Sec. 10. 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, 2008, and ending June 30, 2009, 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. 11. JOB TRAINING FUND. Notwithstanding section 15.251, all remaining moneys in the job training fund on July 1, 2008, and any moneys appropriated or credited to the fund during the fiscal year beginning July 1, 2008, shall be transferred to the workforce development fund established pursuant to section 15.343.

Sec. 12. IOWA STATE UNIVERSITY.

1. There is appropriated from the general fund of the state to Iowa state university of science and technology for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for small business development centers, the science and technology research park, and the institute for physical research and technology, and for not more than the following full-time equivalent positions:

..... $ 2,949,625
..... FTEs 56.63

2. Of the moneys appropriated in subsection 1, Iowa state university of science and technology shall allocate at least $1,060,000 for purposes of funding small business development centers. Iowa state university of science and technology may allocate moneys appropriated in subsection 1 to the various small business development centers in any manner necessary to achieve the purposes of this subsection.

3. 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. Provide emphasis to providing services to Iowa-based companies.

4. 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 be allocated only 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 services agency 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. 13. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the state 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:

	$	259,206
	FTEs	6.00

2. The state university of Iowa shall do all of the following:

a. Direct expenditures for research toward projects that will provide economic stimulus for Iowa.

b. 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. 14. 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, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the metal casting institute, for the MyEntreNet internet application, and for the institute of decision making, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	578,608
	FTEs	6.75

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. 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. 15. BOARD OF REGENTS REPORT. The state 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 services agency by January 15, 2009.

Sec. 16. DEPARTMENT OF WORKFORCE DEVELOPMENT. There is appropriated from the general fund of the state to the department of workforce development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	3,849,581
	FTEs	68.15

From the contractor registration fees, the division of labor services shall reimburse the department of inspections and appeals for all costs associated with hearings under chapter 91C, relating to contractor registration.

2. DIVISION OF WORKERS' COMPENSATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	2,885,774
	FTEs	30.00

The division of workers' compensation shall continue charging a $65 filing fee for workers' compensation cases. The filing fee shall be paid by the petitioner of a claim. However, the fee

can be taxed as a cost and paid by the losing party, except in cases where it would impose an undue hardship or be unjust under the circumstances. The moneys generated by the filing fee allowed under this subsection are appropriated to the department of workforce development to be used for purposes of administering the division of workers' compensation.

3. WORKFORCE DEVELOPMENT OPERATIONS

For the operation of field offices, the workforce development board, and new Iowans centers, and for not more than the following full-time equivalent positions:

..... $ 12,403,106
..... FTEs 88.04

Of the moneys appropriated in this subsection, the department shall allocate $12,225,928 for the operation of field offices. The department shall not reduce the number of field offices below the number of field offices being operated as of January 1, 2008.

The department of workforce development shall maintain new Iowans centers that offer one-stop services to deal with the multiple issues related to immigration and employment. The centers shall be designed to support workers, businesses, and communities with information, referrals, job placement assistance, translation, language training, and 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 centers shall seek to provide a seamless service delivery system for new Iowans.

4. INTEGRATED BASIC EDUCATION AND SKILLS TRAINING (I-BEST)

For purposes of conducting integrated basic education and skills training demonstration projects with eligible community colleges to bring English as a second language and adult basic education instructors together with professional-technical instructors in the same classroom to provide students with contextualized remediation and English language services and occupational training at the same time, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent position:

..... $ 500,000
..... FTEs 1.00

The full-time equivalent position authorized in this subsection is allocated for purposes of employing one coordinator who, with the support of the department of education and other interested agencies, awards grants to five of Iowa's eligible community colleges in approved programs in career tracks that assist in solving the workforce shortage.[2]

5. OFFENDER REENTRY PROGRAM

For the development and administration of an offender reentry program to provide offenders with employment skills, and for not more than the following full-time equivalent positions:

..... $ 375,000
..... FTEs 2.00

The department shall partner with the department of corrections to provide staff within the correctional facilities to improve offenders' abilities to find and retain productive employment.

6. For purposes of administration of a security employee pilot project training program, if enacted by the 2008 session of the eighty-second general assembly:[3]

..... $ 15,000

7. NONREVERSION OF MONEYS

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. 17. ACCOUNTABILITY — AUDIT.

1. By January 15, 2009, the department of workforce development shall submit a written report to the chairpersons and ranking members of the joint appropriations subcommittee on economic development which shall include a list of contracts held by the department and accountability measures in effect for each contract.

2. The auditor of state shall annually conduct an audit of the department of workforce devel-

[2] See chapter 1191, §90 herein
[3] Chapter 1166, §2 herein

opment and shall report the findings of such annual audit, including the accountability of programs of the department, to the chairpersons and ranking members of the joint appropriations subcommittee on economic development. The department shall pay for the costs associated with the audit.

3. The legislative services agency shall conduct an annual review of salaries paid to employees of entities organized under chapter 28E and salaries paid under a contract with the department of workforce development. The legislative services agency shall report its findings to the chairpersons and ranking members of the joint appropriations subcommittee on economic development.

4. The department of management shall work with the department of workforce development to accurately reflect the number of employees within the department of workforce development funded by state and federal sources. The department of management shall issue a report to the joint appropriations subcommittee on economic development regarding such employees and identifying the relative sources of funding by January 15, 2009.

Sec. 18. 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, 2008, and ending June 30, 2009, the following amounts, or so much thereof as is necessary, for the purposes designated:

For the division of workers' compensation, salaries, support, maintenance, and miscellaneous purposes:

..... $ 471,000

Any remaining additional penalty and interest revenue may be allocated and used to accomplish the mission of the department.

Sec. 19. UNEMPLOYMENT COMPENSATION RESERVE FUND. Notwithstanding section 96.9, subsection 8, paragraph "e", there is appropriated from interest earned on the unemployment compensation reserve fund to the department of workforce development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount for the operation of field offices:

..... $ 6,500,000

Sec. 20. 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, 2008, and ending June 30, 2009, 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:

..... $ 1,233,283
..... FTEs 11.00

Sec. 21. 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 the value-added agricultural products and processes financial assistance fund for deposit in the renewable fuels and coproducts fund created in section 159A.7.

Sec. 22. 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.

Sec. 23. APPLICATION FOR DEPARTMENT OF ECONOMIC DEVELOPMENT MONEYS. For the fiscal year beginning July 1, 2008, 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, 2008,

may apply to the department for assistance through the appropriate program. The department shall provide application criteria necessary to implement this section.

Sec. 24. SHELTER ASSISTANCE FUND. In providing moneys from the shelter assistance fund to homeless shelter programs in the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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. 25. 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, 2008.

Sec. 26. 2007 Iowa Acts, chapter 207, section 13, subsection 3, is amended to read as follows:

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 beginning July 1, 2008.

Sec. 27. 2007 Iowa Acts, chapter 207, section 14, unnumbered paragraph 3, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the ~~succeeding~~ fiscal year beginning July 1, 2008.

Sec. 28. 2007 Iowa Acts, chapter 207, section 15, subsection 4, is amended to read as follows:

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 beginning July 1, 2008.

Sec. 29. 2007 Iowa Acts, chapter 207, section 16, unnumbered paragraph 4, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the ~~succeeding~~ fiscal year beginning July 1, 2008.

Sec. 30. WORKFORCE INNOVATION PLAN.

1. The Iowa workforce development board shall develop, in cooperation and consultation with the association of Iowa workforce partners and the employers council of Iowa, a statewide workforce innovation plan by January 1, 2009. The board may consult other state agencies or organizations as necessary. The plan shall be submitted to the general assembly and the governor by January 15, 2009.

2. The statewide workforce innovation plan shall include all of the following:

a. Recommendations for coordinating the workforce delivery system in a more efficient, cost-effective manner while improving services for customers.

b. Recommendations regarding the collocation and integration of all workforce and job training programs.

c. Recommendations for improving the effectiveness of the regional workforce system.

3. As part of the plan, the department of workforce development shall set a goal of having at least one certified one-stop center in each of the fifteen workforce regions by the year 2012.

Sec. 31. Section 15.109, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Establish a sustainable community development initiative. The purpose of the initiative is to improve the sustainability of Iowa communities by ensuring long-term economic growth and fostering environmentally conscious growth and development. In establishing the initiative, the department shall:

a. Create a plan to ensure that all of the department's current community growth and development programs, efforts, and initiatives incorporate an environmentally conscious approach and policies that promote sustainability.

b. Cooperate with local governments by providing information, technical assistance, and financial incentives to communities pursuing sustainable growth.

Sec. 32. EFFECTIVE DATE. The sections of this Act amending 2007 Iowa Acts, chapter 207, sections 13, 14, 15, and 16, being deemed of immediate importance, take effect upon enactment.

Approved May 13, 2008

CHAPTER 1191

STATE AND LOCAL GOVERNMENT
FINANCIAL AND REGULATORY MATTERS —
APPROPRIATIONS AND MISCELLANEOUS CHANGES

H.F. 2700

AN ACT relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing and reducing appropriations, providing for salaries and compensation of state employees, providing for matters relating to tax credits, providing for fees and penalties, and providing for properly related matters, and including effective and retroactive applicability date provisions.

Be It Enacted by the General Assembly of the State of Iowa:

DIVISION I
MH/MR/DD SERVICES ALLOWED GROWTH FUNDING — FY 2009-2010

Section 1. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES ALLOWED GROWTH APPROPRIATION AND ALLOCATIONS — FISCAL YEAR 2009-2010.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2009, and ending June 30, 2010, 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 for fiscal year 2009-2010:

. . . . . $ 69,949,069

2. The amount appropriated in this section shall be allocated as provided in a later enactment of the general assembly.

DIVISION II
STANDING APPROPRIATIONS
AND RELATED MATTERS

Sec. 2. BUDGET PROCESS FOR FISCAL YEAR 2009-2010.

1. For the budget process applicable to the fiscal year beginning July 1, 2009, on or before October 1, 2008, in lieu of the information specified in section 8.23, subsection 1, unnumbered paragraph 1, and paragraph "a", all departments and establishments of the government shall transmit to the director of the department of management, on blanks to be furnished by the director, estimates of their expenditure requirements, including every proposed expenditure, for the ensuing fiscal year, together with supporting data and explanations as called for by the director of the department of management after consultation with the legislative services agency.

2. The estimates of expenditure requirements shall be in a form specified by the director of the department of management, and the expenditure requirements shall include all proposed expenditures and shall be prioritized by program or the results to be achieved. The estimates shall be accompanied by performance measures for evaluating the effectiveness of the programs or results.

Sec. 3. 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, 2008, and ending June 30, 2009, are reduced by the following amount:

..... $ 1,400,261

Sec. 4. LIMITATION OF STANDING APPROPRIATIONS. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the amounts appropriated from the general fund of the state pursuant to these sections for the following designated purposes shall not exceed the following amounts:

1. For instructional support state aid under section 257.20:

..... $ 14,428,271

If the total amount of instructional support state aid appropriated in accordance with this subsection is insufficient to pay the amount of instructional support state aid to a district as determined under section 257.20, the department of education shall prorate the amount of the instructional support state aid provided to each district.

2. For payment for nonpublic school transportation under section 285.2:

..... $ 8,604,714

If total approved claims for reimbursement for nonpublic school pupil transportation exceed the amount appropriated in accordance with this subsection, the department of education shall prorate the amount of each approved claim.

3. For the educational excellence program under section 294A.25, subsection 1:

..... $ 55,469,053

4. For the state's share of the cost of the peace officers' retirement benefits under section 411.20:

..... $ 2,745,784

Sec. 5. PROPERTY TAX CREDIT FUND — PAYMENTS IN LIEU OF GENERAL FUND REIMBURSEMENT.

1. a. Notwithstanding section 8.57, prior to the appropriation and distribution to the senior living trust fund and the cash reserve fund of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2007, and ending June 30, 2008, pursuant to section 8.57, subsections 1 and 2, of that surplus, $99,849,544 is appropriated to the

property tax credit fund which shall be created in the office of the treasurer of state to be used for the purposes of this section.

b. Notwithstanding any provision in section 8.57 to the contrary in determining the amount of the appropriation to the senior living trust fund pursuant to section 8.57, subsection 2, paragraph "a", the following shall apply:

(1) The surplus for the fiscal year beginning July 1, 2007, shall not include the amount appropriated to the property tax credit fund pursuant to paragraph "a" of this subsection.

(2) The remaining surplus after the operation of subparagraph (1) shall be appropriated to the cash reserve fund prior to any appropriation to the senior living trust fund.

c. There is appropriated from the general fund of the state to the property tax credit fund created in paragraph "a" for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of $44,400,000.

d. There is transferred from the surplus existing in the salary adjustment fund at the conclusion of the fiscal year beginning July 1, 2007, and ending June 30, 2008, to the property tax credit fund created in paragraph "a", the sum of $13,937,263.

e. Notwithstanding section 8.33, the surplus existing in the property tax credit fund created pursuant to 2007 Iowa Acts, chapter 215, section 5, at the conclusion of the fiscal year beginning July 1, 2007, and ending June 30, 2008, is transferred to the property tax credit fund created in this section.

2. Notwithstanding the amount of the standing appropriation from the general fund of the state in the following designated sections and notwithstanding any conflicting provisions or voting requirements of section 8.56, there is appropriated from the property tax credit fund in lieu of the appropriations in the following designated sections for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amounts for the following designated purposes:

a. For reimbursement for the homestead property tax credit under section 425.1:
..... $ 99,254,781

b. For reimbursement for the agricultural land and family farm tax credits under sections 425A.1 and 426.1:
..... $ 34,610,183

c. For reimbursement for the military service tax credit under section 426A.1A:
..... $ 2,800,000

d. For implementing the elderly and disabled tax credit and reimbursement pursuant to sections 425.16 through 425.40:
..... $ 23,204,000

If the director of revenue determines that the amount of claims for credit for property taxes due pursuant to paragraphs "a", "b", "c", and "d" plus the amount of claims for reimbursement for rent constituting property taxes paid which are to be paid during the fiscal year may exceed the total amount appropriated, the director shall estimate the percentage of the credits and reimbursements which will be funded by the appropriation. The county treasurer shall notify the director of the amount of property tax credits claimed by June 8, 2008. The director shall estimate the percentage of the property tax credits and rent reimbursement claims that will be funded by the appropriation and notify the county treasurer of the percentage estimate by June 15, 2008. The estimated percentage shall be used in computing for each claim the amount of property tax credit and reimbursement for rent constituting property taxes paid for that fiscal year. If the director overestimates the percentage of funding, claims for reimbursement for rent constituting property taxes paid shall be paid until they can no longer be paid at the estimated percentage of funding. Rent reimbursement claims filed after that point in time shall receive priority and shall be paid in the following fiscal year.

3. Notwithstanding any other provision, if the Eighty-second General Assembly, 2008 Session, enacts legislation that also provides for the appropriation of the surplus or any part of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2007, and ending June 30, 2008, the moneys appropriated from such surplus pursuant to subsection 1 shall have priority over all other such appropriations.

4. Notwithstanding the amount of the standing appropriations from the general fund of the state from the designated sections listed in subsection 2, unless otherwise provided by law, for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the amounts of such standing appropriations shall be the same as provided in subsection 2.

Sec. 6. CASH RESERVE APPROPRIATION FOR FY 2008-2009. For the fiscal year beginning July 1, 2008, and ending June 30, 2009, the appropriation to the cash reserve fund provided in section 8.57, subsection 1, paragraph "a", shall not be made.

Sec. 7. APRIL 4, 2008, REVENUE ESTIMATE. For use by the general assembly in the budget process and the governor's approval or disapproval of the appropriations bills for the fiscal year beginning July 1, 2008, and for purposes of calculating the state general fund expenditure limitation pursuant to section 8.54 for the fiscal year beginning July 1, 2008, the revenue estimate for the fiscal year beginning July 1, 2008, that shall be used in the budget process and such calculation shall be the revenue estimate determined by the revenue estimating conference on April 4, 2008, notwithstanding the provision in section 8.22A, subsection 3, that disallows the use of a revenue estimate agreed to at a later meeting that projects a greater amount than the initial estimated amount agreed to in December 2007. This section also authorizes the use of the estimated revenue figures for the purposes or sources designated in section 8.22A, subsection 5.

Sec. 8. Section 257.35, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Notwithstanding subsection 1, and in addition to the reduction applicable pursuant to subsection 2, the state aid for area education agencies and the portion of the combined district cost calculated for these agencies for the fiscal year beginning July 1, 2008, shall be reduced by the department of management by two million five hundred thousand dollars. The reduction for each area education agency shall be prorated based on the reduction that the agency received in the fiscal year beginning July 1, 2003.

Sec. 9. AREA EDUCATION AGENCY PAYMENTS. It is the intent of the general assembly that for the fiscal year beginning July 1, 2009, and subsequent fiscal years there shall be no additional reduction in state aid to area education agencies and the combined district cost calculated for those agencies over the reduction applicable pursuant to section 257.35, subsection 2.

Sec. 10. EFFECTIVE AND APPLICABILITY DATES.

1. The section of this division of this Act creating the property tax credit fund, being deemed of immediate importance, takes effect upon enactment.

2. The section of this division of this Act relating to the use of the April 4, 2008, revenue estimate, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 14, 2008.

DIVISION III
SALARIES, COMPENSATION, AND RELATED MATTERS

Sec. 11. STATE COURT — JUSTICES, JUDGES, AND MAGISTRATES.

1. The salary rates specified in subsection 2 are for the fiscal year beginning July 1, 2008, effective for the pay period beginning June 27, 2008, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds allocated to the judicial branch from the salary adjustment fund or if the allocation is not sufficient, from funds appropriated to the judicial branch pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial posi-

tions indicated during the fiscal year beginning July 1, 2008, effective with the pay period beginning June 27, 2008, and for subsequent pay periods.

a. Chief justice of the supreme court:
..... $ 170,850

b. Each justice of the supreme court:
..... $ 163,200

c. Chief judge of the court of appeals:
..... $ 153,000

d. Each associate judge of the court of appeals:
..... $ 147,900

e. Each chief judge of a judicial district:
..... $ 142,800

f. Each district judge except the chief judge of a judicial district:
..... $ 137,700

g. Each district associate judge:
..... $ 122,400

h. Each associate juvenile judge:
..... $ 122,400

i. Each associate probate judge:
..... $ 122,400

j. Each judicial magistrate:
..... $ 37,740

k. Each senior judge:
..... $ 8,160

3. Persons receiving the salary rates established under this section shall not receive any additional salary adjustments provided by this division of this Act.

*Sec. 12. *ELECTIVE EXECUTIVE OFFICIALS.*

1. The annual salary rates specified in this section are effective for the fiscal year beginning July 1, 2008, with the pay period beginning June 27, 2008, and for subsequent fiscal years until otherwise provided by the general assembly.

The salaries provided for in this section shall be paid from funds allocated to the office, department, or agency of the elected official specified in subsections 2, 3, and 4 from the salary adjustment fund, if the allocation is not sufficient, from funds appropriated to the office, department, or agency.

2. The annual salary rates paid to the person holding the following elected offices shall be equal to 82.65 percent of the maximum of range 7 of the salary ranges specified in this division of this Act for appointed state officers, rounded to the nearest $10: secretary of agriculture, auditor of state, secretary of state, treasurer of state, and lieutenant governor.

3. The annual salary rate paid to the attorney general shall be equal to 89 percent of the maximum of range 7 of the salary ranges specified in this division of this Act for appointed state officers, rounded to the nearest $10.

*4. The annual salary rate paid to the governor shall be equal to 92.4 percent of the maximum of range 7 of the salary ranges specified in this division of this Act for appointed state officers, rounded to the nearest $10.**

Sec. 13. APPOINTED STATE OFFICERS. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position enumerated in the section of this division of this Act that addresses the salary ranges of state officers within the range provided, by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the supreme court shall establish the salary for the state court administrator, the ethics and campaign disclosure board shall estab-

* Item veto; see message at end of the Act

lish the salary of the executive director, and the Iowa public broadcasting board shall establish the salary of the administrator of the public broadcasting division of the department of education, each within the salary range provided in the section of this division of this Act that addresses the salary ranges of state officers.

The governor, in establishing salaries as provided in the section of this division of this Act that addresses the salary ranges of state officers, shall take into consideration other employee benefits which may be provided for an individual including but not limited to housing.

A person whose salary is established pursuant to the section of this division of this Act that addresses the salary ranges of state officers and who is a full-time, year-round employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 14. STATE OFFICERS — SALARY RANGE. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 2008, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in the section of this division of this Act relating to appointed state officers shall determine the salary to be paid to the person indicated at a rate within this salary range from funds appropriated by the general assembly for that purpose.

1. The following are salary ranges for appointed state officers for the fiscal year beginning July 1, 2008, effective with the pay period beginning June 27, 2008:

SALARY RANGE	Minimum	Maximum
a. Range 2	$ 48,160	$ 73,700
b. Range 3	$ 55,380	$ 84,750
c. Range 4	$ 63,690	$ 97,460
d. Range 5	$ 73,250	$112,070
e. Range 6	$ 84,240	$128,890
f. Range 7	$100,840	$154,300

2. The following are range 2 positions: administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division on the status of Iowans of Asian and Pacific Islander heritage, the division on the status of African-Americans, the division of deaf services, and the division of Latino affairs of the department of human rights.

3. The following are range 3 positions: administrator of the division of criminal and juvenile justice planning of the department of human rights, administrator of the division of community action agencies of the department of human rights, executive director of the department of veterans affairs, and chairperson and members of the employment appeal board of the department of inspections and appeals.

4. The following are range 4 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, executive director of the ethics and campaign disclosure board, members of the public employment relations board, and chairperson, vice chairperson, and members of the board of parole.

5. The following are range 5 positions: administrator of the division of homeland security and emergency management of the department of public defense, state public defender, drug policy coordinator, labor commissioner, workers' compensation commissioner, director of the department of cultural affairs, director of the department of elder affairs, director of the law enforcement academy, and administrator of the historical division of the department of cultural affairs.

6. The following are range 6 positions: director of the office of energy independence, superintendent of banking, superintendent of credit unions, administrator of the alcoholic beverages division of the department of commerce, director of the department of inspections and

appeals, commandant of the Iowa veterans home, commissioner of public safety, commissioner of insurance, executive director of the Iowa finance authority, director of the department of natural resources, consumer advocate, and chairperson of the utilities board. The other members of the utilities board shall receive an annual salary within a range of not less than 90 percent but not more than 95 percent of the annual salary of the chairperson of the utilities board.

7. The following are range 7 positions: administrator of the public broadcasting division of the department of education, director of the department of corrections, director of the department of education, director of human services, director of the department of economic development, executive director of the Iowa telecommunications and technology commission, executive director of the state board of regents, director of transportation, director of the department of workforce development, director of revenue, director of public health, state court administrator, director of the department of management, and director of the department of administrative services.

Sec. 15. COLLECTIVE BARGAINING AGREEMENTS FUNDED — GENERAL FUND. There is appropriated from the general fund of the state to the salary adjustment fund for distribution by the department of management to the various state departments, boards, commissions, councils, and agencies, including the state board of regents and the judicial branch, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the amount of $88,100,000, or so much thereof as may be necessary, to fully fund annual pay adjustments, expense reimbursements, and related benefits implemented pursuant to the following:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional social services bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

9. The collective bargaining agreements negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining units.

10. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the science bargaining unit.

12. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

13. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa graduate student bargaining unit.

14. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the state university of Iowa hospital and clinics tertiary health care bargaining unit.

15. The annual pay adjustments, related benefits, and expense reimbursements referred to in the sections of this division of this Act addressing noncontract state and board of regents employees who are not covered by a collective bargaining agreement.

Of the amount appropriated in this section, $7,647,352 shall be allocated to the judicial

branch for the purposes of funding annual pay adjustments, expense reimbursements, and related benefits implemented for judicial branch employees.

Sec. 16. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 2008, the maximum and minimum salary levels of all pay plans provided for in section 8A.413, subsection 2, as they exist for the fiscal year ending June 30, 2008, shall be increased by 3 percent for the pay period beginning June 27, 2008, and any additional changes in the pay plans shall be approved by the governor.

b. For the fiscal year beginning July 1, 2008, employees may receive a step increase or the equivalent of a step increase.

c. Notwithstanding the increase in paragraph "a", noncontract judicial branch employees shall receive increases similar to those employees covered by collective bargaining agreements negotiated by the judicial branch.

2. The pay plans for state employees who are exempt from chapter 8A, subchapter IV, and who are included in the department of administrative services' 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 set by the governor, or other persons designated in the section of this division of this Act addressing appointed state officers, employees designated under section 8A.412, subsection 5, and employees covered by 11 IAC 53.6(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. 17. STATE EMPLOYEES — STATE BOARD OF REGENTS. Funds from the appropriation made from the general fund of the state in the section of this division of this Act providing for funding of collective bargaining agreements shall be allocated to the state board of regents for the purposes of providing increases for state board of regents employees covered by such section 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 the university of northern Iowa faculty bargaining unit.

Sec. 18. 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, 2008, and ending June 30, 2009, 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:

..... $ 1,485,911

2. There is appropriated from the primary road fund to the salary adjustment fund, for the fiscal year beginning July 1, 2008, and ending June 30, 2009, 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:

..... $ 8,335,688

3. Except as otherwise provided in this division of this Act, the amounts appropriated in sub-

sections 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. 19. SPECIAL FUNDS — AUTHORIZATION. To departmental revolving, trust, or special funds, except for the primary road fund or the road use tax fund, for which the general assembly has established an operating budget, a supplemental expenditure authorization is provided, unless otherwise provided, in an amount necessary to fund salary adjustments as otherwise provided in this division of this Act.

Sec. 20. GENERAL FUND SALARY MONEYS. Funds appropriated from the general fund of the state for distribution from the salary adjustment fund in the section of this division of this Act providing for funding of collective bargaining agreements relate only to salaries supported from general fund appropriations of the state. Funds appropriated from the general fund of the state for employees of the state board of regents relate only to salaries supported by tuition or from general fund appropriations of the state and shall exclude general university indirect costs and general university federal funds.

Sec. 21. FEDERAL FUNDS APPROPRIATED. All federal grants to and the federal receipts of the agencies affected by this division of 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. 22. STATE TROOPER MEAL ALLOWANCE. The sworn peace officers in the department of public safety who are not covered by a collective bargaining agreement negotiated pursuant to chapter 20 shall receive the same per diem meal allowance as the sworn peace officers in the department of public safety who are covered by a collective bargaining agreement negotiated pursuant to chapter 20.

Sec. 23. SALARY MODEL ADMINISTRATOR. The salary model administrator shall work in conjunction with the legislative services agency 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, the department of administrative services, 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 services agency 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 services agency. 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. 24. Section 173.10, Code 2007, is amended to read as follows:

173.10 SALARY OF SECRETARY.

~~The secretary shall receive the salary fixed by the board.~~ The compensation and employment terms of the secretary shall be set by the Iowa state fair board with the approval of the governor, taking into consideration the level of knowledge and experience of the secretary.

DIVISION IV
MISCELLANEOUS STATUTORY CHANGES — APPROPRIATIONS

Sec. 25. Section 8.7, Code 2007, is amended to read as follows:

8.7 REPORTING OF GIFTS AND BEQUESTS RECEIVED.

All gifts~~,~~ and bequests~~, and grants~~ received by a department or accepted by the governor on

behalf of the state shall be reported to the Iowa ethics and campaign disclosure board and the government oversight committees. The ethics and campaign disclosure board shall, by January 31 of each year, submit to the fiscal services division of the legislative services agency a written report listing all gifts~~,~~ and bequests~~, and grants~~ received during the previous calendar year with a value over one thousand dollars and the purpose for each such gift~~,~~ or bequest~~, or grant~~. The submission shall also include a listing of all gifts~~,~~ and bequests~~, and grants~~ received by a department from a person if the cumulative value of all gifts~~,~~ and bequests~~, and grants~~ received by the department from the person during the previous calendar year exceeds one thousand dollars, and the ethics and campaign disclosure board shall include, if available, the purpose for each such gift~~,~~ or bequest~~, or grant~~. However, the reports on gifts~~, grants,~~ or bequests filed by the state board of regents pursuant to section 8.44 shall be deemed sufficient to comply with the requirements of this section.

Sec. 26. Section 8.9, Code 2007, is amended to read as follows:

8.9 GRANTS ENTERPRISE MANAGEMENT OFFICE.

1. The office of grants enterprise management is established in the department of management. The function of the office is to develop and administer a system to track, identify, advocate for, and coordinate nonstate grants as defined in section 8.2, subsections 1 and 3. Staffing for the office of grants enterprise management shall be provided by a facilitator appointed by the director of the department of management. Additional staff may be hired, subject to the availability of funding. Funding for the office is from the appropriation to the department pursuant to section 8A.505, subsection 2.

2. a. All grant applications submitted and grant moneys received by a department on behalf of the state shall be reported to the office of grants enterprise management. The office shall by January 31 of each year submit to the fiscal services division of the legislative services agency a written report listing all grants received during the previous calendar year with a value over one thousand dollars and the funding entity and purpose for each grant. However, the reports on grants filed by the state board of regents pursuant to section 8.44 shall be deemed sufficient to comply with the requirements of this subsection.

b. The office of grants enterprise management shall submit by July 1 and January 1 of each year to the government oversight committees a written report summarizing departmental compliance with the requirements of this subsection.

Sec. 27. Section 12C.16, subsection 1, paragraph b, subparagraph (4), Code Supplement 2007, is amended to read as follows:

(4) To the extent of the guarantee, loans, obligations, or 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 of the United States of America or the United States central credit union, a corporate central credit union organized under section 533.213, or a corporate credit union ~~organized under 12 C.F.R. § 704~~ whose activities are subject to regulation by the national credit union administration, and the rating of any one of such credit unions remains within the two highest classifications of prime established by at least one of the standard rating services approved by the superintendent of banking by rule pursuant to chapter 17A. The treasurer of state shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 28. Section 12C.17, subsection 1, paragraph c, Code Supplement 2007, is amended to read as follows:

c. The securities shall be deposited with the federal reserve bank, the federal home loan bank of Des Moines, Iowa, or the United States central credit union, a corporate central credit union organized under section 533.213, or a corporate credit union ~~organized under 12 C.F.R. § 704~~ whose activities are subject to regulation by the national credit union administration pursuant to a bailment agreement or a pledge custody agreement.

Sec. 29. Section 12C.17, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Upon written request from the appropriate public officer but not less than monthly, the federal reserve bank, the federal home loan bank of Des Moines, Iowa, the United States central credit union, a corporate central credit union organized under section 533.213, or a corporate credit union ~~organized under 12 C.F.R. § 704~~ whose activities are subject to regulation by the national credit union administration shall report a description, the par value, and the market value of any pledged collateral by a credit union.

Sec. 30. NEW SECTION. 15.368 WORLD FOOD PRIZE AWARD AND SUPPORT.

1. Commencing with the fiscal year beginning July 1, 2009, there is annually appropriated from the general fund of the state to the department one million dollars for the support of the world food prize award.

2. The Iowa state capitol is designated as the primary location for the annual ceremony to award the world food prize.

Sec. 31. Section 15F.204, subsection 5, unnumbered paragraph 1, Code 2007, is amended to read as follows:

At the beginning of each fiscal year, the board shall allocate one hundred thousand dollars for purposes of marketing those projects that are receiving moneys from the fund. After the marketing allocation, the board shall allocate all remaining moneys in the fund in the following manner:

Sec. 32. Section 16.92, subsection 5, paragraph c, Code Supplement 2007, is amended to read as follows:

c. In addition to any other remedy provided by law, if the division through an act of negligence wrongfully or erroneously records a certificate of release under this section, the division is liable to the mortgagee and mortgage servicer for actual damages sustained due to the recording of the certificate of release.

Sec. 33. Section 21.5, subsection 1, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. To discuss patient care quality and process improvement initiatives in a meeting of a public hospital or to discuss marketing and pricing strategies or similar proprietary information in a meeting of a public hospital, where public disclosure of such information would harm such a hospital's competitive position when no public purpose would be served by public disclosure. The minutes and the audio recording of a closed session under this paragraph shall be available for public inspection when the public disclosure would no longer harm the hospital's competitive position. For purposes of this paragraph, "public hospital" means the same as defined in section 249J.3. This paragraph does not apply to the information required to be disclosed pursuant to section 347.13, subsection 14, or to any discussions relating to terms or conditions of employment, including but not limited to compensation of an officer or employee or group of officers or employees.

Sec. 34. Section 22.7, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 60. CLOSED SESSION RECORDS. Information in a record that would permit a governmental body subject to chapter 21 to hold a closed session pursuant to section 21.5 in order to avoid public disclosure of that information, until such time as final action is taken on the subject matter of that information. Any portion of such a record not subject to this subsection, or not otherwise confidential, shall be made available to the public. After the governmental body has taken final action on the subject matter pertaining to the information in that record, this subsection shall no longer apply. This subsection shall not apply more than ninety days after a record is known to exist by the governmental body, unless it is not pos-

sible for the governmental body to take final action within ninety days. The burden shall be on the governmental body to prove that final action was not possible within the ninety-day period.

Sec. 35. Section 35A.8, subsection 5, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The executive director shall provide for the administration of the bonus authorized in this subsection. The ~~commission~~ department shall adopt rules, pursuant to chapter 17A, as necessary to administer this subsection including but not limited to application procedures, investigation, approval or disapproval, and payment of claims.

Sec. 36. Section 35A.8, subsection 5, paragraph b, subparagraph (1), Code Supplement 2007, is amended to read as follows:

(1) A person who served on active duty for not less than one hundred twenty days in the armed forces of the United States, and who served on active duty at any time between July 1, 1973, and May 31, 1975, both dates inclusive, and who at the time of entering into active duty service was a legal resident of the state of Iowa, and who had maintained the person's residence in this state for a period of at least six months immediately before entering into active duty service, and was honorably discharged or separated from active duty service, or is still in active service in an honorable status, or has been retired, or has been furloughed to a reserve, or has been placed on inactive status is entitled to receive from moneys appropriated for that purpose the sum of seventeen dollars and fifty cents for each month that the person was on active duty service in the Vietnam service area, within the dates specified in this subparagraph, if the veteran earned either a Vietnam service medal or an armed forces expeditionary medal-Vietnam or can otherwise establish service in the Vietnam service area during that period. Compensation under this subparagraph shall not exceed a total sum of five hundred dollars. Compensation for a fraction of a month shall not be considered unless the fraction is sixteen days or more, in which case the fraction shall be computed as a full month.

Sec. 37. NEW SECTION. 68A.401A REPORTING OF CONTRIBUTIONS AND EXPENDITURES RELATING TO ISSUE ADVOCACY.

1. A political organization that is required to file reports with the internal revenue service, pursuant to 26 U.S.C. § 527, shall file a report with the board if that organization does both of the following:

a. Creates or disseminates a communication of issue advocacy in this state.

b. Receives or expects to receive twenty-five thousand dollars or more in gross receipts in any taxable year.

2. A report required under this section shall contain the following information:

a. The amount, date, and purpose of each expenditure made to a person if the aggregate amount of expenditures to such person during the calendar year equals or exceeds five hundred dollars and the name and address of the person, and, in the case of an individual, the occupation and name of employer of the individual.

b. The name and address, and, in the case of an individual, the occupation and name of employer of such individual, of all contributors which contributed an aggregate amount of two hundred dollars or more to the organization during the calendar year and the amount and date of the contribution.

3. The board shall by rule establish a procedure for the filing of reports required by this section. To the extent practicable the reporting periods and filing due dates shall be the same as set out in 26 U.S.C. § 527(j)(2).

4. The term "issue advocacy" means any print, radio, televised, telephonic, or electronic communication in any form or content, which is disseminated to the general public or a segment of the general public, that refers to a clearly identified candidate for the general assembly or statewide office.

5. The penalty set out in section 68A.701 does not apply to a violation of this section. The penalties for a violation of this section are as set out in section 68B.32D.

Sec. 38. Section 68B.2A, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The board shall adopt rules pursuant to chapter 17A further delineating particular situations where outside employment or activity of officials and state employees of the executive branch will be deemed to create an unacceptable conflict of interest.

Sec. 39. Section 68B.5A, subsections 2 and 5, Code 2007, are amended to read as follows:

2. The head of a major subunit of a department or independent state agency whose position involves substantial exercise of administrative discretion or the expenditure of public funds, a full-time employee of an office of a statewide elected official whose position involves substantial exercise of administrative discretion or the expenditure of public funds, or a legislative employee whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, during the time in which the person serves or is employed by the state, act as a lobbyist before the agency in which the person is employed or before state agencies, officials, or employees with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated, by the agency in which the person serves or is employed, to represent the official position of the agency.

5. The head of a major subunit of a department or independent state agency whose position involves substantial exercise of administrative discretion or the expenditure of public funds, a full-time employee of an office of a statewide elected official whose position involves substantial exercise of administrative discretion or the expenditure of public funds, or a legislative employee whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, within two years after termination of employment, become a lobbyist before the agency in which the person was employed or before state agencies or officials or employees with whom the person had substantial and regular contact as part of the person's former duties.

Sec. 40. Section 68B.22, subsection 4, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. hh. Food and beverages provided at a meal that is part of a bona fide event or program at which the recipient is being honored for public service.

Sec. 41. Section 68B.32, subsection 1, Code 2007, is amended to read as follows:

1. An Iowa ethics and campaign disclosure board is established as an independent agency. The board shall administer this chapter and set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, lobbyists, and candidates for office in the executive branch of state government. The board shall administer and set standards for, investigate complaints relating to, and monitor the campaign finance practices of candidates for public office. The board shall administer and establish standards for, investigate complaints relating to, and monitor the reporting of gifts~~,~~ and bequests~~, and grants~~ under section 8.7. The board shall consist of six members and shall be balanced as to political affiliation as provided in section 69.16. The members shall be appointed by the governor, subject to confirmation by the senate.

Sec. 42. Section 68B.32A, subsection 4, Code Supplement 2007, is amended to read as follows:

4. Receive and file registration and reports from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter, and gift~~,~~ and bequest~~, and grant~~ disclosure information pursuant to section 8.7. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter or section 8.7.

Sec. 43. Section 84A.5, subsection 1, paragraph a, Code Supplement 2007, is amended to read as follows:

a. The workforce development system shall strive to provide high quality services to its cus-

tomers 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 department of workforce development shall administer a statewide standard skills assessment to assess the employability skills of adult workers statewide and shall instruct appropriate department staff in the administration of the assessment. The assessment shall be included in the one-stop services provided to customers at workforce development centers and other service access points throughout the state.

*Sec. 44. Section 97A.10, Code 2007, is amended to read as follows:

97A.10 PURCHASE OF ELIGIBLE SERVICE CREDIT.

1. For purposes of this section:

a. "Eligible qualified service" means ~~as follows:~~

~~(1) Service with the department prior to July 1, 1994, in a position as a gaming enforcement officer, fire prevention inspector peace officer, or as an employee of the division of capitol police except clerical workers.~~

~~(2) Service~~ service as a member of a city fire retirement system or police retirement system operating under chapter 411 prior to January 1, 1992, for which service was not eligible to be transferred to this system pursuant to section 97A.17.

Eligible qualified service under this paragraph "a" does not include service 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.

b. "Permissive service credit" means credit that will be recognized by the retirement system for purposes of calculating a member's benefit, for which the member did not previously receive service credit in the retirement system, and for which the member voluntarily contributes to the retirement system the amount required by the retirement system, not in excess of the amount necessary to fund the benefit attributable to such service.

2. An active member of the system may make contributions to the system to purchase up to the maximum amount of permissive service credit for eligible qualified service as determined by the system, pursuant to Internal Revenue Code section 415(n) and the requirements of this section. A member seeking to purchase permissive service credit pursuant to this section shall file a written application along with appropriate documentation with the department by July 1, ~~2007~~ 2009.

3. A member making contributions for a purchase of permissive service credit for eligible qualified service under this section shall make contributions in an amount equal to the actuarial cost of the permissive service credit purchase, less an amount equal to the member's contributions under chapter 411 for the period of eligible qualified service together with interest at a rate determined by the board of trustees. For purposes of this subsection, the actuarial cost of the permissive service credit purchase is an amount determined by the system in accordance with actuarial tables, as reported to the system 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.*

*Sec. 45. Section 103.6, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Adopt rules to create a special master license class or subclass and special journeyman license class or subclass for individuals who were licensed by a political subdivision prior to January 1, 2008, pursuant to a supervised written examination that has not been approved by the board pursuant to section 103.10, subsection 4, or section 103.12, subsection 4. A person licensed pursuant to this subsection shall have the same authority as a person holding a corresponding class A master license or class A journeyman license. However, the board shall not be required to include persons licensed under this subsection in any agreement entered into pursuant to the authority granted under section 103.21.*

* Item veto; see message at end of the Act

Sec. 46. Section 103.22, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Require firms or individuals working under contract to municipal utilities, electric membership or cooperative associations, or investor-owned utilities to hold licenses while performing work for utilities which is within the scope of the public service obligations of a utility.

Sec. 47. Section 135.63, subsection 2, paragraph l, Code 2007, is amended to read as follows:

l. The replacement or modernization of any institutional health facility if the replacement or modernization does not add new health services or additional bed capacity for existing health services, notwithstanding any provision in this division to the contrary. With reference to a hospital, "replacement" means establishing a new hospital that demonstrates compliance with all of the following criteria through evidence submitted to the department:

(1) Is designated as a critical access hospital pursuant to 42 U.S.C. § 1395i-4.

(2) Serves at least seventy-five percent of the same service area that was served by the prior hospital to be closed and replaced by the new hospital.

(3) Provides at least seventy-five percent of the same services that were provided by the prior hospital to be closed and replaced by the new hospital.

(4) Is staffed by at least seventy-five percent of the same staff, including medical staff, contracted staff, and employees, as constituted the staff of the prior hospital to be closed and replaced by the new hospital.

Sec. 48. Section 135B.5, Code 2007, is amended to read as follows:

135B.5 ISSUANCE AND RENEWAL OF LICENSE.

1. Upon receipt of an application for license and the license fee, the department shall issue a license if the applicant and hospital facilities comply with this chapter and the rules of the department. Each licensee shall receive annual reapproval upon payment of ~~ten~~ five hundred dollars and upon filing of an application form which is available from the department. The annual licensure fee shall be dedicated to support and provide educational programs on regulatory issues for hospitals licensed under this chapter in consultation with the hospital licensing board. Licenses shall be either general or restricted in form. Each license shall be issued only for the premises and persons or governmental units named in the application and is not transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises as prescribed by rule of the department.

2. ~~Provided, however, that the~~ The provisions of this section shall not in any way affect, change, deny or nullify any rights set forth in, or arising from the provisions of this chapter and particularly section 135B.7, arising before or after December 31, 1960.

Sec. 49. Section 135B.10, Code 2007, is amended to read as follows:

135B.10 HOSPITAL LICENSING BOARD.

The governor shall appoint ~~five~~ six individuals ~~who possess recognized ability in the field of hospital administration~~, to serve as the hospital licensing board within the department. *_Five members shall possess recognized ability in the field of hospital administration and one member shall be a member of the general public._*

*_Sec. 50. Section 135C.40, subsection 1, Code 2007, is amended to read as follows:_

1. If the director determines, based on the findings of an inspection or investigation of a health care facility, that the facility is in violation of this chapter, ~~or~~ rules adopted under this chapter, or the federal certification guidelines, the director within ~~five~~ ten working days after ~~making the determination~~ completion of an on-site survey, ~~may~~ shall issue ~~a written citation~~ all statements of deficiencies, including any state citations issued to the facility under rules

* Item veto; see message at end of the Act

adopted by the department. The citation shall be served upon the facility personally ~~or~~, by electronic mail, or by certified mail, except that a citation for a Class III violation may be sent by ordinary mail. Each citation shall specifically describe the nature of the violation, identifying the Code section or subsection or the rule or standard violated, and the classification of the violation under section 135C.36. Where appropriate, the citation shall also state the period of time allowed for correction of the violation, which shall in each case be the shortest period of time the department deems feasible. Failure to correct a violation within the time specified, unless the licensee shows that the failure was due to circumstances beyond the licensee's control, shall subject the facility to a further penalty of fifty dollars for each day that the violation continues after the time specified for correction.

a. If a facility licensed under this chapter submits a plan of correction relating to a statement of deficiencies or a response to a citation issued under rules adopted by the department and the department elects to conduct an on-site revisit survey, the department shall commence the revisit survey within ten business days of the date that the plan of correction is received, or the date specified within the plan of correction alleging compliance, whichever is later.

*b. If the department recommends the issuance of federal remedies pursuant to 42 C.F.R. § 488.406(a)(2) or (a)(3), relating to a survey conducted by the department, the department shall issue the statement of deficiencies within twenty-four hours of the date that the centers for Medicare and Medicaid services of the United States department of health and human services was notified of the recommendation for the imposition of remedies.**

Sec. 51. Section 175.2, subsection 1, paragraph m, Code 2007, is amended to read as follows:

m. (1) "Low or moderate net worth" means a person's aggregate net worth calculated as a designated amount established pursuant to rules adopted by the authority and effective for one year. The designated amount shall be established by January 1 of each year by adjusting the designated amount effective on the previous December 31. The authority shall establish the designated amount in accordance with the prices paid by farmers index as compiled by the United States department of agriculture.

(2) "Low or moderate net worth" as applied to the following persons means:

~~(1)~~ (a) For an individual, an aggregate net worth of the individual and the individual's spouse and minor children of less than ~~three hundred thousand dollars~~ the designated amount.

~~(2)~~ (b) For a partnership, an aggregate net worth of all partners, including each partner's net capital in the partnership, and each partner's spouse and minor children of less than ~~six hundred thousand dollars~~ twice the designated amount. However, the aggregate net worth of each partner and that partner's spouse and minor children shall not exceed ~~three hundred thousand dollars~~ the designated amount.

~~(3)~~ (c) For a family farm corporation, an aggregate net worth of all shareholders, including the value of each shareholder's share in the family farm corporation, and each shareholder's spouse and minor children of less than ~~six hundred thousand dollars~~ twice the designated amount. However, the aggregate net worth of each shareholder and that shareholder's spouse and minor children shall not exceed ~~three hundred thousand dollars~~ the designated amount.

~~(4)~~ (d) For a family farm limited liability company, an aggregate net worth of all members, including each member's ownership interest in the family farm limited liability company, and each member's spouse and minor children of less than ~~six hundred thousand dollars~~ twice the designated amount. However, the aggregate net worth of each member and that member's spouse and minor children shall not exceed ~~three hundred thousand dollars~~ the designated amount.

Sec. 52. Section 216A.162, subsection 2, if enacted by 2008 Iowa Acts, Senate File 2400,[1] is amended to read as follows:

2. The purpose of the commission shall be to work in concert with ~~tribal governments,~~ Native American groups~~,~~ and Native ~~American persons~~ Americans in this state to advance the

* Item veto; see message at end of the Act

[1] Chapter 1184, §40 herein

interests of ~~tribal governments and~~ Native ~~American persons~~ Americans in the areas of human rights, access to justice, economic equality, and the elimination of discrimination.

Sec. 53. Section 216A.162, subsection 3, paragraph a, if enacted by 2008 Iowa Acts, Senate File 2400,[2] is amended to read as follows:

a. Seven public members appointed in compliance with sections 69.16 and 69.16A who shall be appointed with consideration given to the geographic residence of the member and the population density of Native Americans within the vicinity of the geographic residence of a member. Of the seven public members appointed, at least one shall be a Native American who is an enrolled tribal member living on a tribal settlement or reservation in Iowa and whose tribal government is located in Iowa ~~and one shall be a Native American who is primarily descended from a tribe other than those specified in paragraph "b"~~.

Sec. 54. Section 216A.165, if enacted by 2008 Iowa Acts, Senate File 2400,[3] is amended to read as follows:

216A.165 DUTIES.

The commission shall have all powers necessary to carry out the functions and duties specified in this subchapter and shall do all of the following:

1. Advise the governor and the general assembly on issues confronting ~~tribal governments and~~ Native ~~American persons~~ Americans in this state.

2. Promote legislation beneficial to ~~tribal governments and~~ Native ~~American persons~~ Americans in this state.

3. Recommend to the governor and the general assembly any revisions in the state's affirmative action program and other steps necessary to eliminate discrimination against and the underutilization of Native ~~American persons~~ Americans in the state's workforce.

4. Serve as a conduit to state government for Native ~~American persons~~ Americans in this state.

5. Serve as an advocate for Native ~~American persons~~ Americans and a referral agency to assist Native ~~American persons~~ Americans in securing access to justice and state agencies and programs.

6. Serve as a liaison with federal, state, and local governmental units, and private organizations on matters relating to Native ~~American persons~~ Americans in this state.

7. Conduct studies, make recommendations, and implement programs designed to solve the problems of Native ~~American persons~~ Americans in this state in the areas of human rights, housing, education, welfare, employment, health care, access to justice, and any other related problems.

8. Publicize the accomplishments of Native ~~American persons~~ Americans and their contributions to this state.

9. Work with other state, tribal, and federal agencies and organizations to develop small business opportunities and promote economic development for Native ~~American persons~~ Americans.

Sec. 55. Section 216A.166, if enacted by 2008 Iowa Acts, Senate File 2400,[4] is amended to read as follows:

216A.166 REVIEW OF GRANT APPLICATIONS AND BUDGET REQUESTS.

Before the submission of an application, a state department or agency shall consult with the commission concerning an application for federal funding that will have its primary effect on ~~tribal governments or~~ Native ~~American persons~~ Americans. The commission shall advise the governor, the director of the department of human rights, and the director of revenue concerning any state agency budget request that will have its primary effect on ~~tribal governments or~~ Native ~~American persons~~ Americans.

*Sec. 56. NEW SECTION. 231C.20 CITATIONS — MONITORING VISITS.

1. All results of state monitoring visits, including complaint investigations or certification in-

[2] Chapter 1184, §40 herein

[3] Chapter 1184, §43 herein

[4] Chapter 1184, §44 herein

* Item veto; see message at end of the Act

spections conducted by the department pursuant to this chapter or rules adopted by the department shall be submitted by the department personally, by electronic mail, or by certified mail to the program no later than ten business days following completion of an on-site monitoring visit, if findings of noncompliance are cited.

*2. If a program certified under this chapter submits a plan of correction relating to the statement of noncompliance or a response to a civil penalty issued under rules adopted by the department, and the department elects to conduct an on-site monitoring revisit, the department shall commence the monitoring revisit within ten business days of the date that the plan of correction is received, or the date specified within the plan of correction alleging compliance, whichever is later.**

Sec. 57. NEW SECTION. 279.67 COMPETITIVE LIVING WAGE.

It is the goal of this state that every employee of a public school corporation be provided with a competitive living wage.

Sec. 58. Section 321A.3, subsections 1, 5, and 6, Code Supplement 2007, are amended to read as follows:

1. The department shall upon request furnish any person a certified abstract of the operating record of a person subject to chapter 321, 321J, or this chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of a conviction of the person having violated any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the department shall so certify. A fee of five dollars and fifty cents shall be paid for each abstract except for state, county, or city officials, court officials, public transit officials, or other officials of a political subdivision of the state or a nonprofit charitable organization described in section 501(c)(3) of the Internal Revenue Code. The department shall transfer the moneys collected under this section to the treasurer of state who shall credit to the general fund all moneys collected.

5. ~~The department may permit any person to view the operating record of a person subject to chapter 321 or this chapter through one of the department's computer terminals or through a computer printout generated by the department.~~ The department shall not require a fee for a person to view their own operating record~~, but the department shall impose a fee of one dollar for each of the first five operating records viewed within a calendar day and two dollars for each additional operating record viewed within the calendar day~~.

6. Fees under ~~subsections~~ subsection 1 ~~and 5~~ may be paid by credit cards, as defined in section 537.1301, subsection 17, approved for that purpose by the department of transportation. The department shall enter into agreements with financial institutions extending credit through the use of credit cards to ensure payment of the fees. The department shall adopt rules pursuant to chapter 17A to implement the provisions of this subsection.

Sec. 59. Section 321A.3, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person making a request for a record or an abstract under this section that is subject to a fee shall only use the record or abstract requested one time, for one purpose, and it shall not supply that record to more than one other person. Any subsequent use of the same record or abstract shall require that the person make a subsequent request for the record or abstract and pay an additional fee for the request in the same manner as provided for the initial request. A person requesting a record or an abstract pursuant to this section shall keep records identifying who the record or abstract is provided to, and the use of the record or abstract, for a period of five years. Records maintained pursuant to this subsection shall be made available to the department upon request. A person shall not sell, retain, distribute, provide, or transfer any record or abstract information or portion of the record or abstract information acquired under this agreement except as authorized by the department and the federal Driver's Privacy Protection Act, 18 U.S.C. § 2721-2725.

* Item veto; see message at end of the Act

Sec. 60. Section 331.304, subsection 10, Code Supplement 2007, is amended to read as follows:

10. A county shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied manufactured or mobile homes including the lots, ~~or~~ lands, or manufactured home community or mobile home park upon or in which they are located. A county shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental manufactured or mobile homes unless similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

Sec. 61. Section 364.3, subsection 5, Code 2007, is amended to read as follows:

5. A city shall not adopt or enforce any ordinance imposing any registration or licensing system or registration or license fees for or relating to owner-occupied manufactured or mobile homes including the lots, ~~or~~ lands, or manufactured home community or mobile home park upon or in which they are located. A city shall not adopt or enforce any ordinance imposing any registration or licensing system, or registration or license fees, or safety or sanitary standards for rental manufactured or mobile homes unless a similar registration or licensing system, or registration or license fees, or safety or sanitary standards are required for other rental properties intended for human habitation. This subsection does not preclude the investigation and abatement of a nuisance or the enforcement of a tiedown system, or the enforcement of any regulations of the state or local board of health if those regulations apply to other rental properties or to owner-occupied housing intended for human habitation.

Sec. 62. NEW SECTION. 422.11V CHARITABLE CONSERVATION CONTRIBUTION TAX CREDIT.

1. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a charitable conservation contribution tax credit equal to fifty percent of the fair market value of a qualified real property interest located in the state that is conveyed as an unconditional charitable donation in perpetuity by the taxpayer to a qualified organization exclusively for conservation purposes. The maximum amount of tax credit is one hundred thousand dollars. The amount of the contribution for which the tax credit is claimed shall not be deductible in determining taxable income for state tax purposes.

2. For purposes of this section, "conservation purpose", "qualified organization", and "qualified real property interest" mean the same as defined for the qualified conservation contribution under section 170(h) of the Internal Revenue Code, except that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered a conveyance for a conservation purpose.

3. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following twenty tax years or until depleted, whichever is the earlier.

4. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, limited liability company, S corporation, estate, or trust.

Sec. 63. Section 422.33, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 25. a. The taxes imposed under this division shall be reduced by a charitable conservation contribution tax credit equal to fifty percent of the fair market value of a qualified real property interest located in the state that is conveyed as an unconditional

charitable donation in perpetuity by the taxpayer to a qualified organization exclusively for conservation purposes. The maximum amount of tax credit is one hundred thousand dollars. The amount of the contribution for which the tax credit is claimed shall not be deductible in determining taxable income for state tax purposes.

b. For purposes of this section, "conservation purpose", "qualified organization", and "qualified real property interest" mean the same as defined for the qualified conservation contribution under section 170(h) of the Internal Revenue Code, except that a conveyance of land for open space for the purpose of fulfilling density requirements to obtain subdivision or building permits shall not be considered a conveyance for a conservation purpose.

c. Any credit in excess of the tax liability is not refundable but the excess for the tax year may be credited to the tax liability for the following twenty tax years or until depleted, whichever is the earlier.

Sec. 64. Section 423.6, subsection 14, Code 2007, is amended to read as follows:

14. Mobile homes to the extent of the portion of the purchase price of the mobile home which is not attributable to the cost of the tangible personal property used in the processing of the mobile home, and manufactured housing to the extent of the purchase price or the installed purchase price of the manufactured housing which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing. For purposes of this exemption, the portion of the purchase price which is not attributable to the cost of the tangible personal property used in the processing of the mobile home is ~~forty~~ eighty percent and the portion of the purchase price or installed purchase price which is not attributable to the cost of the tangible personal property used in the processing of the manufactured housing is ~~forty~~ eighty percent.

Sec. 65. Section 423B.1, subsection 6, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Notwithstanding any other provision in this section, a change in use of the local sales and services tax revenues for purposes of funding an urban renewal project pursuant to section 423B.10 does not require an election.

Sec. 66. Section 423B.7, subsection 1, Code 2007, is amended to read as follows:

1. a. ~~The~~ Except as provided in paragraph "b", the director shall credit the local sales and services tax receipts and interest and penalties from a county-imposed tax to the county's account in the local sales and services tax fund and from a city-imposed tax under section 423B.1, subsection 2, to the city's account in the local sales and services tax fund. If the director is unable to determine from which county any of the receipts were collected, those receipts shall be allocated among the possible counties based on allocation rules adopted by the director.

b. Notwithstanding paragraph "a", the director shall credit the designated amount of the increase in local sales and services tax receipts, as computed in section 423B.10, collected in an urban renewal area of an eligible city that has adopted an ordinance pursuant to section 423B.10, subsection 2, into a special city account in the local sales and services tax fund.

Sec. 67. Section 423B.7, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. From each special city account, the revenues shall be remitted to the city council for deposit in the special fund created in section 403.19, subsection 2, to be used by the city as provided in section 423B.10. The distribution from the special city account is not subject to the distribution formula provided in subsections 3, 4, and 5.

Sec. 68. NEW SECTION. 423B.10 FUNDING URBAN RENEWAL PROJECTS.

1. For purposes of this section, unless the context otherwise requires:

a. "Base year" means the fiscal year during which an ordinance is adopted that provides for funding of an urban renewal project by a designated amount of the increased sales and services tax revenues.

b. "Eligible city" means a city in which a local sales and services tax imposed by the county applies or a city described in section 423B.1, subsection 2, paragraph "a", and in which an urban renewal area has been designated.

c. "Retail establishment" means a business operated by a retailer as defined in section 423.1.

d. "Urban renewal area" and "urban renewal project" mean the same as defined in section 403.17.

2. An eligible city may by ordinance of the city council provide for the use of a designated amount of the increased local sales and services tax revenues collected under this chapter which are attributable to retail establishments in an urban renewal area to fund urban renewal projects located in the area. The designated amount may be all or a portion of such increased revenues.

3. To determine the revenue increase for purposes of subsection 2, revenue amounts shall be calculated by the department of revenue as follows:

a. Determine the amount of local sales and services tax revenue collected from retail establishments located in the area comprising the urban renewal area during the base year.

b. Determine the current year revenue amount for each fiscal year following the base year in the manner specified in paragraph "a".

c. The excess of the amount determined in paragraph "b" over the base year revenue amount determined in paragraph "a" is the increase in the local sales and services tax revenues of which the designated amount is to be deposited in the special city account created in section 423B.7, subsection 5A.

4. The ordinance adopted pursuant to this section is repealed when the area ceases to be an urban renewal area or twenty years following the base year, whichever is the earlier.

5. In addition to the moneys received pursuant to the ordinance authorized under subsection 2, an eligible city may deposit any other local sales and services tax revenues received by it pursuant to the distribution formula in section 423B.7, subsections 3, 4, and 5, to the special fund described in section 403.19, subsection 2.

6. For purposes of this section, the eligible city shall assist the department of revenue in identifying retail establishments in the urban renewal area that are collecting the local sales and services tax. This process shall be ongoing until the ordinance is repealed.

Sec. 69. Section 423E.4, subsection 3, paragraph b, subparagraph (2), Code 2007, as amended by 2008 Iowa Acts, House File 2663,[5] section 21, if enacted, is amended to read as follows:

(2) "Sales tax capacity per student" means for a school district the estimated amount of revenues that a school district would receive if a local sales and services tax for school infrastructure purposes was imposed at one percent in the county pursuant to section 423E.2, Code 2007, ~~as computed in subsection 8,~~ divided by the school district's actual enrollment as determined in section 423E.3, subsection 5, paragraph "d".

Sec. 70. Section 423E.4, subsection 3, paragraph b, subparagraph (3), Code 2007, as amended by 2008 Iowa Acts, House File 2663,[6] section 22, if enacted, is amended to read as follows:

(3) "Statewide tax revenues per student" means the amount determined by estimating the total revenues that would be generated by a one percent local option sales and services tax for school infrastructure purposes if imposed by all the counties during the entire fiscal year~~, as computed in subsection 8,~~ and dividing this estimated revenue amount by the sum of the combined actual enrollment for all counties as determined in section 423E.3, subsection 5, paragraph "d", subparagraph (2).

Sec. 71. Section 423E.4, subsection 8, as enacted by 2008 Iowa Acts, House File 2663,[7] section 25, if enacted, is amended by striking the subsection.

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[5] Chapter 1134 herein

[6] Chapter 1134 herein

[7] Chapter 1134 herein

Sec. 72. Section 423F.2, subsection 1, paragraph b, as enacted by 2008 Iowa Acts, House File 2663,[8] section 28, if enacted, is amended to read as follows:

b. The increase in the state sales, services, and use taxes under chapter 423, subchapters II and III, from five percent to six percent shall replace the repeal of the county's local sales and services tax for school infrastructure purposes. The distribution of moneys in the secure an advanced vision for education fund and the use of the moneys for infrastructure purposes or property tax relief shall be as provided in this chapter. However, the formula for the distribution of the moneys in the fund shall be based upon amounts that would have been received if the local sales and services taxes under chapter 423E, Code 2007, continued in existence~~, as computed pursuant to section 423E.4, subsection 8~~.

Sec. 73. Section 423F.3, subsection 3, paragraph c, as enacted by 2008 Iowa Acts, House File 2663,[9] section 29, if enacted, is amended to read as follows:

c. The board secretary shall notify the county commissioner of elections of the intent to take the issue to the voters. The county commissioner of elections shall publish the notices required by law for special or general elections, and the election shall be held ~~not sooner than thirty days nor later than forty days after notice from the school board~~ on a date specified in section 39.2, subsection 4, paragraph "c". A majority of those voting on the question must favor approval of the revenue purpose statement. If the proposal is not approved, the school district shall not submit the same or new revenue purpose statement to the electors for a period of six months from the date of the previous election.

Sec. 74. Section 441.37A, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

For the assessment year beginning January 1, 2007, and all subsequent assessment years, appeals may be taken from the action of the board of review with reference to protests of assessment, valuation, or application of an equalization order to the property assessment appeal board created in section 421.1A. However, a property owner or aggrieved taxpayer or an appellant described in section 441.42 may bypass the property assessment appeal board and appeal the decision of the local board of review to the district court pursuant to section 441.38. For an appeal to the property assessment appeal board to be valid, written notice must be filed by the party appealing the decision with the secretary of the property assessment appeal board within twenty days after the date the board of review's letter of disposition of the appeal is postmarked to the party making the protest. The written notice of appeal shall include a petition setting forth the basis of the appeal and the relief sought. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37 can be pleaded, but additional evidence to sustain those grounds may be introduced. The assessor shall have the same right to appeal to the assessment appeal board as an individual taxpayer, public body, or other public officer as provided in section 441.42. An appeal to the board is a contested case under chapter 17A.

Sec. 75. Section 441.37A, subsection 2, unnumbered paragraph 2, Code 2007, is amended to read as follows:

An appeal may be considered by less than a majority of the members of the board, and the chairperson of the board may assign members to consider appeals. If a hearing is requested, it shall be open to the public and shall be conducted in accordance with the rules of practice and procedure adopted by the board. However, any deliberation of a board member considering the appeal in reaching a decision on any appeal shall be confidential. A meeting of the board to rule on procedural motions in a pending appeal or to deliberate on the decision to be reached in an appeal is exempt from the provisions of chapter 21. The property assessment appeal board or any member of the board may require the production of any books, records, papers, or documents as evidence in any matter pending before the board that may be material, relevant, or necessary for the making of a just decision. Any books, records, papers, or documents produced as evidence shall become part of the record of the appeal. Any testimony given relating to the appeal shall be transcribed and made a part of the record of the appeal.

[8] Chapter 1134 herein

[9] Chapter 1134 herein

Sec. 76. Section 441.38, subsection 1, Code 2007, is amended to read as follows:

1. Appeals may be taken from the action of the local board of review with reference to protests of assessment, to the district court of the county in which the board holds its sessions within twenty days after its adjournment or May 31, whichever date is later. Appeals may be taken from the action of the property assessment appeal board to the district court of the county where the property which is the subject of the appeal is located within twenty days after the letter of disposition of the appeal by the property assessment appeal board is postmarked to the appellant. No new grounds in addition to those set out in the protest to the local board of review as provided in section 441.37, or in addition to those set out in the appeal to the property assessment appeal board, if applicable, can be pleaded~~, but additional~~. Additional evidence to sustain those grounds may be introduced in an appeal from the local board of review to the district court. However, no new evidence to sustain those grounds may be introduced in an appeal from the property assessment appeal board to the district court. The assessor shall have the same right to appeal and in the same manner as an individual taxpayer, public body, or other public officer as provided in section 441.42. Appeals shall be taken by filing a written notice of appeal with the clerk of district court. Filing of the written notice of appeal shall preserve all rights of appeal of the appellant.

Sec. 77. NEW SECTION. 441.38B APPEAL TO DISTRICT COURT FROM PROPERTY ASSESSMENT APPEAL BOARD.

A person or party who is aggrieved or adversely affected by a decision of the property assessment appeal board may seek judicial review of the decision as provided in chapter 17A and section 441.38.

Sec. 78. NEW SECTION. 455C.17 GRANTS FOR INDEPENDENT REDEMPTION CENTERS.

1. An independent redemption center grant program shall be established by the department to award grants for improvements to independent redemption centers. An "independent redemption center" is a redemption center that is also a nonprofit or a for-profit facility that has existed prior to July 1, 2008, and that is not affiliated with or in any way a subsidiary of a dealer, a distributor, or a manufacturer.

2. a. An independent redemption center grant fund is established in the state treasury under the authority of the department. The fund shall consist of moneys appropriated to the fund or appropriated to the department for purposes of the grant program. Moneys in the fund are appropriated to the department to be used for the grant program.

b. Notwithstanding section 8.33, moneys in the fund at the close of any fiscal year shall not revert to any other fund but shall remain in the fund for the subsequent fiscal year to be used for purposes of the fund.

3. a. Moneys in the grant fund shall be used by the department to provide grants to independent redemption centers for purposes of making improvements to such centers. The department shall not award grants in a fiscal year in an aggregate of more than one million dollars. A grant shall not exceed fifteen thousand dollars for any independent redemption center.

b. The department shall not pay administrative costs relating to the management of the grant program in excess of three and one-half percent of the moneys in the fund in a fiscal year.

Sec. 79. Section 535.8, subsection 1, Code 2007, is amended by striking the subsection and inserting in lieu thereof the following:

1. DEFINITIONS. For purposes of this section, unless the context otherwise requires:

a. "Lender" means a person who makes or originates a loan; a person who is identified as a lender on the loan documents; a person who arranges, negotiates, or brokers a loan; and a person who provides any goods or services as an incident to or as a condition required for the making or closing of the loan. "Lender" does not include a licensed attorney admitted to practice in this state acting solely as an incident to the practice of law.

b. "Loan" means a loan of money which is wholly or in part to be used for the purpose of purchasing real property which is a single-family or two-family dwelling occupied or to be oc-

cupied by the borrower. A loan includes the refinancing of a contract of sale, and the refinancing of a prior loan, whether or not the borrower also was the borrower under the prior loan, and the assumption of a prior loan.

Sec. 80. Section 535.8, subsection 2, paragraphs a and b, Code 2007, are amended to read as follows:

a. A ~~lender may collect~~ borrower may be charged by a lender, in connection with a loan made pursuant to a written agreement executed by the borrower on or after July 1, 1983, or in connection with a loan made pursuant to a written commitment by the lender mailed or delivered to the borrower on or after that date, a loan origination or processing fee, a broker fee, or both, which ~~does~~ together do not exceed two percent of an amount which is equal to the loan principal; except that to the extent of an assumption by a new borrower of the obligation to make payments under a prior loan, or to the extent that the loan principal is used to refinance a prior loan between the same borrower and the same lender, the ~~lender may collect~~ borrower may be charged by a lender a loan origination or processing fee, a broker fee, or both, which ~~does~~ together do not exceed an amount which is a reasonable estimate of the expenses of processing the loan assumption or refinancing but which does not exceed one percent of the unpaid balance of the loan that is assumed or refinanced. In addition, a ~~lender may collect from a borrower, a seller of property, another lender, or any other person, or from any combination of these persons~~ borrower may be charged by a lender, in contemplation of or in connection with a loan, a commitment fee, closing fee, or both, that is agreed to in writing by the lender and the ~~persons from whom the charges are to be collected~~ borrower. A loan fee ~~collected~~ paid by a borrower to a lender under this paragraph is compensation to the lender solely for the use of money, notwithstanding any provision of the agreement to the contrary. However, a loan fee collected under this paragraph shall be disregarded for purposes of determining the maximum charge permitted by section 535.2 or 535.9, subsection 2. ~~The collection~~ A lender is prohibited from charging a borrower in connection with a loan ~~of~~ a loan origination or processing fee, broker fee, closing fee, commitment fee, or similar charge ~~is prohibited~~ other than expressly authorized by this paragraph or a payment reduction fee authorized by subsection 3.

b. A ~~lender may collect~~ borrower may be charged by a lender in connection with a loan any of the following costs which are incurred by the lender in connection with the loan and which are disclosed to the borrower:

(1) Credit reports.

(2) Appraisal fees paid to a third party, or when the appraisal is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the appraisal.

(3) Attorney's opinions.

(4) Abstracting fees paid to a third party, or when the abstracting is performed by the lender, a fee which is a reasonable estimate of the expense incurred by the lender in performing the abstracting.

(5) County recorder's fees.

(6) Inspection fees.

(7) Mortgage guarantee insurance charge.

(8) Surveying of property.

(9) Termite inspection.

(10) The cost of a title guaranty issued by the Iowa finance authority pursuant to chapter 16.

(11) A bona fide and reasonable settlement or closing fee which is paid to a third party to settle or close the loan.

The lender shall not charge the borrower for the cost of revenue stamps or real estate commissions which are paid by the seller.

~~The collection of~~ A lender shall not charge the borrower any costs other than ~~as~~ expressly permitted by this paragraph "b" ~~is prohibited~~. However, additional costs incurred in connection with a loan under this paragraph "b", if bona fide and reasonable, may be collected by a state-chartered financial institution licensed under chapter 524, 533, or 534, to the extent per-

mitted under applicable federal law as determined by the office of the comptroller of the currency of the United States department of treasury, the national credit union administration, or the office of thrift supervision of the United States department of treasury. Such costs shall apply only to the same type of state-chartered entity as the federally chartered entity affected and shall apply to and may be collected by an insurer organized under chapter 508 or 515, or otherwise authorized to conduct the business of insurance in this state.

Nothing in this section shall be construed to change the prohibition against the sale of title insurance or sale of insurance against loss or damage by reason of defective title or encumbrances as provided in section 515.48, subsection 10.

Sec. 81. Section 622.10, subsection 3, paragraphs a, d, and e, Code Supplement 2007, are amended to read as follows:

a. In a civil action in which the condition of the plaintiff in whose favor the prohibition is made is an element or factor of the claim or defense of the adverse party or of any party claiming through or under the adverse party, the adverse party shall make a written request for records relating to the condition alleged upon the plaintiff's ~~counsel~~ attorney for a legally sufficient patient's waiver under federal and state law. Upon receipt of a written request, the plaintiff shall execute ~~the~~ a legally sufficient patient's waiver and release it to the adverse party making the request within sixty days of receipt of the written request. The patient's waiver may require a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional to do all of the following:

(1) Provide a complete copy of the patient's records including, but not limited to, any reports or diagnostic imaging relating to the condition alleged.

(2) Consult with the attorney for the adverse party prior to providing testimony regarding the plaintiff's medical history and the condition alleged and opinions regarding health etiology and prognosis for the condition alleged subject to the limitations in ~~paragraph~~ paragraphs "c" and "e".

d. Any physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional who provides records or consults with the ~~counsel~~ attorney for ~~the adverse~~ any party shall be entitled to charge a reasonable fee for production of the records, diagnostic imaging, and consultation. Any party seeking consultation shall be responsible for payment of all charges. The ~~fee~~ fees for copies of any records shall ~~be based upon actual cost of production~~ be as specified in subsection 4A.

e. Defendant's counsel shall provide a written notice to plaintiff's ~~counsel~~ attorney in a manner consistent with the Iowa rules of civil procedure providing for notice of deposition at least ten days prior to any meeting with plaintiff's physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional. Plaintiff's ~~counsel~~ attorney has the right to be present at all such meetings, or participate in telephonic communication with the physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional and ~~counsel~~ attorney for the defendant. Prior to scheduling any meeting or engaging in any communication with the physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional, attorney for the defendant shall confer with plaintiff's attorney to determine a mutually convenient date and time for such meeting or telephonic communication. Plaintiff's ~~counsel~~ attorney may seek a protective order structuring all communication by making application to the court at any time.

Sec. 82. Section 622.10, subsection 4, Code Supplement 2007, is amended to read as follows:

4. If an adverse party desires the oral deposition, either discovery or evidentiary, of a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional or desires to call a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional to which the prohibition would otherwise apply or the stenographer or confidential clerk of a physician or surgeon,

physician assistant, advanced registered nurse practitioner, or mental health professional as a witness at the trial of the action, the adverse party shall file an application with the court for permission to do so. The court upon hearing, which shall not be ex parte, shall grant permission unless the court finds that the evidence sought does not relate to the condition alleged ~~and~~. At the request of any party or at the request of the deponent, the court shall fix a reasonable fee to be paid to ~~the~~ a physician or surgeon, physician assistant, advanced registered nurse practitioner, or mental health professional by the party taking the deposition or calling the witness.

Sec. 83. Section 622.10, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. At any time, upon a written request from a patient, a patient's legal representative or attorney, or an adverse party pursuant to subsection 3, any provider shall provide copies of the requested records or images to the requester within thirty days of receipt of the written request. The written request shall be accompanied by a legally sufficient patient's waiver unless the request is made by the patient or the patient's legal representative or attorney.

a. The fee charged for the cost of producing the requested records or images shall be based upon the actual cost of production. If the written request and accompanying patient's waiver, if required, authorizes the release of all of the patient's records for the requested time period, including records relating to the patient's mental health, substance abuse, and acquired immune deficiency syndrome-related conditions, the amount charged shall not exceed the rates established by the workers' compensation commissioner for copies of records in workers' compensation cases. If requested, the provider shall include an affidavit certifying that the records or images produced are true and accurate copies of the originals for an additional fee not to exceed ten dollars.

b. A patient or a patient's legal representative or a patient's attorney is entitled to one copy free of charge of the patient's complete billing statement, subject only to a charge for the actual costs of postage or delivery charges incurred in providing the statement. If requested, the provider or custodian of the record shall include an affidavit certifying the billing statements produced to be true and accurate copies of the originals for an additional fee not to exceed ten dollars.

c. Fees charged pursuant to this subsection are not subject to a sales or use tax. A provider providing the records or images may require payment in advance if an itemized statement demanding such is provided to the requesting party within fifteen days of the request. Upon a timely request for payment in advance, the time for providing the records or images shall be extended until the greater of thirty days from the date of the original request or ten days from the receipt of payment.

d. If a provider does not provide to the requester all records or images encompassed by the request or does not allow a patient access to all of the patient's medical records encompassed by the patient's request to examine the patient's records, the provider shall give written notice to the requester or the patient that providing the requested records or images would be a violation of the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

e. As used in this subsection:

(1) "Records" and "images" include electronic media and data containing a patient's health or billing information and "copies" includes patient records or images provided in electronic form, regardless of the form of the originals. If consented to by the requesting party, records and images produced pursuant to this subsection may be produced on electronic media.

(2) "Provider" means any physician or surgeon, physician assistant, advanced registered nurse practitioner, mental health professional, hospital, nursing home, or other person, entity, facility, or organization that furnishes, bills, or is paid for health care in the normal course of business.

Sec. 84. 2007 Iowa Acts, chapter 206, section 6, unnumbered paragraph 3, is amended to read as follows:

Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the ~~succeeding~~ fiscal year beginning July 1, 2008.

Sec. 85. REAL ESTATE EDUCATION PROGRAM. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For allocation to the university of northern Iowa for the real estate education program:

. . . . . $ 160,000

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.

Sec. 86. MEDICAL ASSISTANCE — APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

Notwithstanding the reimbursement provisions in 2008 Iowa Acts, Senate File 2425,[10] if enacted, or any other provision requiring budget neutrality in setting hospital reimbursement rates, as additional funding for the medical assistance program to be used for the rebasing of hospital reimbursement rates under the medical assistance program:

. . . . . $ 5,500,000

Sec. 87. 2008 Iowa Acts, Senate File 2420,[11] section 124, is amended by striking the section and inserting in lieu thereof the following:

SEC. 124. Section 423.5, subsection 3, Code 2007, as amended by this division of this Act, is amended to read as follows:

3. ~~The~~ An excise tax at the rate of five percent is imposed on the use of vehicles subject only to the issuance of a certificate of title and the use of manufactured housing, and on the use of leased vehicles, if the lease transaction does not require titling or registration of the vehicle, on the amount subject to tax as calculated pursuant to section 423.26, subsection 2.

Sec. 88. INDEPENDENT REDEMPTION CENTER GRANT FUND. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the independent redemption center fund created in section 455C.17, as enacted in this division of this Act:

. . . . . $ 1,000,000

Sec. 89. 2008 Iowa Acts, House File 2699,[12] section 4, subsection 3, if enacted, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The department of economic development shall coordinate with the department of natural resources, the Iowa finance authority, and the United States department of agriculture in maximizing community development block grants and loans available for water, wastewater, and unsewered communities. It is the intent of the general assembly that the department recognize and provide the appropriate level of funding needed for wastewater and sewer projects in communities with populations of 200 persons or less.

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[10] Chapter 1187 herein

[11] Chapter 1113 herein

[12] Chapter 1190 herein

Sec. 90. 2008 Iowa Acts, House File 2699,[13] section 16, subsection 4, if enacted, is amended by striking the subsection and inserting in lieu thereof the following:

4. STATEWIDE STANDARD SKILLS ASSESSMENT

For development and administration of a statewide standard skills assessment to assess the employability skills of adult workers statewide and to provide instruction to department staff in the administration of the assessment in accordance with section 84A.5, subsection 1, as amended by the Eighty-second General Assembly, 2008 Session:[14]

. . . . . $ 500,000

Sec. 91. HEALTHY IOWANS TOBACCO TRUST — APPROPRIATION — TOBACCO USE PREVENTION AND TREATMENT. There is appropriated from the healthy Iowans tobacco trust created in section 12.65 to the department of public health for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, for the purpose designated:

For tobacco use prevention, cessation, and treatment, in addition to other appropriations made for this purpose:

. . . . . $ 1,000,000

Sec. 92. DEPARTMENT OF HUMAN SERVICES — SHELTER CARE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For supplementing the appropriation made for child and family services in 2008 Iowa Acts, Senate File 2425,[15] if enacted, to be used to increase the amount allocated in that appropriation for shelter care to $8,072,215:

. . . . . $ 1,000,000

Sec. 93. INTERPRETERS FOR THE DEAF. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Due to the high numbers of articulation agreements between the state school for the deaf and Iowa western community college, for allocation for arrangements made between the state school for the deaf and Iowa western community college for deaf interpreters:

. . . . . $ 200,000

Sec. 94. UNITED STATES CENTER FOR CITIZEN DIPLOMACY. There is appropriated from the general fund of the state to the department of economic development for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For a grant to support the United States center for citizen diplomacy:

. . . . . $ 150,000

The director of the department of economic development shall condition the grant upon the grantee submitting all of the following: evidence of a matching amount from nongovernmental sources received during calendar year 2008, a financial plan for program sustainability, evidence that the center's principal place of business is in this state, and agreement to submit quarterly reports demonstrating that the center's programs are directed to assisting the citizens of this state and beyond in promoting citizen diplomacy through individual, educational, business, and cultural efforts. The director shall submit the reports required under this section to the governor and the legislative council.

Sec. 95. DEPARTMENT OF NATURAL RESOURCES. There is appropriated from any interest or earning moneys in the federal economic stimulus and jobs holding fund to the department of natural resources for the fiscal year beginning July 1, 2008, and ending June 30, 2009,

[13] Chapter 1190 herein

[14] See this chapter, §43 herein

[15] Chapter 1187 herein

the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For the abatement, control, and prevention of ambient air pollution in this state, including measures as necessary to assure attainment and maintenance of ambient air quality standards from particulate matter:

. . . . . $ 195,000

Sec. 96. 2008 Iowa Acts, House File 2663,[16] section 15, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 15. Section 423E.3, subsections 1 and 4, Code 2007, are amended by striking the subsections.

Sec. 97. DEPARTMENT OF CULTURAL AFFAIRS — BATTLE FLAG EMPLOYEES. The department of cultural affairs is authorized an additional 1.50 full-time equivalent positions for a conservation assistant and a part-time historian for work related to the stabilization and preservation of the battle flag collection.

Sec. 98. PUBLIC SAFETY PEACE OFFICERS' RETIREMENT, ACCIDENT, AND DISABILITY SYSTEM — ADDITIONAL APPROPRIATION FOR PURCHASE OF SERVICE. If section 97A.10 is amended by the 2008 Session of the Eighty-second General Assembly to provide for the purchase of eligible service credit on and after July 1, 2008, there shall be appropriated from the general fund of the state to the retirement fund described in section 97A.8 an amount equal to that portion of the actuarial cost of the permissive service credit purchase for eligible service credit that is not required to be contributed by a member making contributions to the system for that purchase.

Sec. 99. APPLICABILITY. The sections of this division of this Act amending section 21.5, subsection 1, and section 22.7, do not apply to any litigation before any court of this state filed prior to July 1, 2008.

Sec. 100. INCOME TAXATION — ACTIVE DUTY MILITARY PAY. Notwithstanding section 422.7, subsection 40, the net income of a member of the national guard who served from August 1, 2004, to January 31, 2006, on full-time military duty as a mobilization augmenter in a rear detachment support assignment for a national guard unit deployed pursuant to orders related to Operation Iraqi Freedom, shall be calculated for those tax years as provided in section 422.7 by subtracting, to the extent included, the amount of full-time national guard duty pay received.

Sec. 101. LOW OR MODERATE NET WORTH — DESIGNATED AMOUNT ESTABLISHED. For the period beginning July 1, 2008, and ending December 31, 2008, the designated amount used to determine a person's aggregate net worth as provided in section 175.2, subsection 1, as amended in this division of this Act, is five hundred thousand dollars.

Sec. 102. CHARTER AGENCY GRANT FUND. Notwithstanding sections 7J.2 and 8.33 or any other provision of law, moneys appropriated to the department of management from the charter agency grant fund that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2007, shall not revert but shall remain available for expenditure for the purposes designated in section 7J.2, Code 2007, until the close of the succeeding fiscal year. At the close of the succeeding fiscal year, such moneys that remain unencumbered or unobligated shall revert to the general fund of the state.

Sec. 103. EFFECTIVE DATE. The section of this division of this Act amending 2007 Iowa Acts, chapter 206, section 6, being deemed of immediate importance, takes effect upon enactment.

Sec. 104. EFFECTIVE DATE. The section of this division of this Act addressing sections

[16] Chapter 1134 herein

* Item veto; see message at end of the Act

7J.2 and 8.33 and the charter agency grant fund, being deemed of immediate importance, takes effect upon enactment.

Sec. 105. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The section of this division of this Act relating to the computation of net income for individual income tax purposes of a member of the national guard who served on full-time military duty as a mobilization augmenter in a rear detachment support assignment for a national guard unit deployed pursuant to orders related to Operation Iraqi Freedom, being deemed of immediate importance, takes effect upon enactment, and applies retroactively to January 1, 2004, for tax years beginning on or after that date but before January 1, 2007.

Sec. 106. EFFECTIVE DATE — RETROACTIVE APPLICABILITY. The sections of this division of this Act amending section 35A.8, being deemed of immediate importance, take effect upon enactment and are retroactively applicable to July 1, 2007, and are applicable on and after that date.

Sec. 107. RETROACTIVE APPLICABILITY DATE. The sections of this division of this Act enacting section 422.11V and section 422.33, subsection 25, apply retroactively to January 1, 2008, for tax years beginning on or after that date.

DIVISION V
STATE AID FOR SCHOOLS — ENROLLMENT

Sec. 108. Section 257.6, subsection 1, paragraph a, subparagraph (5), Code Supplement 2007, is amended to read as follows:

(5) Resident pupils receiving competent private instruction from a licensed practitioner provided through a public school district pursuant to chapter 299A shall be counted as ~~six-tenths~~ three-tenths of one pupil. School districts shall not spend less than the amount expended for the delivery of home school assistance programming during the fiscal year beginning July 1, 2007, unless there is a decline in enrollment in the program. If a school district offered a home school assistance program in the fiscal year beginning July 1, 2007, it shall continue to offer a home school assistance program in the fiscal year beginning July 1, 2008, and subsequent fiscal years. If the school district determines that the expenditures associated with providing competent private instruction pursuant to chapter 299A is in excess of the revenue attributed to the school district's weighted enrollment for such instruction in accordance with this subparagraph, the school district may submit a request to the school budget review committee for modified allowable growth in accordance with section 257.31, subsection 5, paragraph "n". A home school assistance program shall not provide moneys received pursuant to this subparagraph, nor resources paid for with moneys received pursuant to this subparagraph, to parents or students utilizing the program.

Sec. 109. Section 257.11,[17] subsection 5, Code Supplement 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Unusual need for additional funds for the costs associated with providing competent private instruction pursuant to chapter 299A.

Sec. 110. Section 299.4, Code Supplement 2007, is amended to read as follows:

299.4 REPORTS AS TO PRIVATE INSTRUCTION.

1. The parent, guardian, or legal custodian of a child who is of compulsory attendance age, who places the child under competent private instruction under either section 299A.2 or 299A.3, not in an accredited school or a home school assistance program operated by a ~~public~~ school district or accredited nonpublic school, shall furnish a report in duplicate on forms provided by the public school district, to the district by the earliest starting date specified in section 279.10, subsection 1. The secretary shall retain and file one copy and forward the other

[17] According to enrolled Act; the phrase "Section 257.31" probably intended

copy to the district's area education agency. The report shall state the name and age of the child, the period of time during which the child has been or will be under competent private instruction for the year, an outline of the course of study, texts used, and the name and address of the instructor. The parent, guardian, or legal custodian of a child, who is placing the child under competent private instruction for the first time, shall also provide the district with evidence that the child has had the immunizations required under section 139A.8, and, if the child is elementary school age, a blood lead test in accordance with section 135.105D. The term "outline of course of study" shall include subjects covered, lesson plans, and time spent on the areas of study.

2. A home school assistance program operated by a school district or accredited nonpublic school shall furnish a report on forms provided by the department. The report shall, at a minimum, state the name and age of the child and the period of time during the school year in which the child has been or will be under competent private instruction by the home school assistance program.

Sec. 111. WEIGHTED ENROLLMENT. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For one-time distribution to those school districts determined by the department to have expenditures associated with providing competent private instruction pursuant to chapter 299A in excess of the revenue attributed to the school district's weighted enrollment for such instruction in accordance with section 257.6, subsection 1, paragraph "a", subparagraph (5), as amended by this Act:

. . . . . $ 146,000

Sec. 112. BUDGET ADJUSTMENT. For the budget year beginning July 1, 2008, and ending June 30, 2009, any adjustment in the school district's budget resulting from the amendment to section 257.6 in this division of this Act shall be addressed as provided in section 257.6, subsection 1, paragraph "d" based upon the amendment made to section 257.6, subsection 1, paragraph a, subparagraph (5), and with the budget adjustment being made in the fiscal year beginning July 1, 2008.

Sec. 113. EFFECTIVE DATE. The section of this division of this Act amending section 257.6, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
CAMPAIGN FINANCE

Sec. 114. Section 53.10, unnumbered paragraph 3, Code Supplement 2007, is amended to read as follows:

During the hours when absentee ballots are available in the office of the commissioner, ~~the posting of political signs is prohibited within three hundred feet of the absentee voting site. No~~ electioneering shall not be allowed within the sight or hearing of voters at the absentee voting site.

Sec. 115. Section 53.11, subsection 4, Code Supplement 2007, is amended to read as follows:

4. During the hours when absentee ballots are available at a satellite absentee voting station, ~~the posting of political signs is prohibited within three hundred feet of the satellite absentee voting station. Electioneering~~ electioneering shall not be allowed within the sight or hearing of voters at the satellite absentee voting station.

Sec. 116. Section 68A.404, subsection 1, Code 2007, is amended to read as follows:

1. As used in this section, "independent expenditure" means one or more expenditures in

excess of ~~seven hundred fifty~~ one hundred dollars in the aggregate for a communication that expressly advocates the nomination, election, or defeat of a clearly identified candidate or the passage or defeat of a ballot issue that is made without the prior approval or coordination with a candidate, candidate's committee, or a ballot issue committee.

Sec. 117. Section 68A.404, subsection 3, paragraph a, Code 2007, is amended to read as follows:

a. An independent expenditure statement shall be filed within forty-eight hours of the making of an independent expenditure in excess of ~~seven hundred fifty~~ one hundred dollars in the aggregate.

Sec. 118. Section 68A.406, Code Supplement 2007, is amended to read as follows:

68A.406 CAMPAIGN SIGNS — YARD SIGNS.

1. Campaign signs may be placed with the permission of the property owner or lessee on any of the following:

a. Residential property.

b. Agricultural land owned by individuals or by a family farm operation as defined in section 9H.1, subsections 8, 9, and 10.

c. Property leased for residential purposes including, but not limited to, apartments, condominiums, college housing facilities, and houses if placed only on leased property space that is actually occupied.

d. Vacant lots owned by a ~~private individual~~ person who is not a prohibited contributor under section 68A.503.

e. Property owned by an organization that is not a prohibited contributor under section 68A.503.

f. Property leased by a candidate, committee, or an organization established to advocate the nomination, election, or defeat of a candidate or the passage or defeat of a ballot issue that has not yet registered pursuant to section 68A.201, when the property is used as campaign headquarters or a campaign office and the placement of the sign is limited to the space that is actually leased.

2. a. Campaign signs shall not be placed on any of the following:

~~a.~~ (1) Any property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way. Upon a determination by the board that a sign has been improperly placed, the sign shall be removed by highway authorities as provided in section 318.5, or by county or city law enforcement authorities in a manner consistent with section 318.5.

~~b.~~ (2) Property owned, leased, or occupied by a prohibited contributor under section 68A.503 unless the sign advocates the passage or defeat of a ballot issue or is exempted under subsection 1.

~~c.~~ (3) On any property without the permission of the property owner or lessee.

~~d.~~ (4) On election day either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the polls are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the polls are held.

~~e.~~ (5) ~~Within~~ On the premises of or within three hundred feet of any outside door of any building affording access to an absentee voting site during the hours when absentee ballots are available in the office of the county commissioner of elections as provided in section 53.10.

~~f.~~ (6) ~~Within~~ On the premises of or within three hundred feet of any outside door of any building affording access to a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station as provided in section 53.11.

b. ~~Paragraphs "d", "e", and "f"~~ Paragraph "a", subparagraphs (4), (5), and (6) shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of any outside door of any

building affording access to any room serving as a polling place, which sign is more than ninety square inches in size, is prohibited.

3. Campaign signs with dimensions of thirty-two square feet or less are exempt from the attribution statement requirement in section 68A.405. Campaign signs in excess of thirty-two square feet, or signs that are affixed to buildings or vehicles regardless of size except for bumper stickers, are required to include the attribution statement required by section 68A.405. The placement or erection of campaign signs shall be exempt from the requirements of chapter 480 relating to underground facilities information.

DIVISION VII
CORRECTIVE PROVISIONS

Sec. 119. Section 15.104, subsection 9, paragraph a, if enacted by 2008 Iowa Acts, House File 2450,[18] section 6, is amended to read as follows:

a. FINANCIAL ASSISTANCE PROGRAMS. Data on all assistance provided to business finance projects under the community economic betterment program established in section 15.317, eligible businesses under the high quality job creation program described in section 15.326, and eligible facilities under the value-added agricultural products and processes financial assistance program established in section 15E.111.

**Sec. 120. Section 20.9, subsection 1, paragraph n, if enacted by 2008 Iowa Acts, House File 2645, is amended to read as follows:*

*n. Evaluation procedures, including the frequency of evaluations, the method of evaluation, evaluation forms and other evaluation instruments, evaluation criteria, the purposes for and use of evaluations, and remedial and employee ~~performances~~ performance improvement plans and procedures.**

Sec. 121. Section 87.4, unnumbered paragraph 2, Code 2007, as amended by 2008 Iowa Acts, Senate File 2337,[19] section 1, if enacted, is amended to read as follows:

A self-insurance association formed under this section and an association comprised of cities or counties, or both, or the association of ~~county~~ Iowa fairs or a fair as defined in section 174.1, or community colleges as defined in section 260C.2 or school corporations, or both, or other political subdivisions, which have entered into an agreement under chapter 28E for the purpose of establishing a self-insured program for the payment of workers' compensation benefits are exempt from taxation under section 432.1.

Sec. 122. Section 87.4, unnumbered paragraph 4, Code 2007, as amended by 2008 Iowa Acts, Senate File 2337,[20] section 1, if enacted, is amended to read as follows:

A self-insured program for the payment of workers' compensation benefits established by an association comprised of cities or counties, or both, or the association of ~~county~~ Iowa fairs or a fair as defined in section 174.1, or community colleges, as defined in section 260C.2, or other political subdivisions, which have entered into an agreement under chapter 28E, is not insurance, and is not subject to regulation under chapters 505 through 523C. Membership in such an association together with payment of premiums due relieves the member from obtaining insurance as required in section 87.1. Such an association is not required to submit its plan or program to the commissioner of insurance for review and approval prior to its implementation and is not subject to rules or rates adopted by the commissioner relating to workers' compensation group self-insurance programs. Such a program is deemed to be in compliance with this chapter.

Sec. 123. Section 100C.6, subsection 3, as enacted by 2008 Iowa Acts, House File 2646,[21] section 1, is amended to read as follows:

3. Relieve any person engaged in fire sprinkler installation, maintenance, repair, service,

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[18] Chapter 1122 herein

* Item veto; see message at end of the Act

[19] Chapter 1139 herein

[20] Chapter 1139 herein

[21] Chapter 1094 herein

or inspection as defined in section 100D.1 from obtaining a fire sprinkler installer ~~or fire sprinkler~~ and maintenance worker license as required pursuant to chapter 100D.

Sec. 124. Section 144C.3, subsection 4, as enacted by 2008 Iowa Acts, Senate File 473,[22] section 8, is amended to read as follows:

4. A funeral director, an attorney, or any agent, owner, or employee of a funeral establishment, cremation establishment, cemetery, elder group home, assisted living program facility, adult day services program, or licensed hospice program~~, or attorney, or any agent, owner, or employee of such an entity,~~ shall not serve as a designee unless related to the declarant within the third degree of consanguinity.

Sec. 125. Section 261.7, subsections 2 and 3, if enacted by 2008 Iowa Acts, House File 2197,[23] section 1, are amended to read as follows:

2. The general assembly recommends that every public and private institution ~~for~~ of higher education in this state, including those institutions referenced in chapters 260C and 262 and section 261.9, post the list of required and suggested textbooks for all courses and the corresponding international standard book numbers for such textbooks at least fourteen days before the start of each semester or term, to the extent possible, at the locations where textbooks are sold on campus and on the web site for the respective institution ~~for~~ of higher education.

3. The college student aid commission is directed to convey the legislative intent and recommendation contained in this section to every institution ~~for~~ of higher education in the state registered pursuant to chapter 261B at least once a year.

**Sec. 126. Section 279.15A, subsection 2, if enacted by 2008 Iowa Acts, House File 2645, is amended to read as follows:*

*2. If the teacher requests a private meeting, the board shall, within five days of the receipt of the request, deliver to the teacher, in writing, notice of declination to meet with the teacher, or notice of a time and place for the meeting with the board which meeting shall be exempt from the requirements of chapter 21. If the board declines to meet with the teacher, the parties shall immediately proceed under section 279.16. The private meeting, if agreed to by the board, shall be held no later than fifteen days from receipt of the request for the private meeting. At the meeting, the superintendent shall have the opportunity to discuss with the board the reasons for the issuance of the notice. The teacher, or the teacher's representative, shall be given an opportunity to respond. At the conclusion of the meeting, the board of directors and the teacher may enter into a mutually agreeable resolution to the recommendation of termination. If no resolution is reached by the parties, the board shall immediately meet in open session, and, by majority roll call vote, either reject or support the superintendent's recommendation. If the recommendation is rejected, the teacher's continuing contract shall remain in force and effect. If the recommendation is supported, the parties shall immediately proceed under section 279.16.**

Sec. 127. Section 321.23, subsection 3, Code 2007, as amended by 2008 Iowa Acts, Senate File 2420,[24] section 53, is amended to read as follows:

3. In the event an applicant for registration of a foreign vehicle for which a certificate of title has been issued is able to furnish evidence of being the registered owner of the vehicle to the county treasurer of the owner's residence, although unable to surrender such certificate of title, the county treasurer may issue a registration receipt and plates upon receipt of the required annual registration fee and the fee for new registration ~~fee~~ but shall not issue a certificate of title thereto. Upon surrender of the certificate of title from the foreign state, the county treasurer shall issue a certificate of title to the owner, or person entitled thereto, of such vehicle as provided in this chapter. The owner of a vehicle registered under this subsection shall not be required to obtain a certificate of title in this state and may transfer ownership of the vehicle to a motor vehicle dealer licensed under chapter 322 if, at the time of the transfer, the certifi-

[22] Chapter 1051 herein

[23] Chapter 1146 herein

* Item veto; see message at end of the Act

[24] Chapter 1113 herein

cate of title is held by a secured party and the dealer has forwarded to the secured party the sum necessary to discharge the security interest pursuant to section 321.48, subsection 1.

Sec. 128. Section 321.105A, subsection 2, paragraph c, subparagraph (27), as enacted by 2008 Iowa Acts, Senate File 2420,[25] section 40, is amended to read as follows:

(27) A vehicle repossessed by a financial institution or an individual by means of a foreclosure affidavit pursuant to the uniform commercial code, chapter 554, provided there is a valid lien on the vehicle and the foreclosure affidavit is used for the sole purpose of retaining possession of the vehicle until a new buyer is found. However, if the financial institution or individual uses the foreclosure affidavit to take title to the vehicle and register the vehicle, the fee for new registration ~~fee~~ shall be due based on the outstanding loan amount on the vehicle.

Sec. 129. Section 476.44A, if enacted by 2008 Iowa Acts, Senate File 2386,[26] section 6, is amended to read as follows:

476.44A TRADING OF CREDITS.

The board may establish or participate in a program to track, record, and verify the trading of credits ~~for~~ or attributes relating to electricity generated from alternative energy production facilities or renewable energy sources among electric generators, utilities, and other interested entities, within this state and with similar entities in other states.

Sec. 130. Section 508E.8, subsection 1, paragraphs i and k, if enacted by 2008 Iowa Acts, Senate File 2392,[27] section 8, are amended to read as follows:

i. Disclosure to a viator shall include distribution of a brochure describing the process of viatical settlements. The national association of insurance commissioners form for the brochure shall be used unless another form is developed ~~or~~ and approved by the commissioner.

k. Following execution of a viatical contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in this chapter. This contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less. All such ~~contracts~~ contacts shall be made only by a duly licensed viatical settlement provider or by the authorized representative of a duly licensed viatical settlement provider.

Sec. 131. Section 633A.2301, Code 2007, as amended by 2008 Iowa Acts, Senate File 2350,[28] section 21, if enacted, is amended to read as follows:

633A.2301 RIGHTS OF BENEFICIARY, CREDITOR, AND ASSIGNEE.

To the extent a beneficiary's interest is not subject to a spendthrift provision, and subject to sections 633A.2305 and ~~633.2306~~ 633A.2306, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by levy, attachment, or execution of present or future distributions to or for the benefit of the beneficiary or other means.

Sec. 132. Section 670.7, subsection 4, if enacted by 2008 Iowa Acts, Senate File 2337,[29] section 3, is amended to read as follows:

4. The association of ~~county~~ Iowa fairs or a fair as defined in section 174.1, ~~or a fair,~~ shall be deemed to be a municipality as defined in this chapter only for the purpose of joining a local government risk pool as provided in this section.

Sec. 133. Section 714E.2, subsection 2, if enacted by 2008 Iowa Acts, House File 2653,[30] section 2, is amended to read as follows:

2. The following notice, printed in at least fourteen point boldface type and completed with

[25] Chapter 1113 herein
[26] Chapter 1133 herein
[27] Chapter 1155 herein
[28] Chapter 1119 herein
[29] Chapter 1139 herein
[30] Chapter 1125 herein

the name of the foreclosure consultant, must be printed immediately above the notice of cancellation statement required pursuant to section 714E.3:

NOTICE REQUIRED BY IOWA LAW

. . . . . (name) or anyone working for ~~him or her~~ . . . . . (name) CANNOT:

(1) Take any money from you or ask you for money until . . . . . (name) has completely finished doing everything ~~he or she~~ . . . . . (name) said ~~he or she~~ . . . . . (name) would do; and

(2) Ask you to sign or have you sign any lien, mortgage, or real estate contract.

Sec. 134. 2008 Iowa Acts, House File 2103,[31] section 1, is amended by striking the section and inserting in lieu thereof the following:

SECTION 1. Section 261.1, subsections 3 and 4, Code 2007, are amended to read as follows:

3. a. ~~A member~~ Two members of the senate, one to be appointed by the president of the senate~~, after consultation with the majority leader~~ and one to be appointed by the minority leader of the senate, to serve as ~~an~~ ex officio, nonvoting ~~member for a term of four years beginning on July 1 of the year of appointment~~ members.

~~4.~~ b. ~~A member~~ Two members of the house of representatives, one to be appointed by the speaker of the house of representatives and one to be appointed by the minority leader of the house of representatives, to serve as ~~an~~ ex officio, nonvoting ~~member for a term of four years beginning on July 1 of the year of appointment~~ members.

c. The members of the senate and house of representatives shall serve at the pleasure of the appointing legislator for a term beginning upon the convening of the general assembly and expiring upon the convening of the following general assembly, or when the appointee's successor is appointed, whichever occurs later.

Sec. 135. 2008 Iowa Acts, House File 2555,[32] section 18, is amended by striking the section and inserting in lieu thereof the following:

SEC. 18. NEW SECTION. 508E.20 PUBLIC RECORDS.

All information filed with the commissioner pursuant to the requirements of this chapter and its implementing rules shall constitute a public record that is open for public inspection except as otherwise provided in this chapter.

Sec. 136. 2008 Iowa Acts, House File 2651,[33] section 40, if enacted, is amended to read as follows:

SEC. 40. EFFECTIVE ~~DATE~~ DATES.

1. The sections of this Act amending sections 321E.8, 321E.9, 321E.14, and 322.7A, the section enacting section 321E.9B, and the section repealing 2007 Iowa Acts, chapter 167, being deemed of immediate importance, take effect upon enactment.

2. The section of this Act amending section 321.115, subsection 1, as enacted in 2007 Iowa Acts, chapter 143, section 12, takes effect January 1, 2009.

Sec. 137. 2008 Iowa Acts, House File 2689,[34] section 35, if enacted, is amended by striking the section and inserting in lieu thereof the following:

SEC. 35. EFFECTIVE DATE. This division of this Act takes effect January 1, 2009.

Sec. 138. 2008 Iowa Acts, Senate File 2316,[35] section 10, is amended to read as follows:

SEC. 10. Sections 540A.1, 540A.2, 540A.3, 540A.4, 540A.5, 540A.6, 540A.7, 540A.8, and 540A.9, Code 2007, are repealed.

Sec. 139. 2008 Iowa Acts, Senate File 2347,[36] section 9, is amended to read as follows:

SEC. 9. EMERGENCY RULES. The secretary of state may adopt emergency rules under

[31] Chapter 1107 herein
[32] Chapter 1123 herein
[33] Chapter 1124 herein
[34] Chapter 1169 herein
[35] Chapter 1066 herein
[36] Chapter 1176 herein

section ~~17A.1~~ 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act relating to optical scan voting systems, 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. 140. 2008 Iowa Acts, Senate File 2349,[37] section 8, is amended by striking the section and inserting in lieu thereof the following:

SEC. 8. Section 523A.601, subsection 6, paragraph a, Code Supplement 2007, is amended to read as follows:

a. A purchase agreement that is funded by a trust shall include a conspicuous statement in language substantially similar to the following language:

"For your prearranged funeral agreement, we will deposit not less than eighty percent of your payments in trust at (name of financial institution), (street address), (city), (state) (zip code) within fifteen days following receipt of the funds. For your protection, you ~~have the right to contact~~ will be notified within sixty days from the date of deposit from the financial institution ~~directly~~, if acting as a trustee of trust funds under this chapter, to confirm that the deposit of these funds ~~occurred~~ has been made establishing a trust fund as required by law. If you ~~are unable to confirm the deposit of these funds in trust~~ do not receive this notification, you may contact the Iowa insurance division for assistance by calling the insurance division at (telephone number) or by mail at (street address), (city), Iowa (zip code), or you may contact the financial institution by calling the financial institution at (telephone number) or by mail at the address indicated above."

Sec. 141. 2008 Iowa Acts, Senate File 2432,[38] section 1, subsection 5, paragraph c, if enacted, is amended to read as follows:

c. For equal distribution to regional sports authority districts certified by the department pursuant to section 15E.321, notwithstanding section 8.57, subsection 6, paragraph "c": ..... $ 500,000

Sec. 142. 2008 Iowa Acts, Senate File 2432,[39] section 1, subsection 9, paragraph a, if enacted, is amended to read as follows:

a. For purposes of supporting a water trails development program and a lowhead dam public hazard improvement program, notwithstanding section 8.57, subsection 6, paragraph "c": ..... $ 1,000,000

The department shall award grants to dam owners including counties, cities, state agencies, cooperatives, and individuals, to support projects approved by the department.

The department shall require each dam owner applying for a project grant to submit a project plan for the expenditure of the moneys, and file a report with the department regarding the project, as required by the department.

The funds can be used for signs, posts, and related cabling, and the department shall only award money on a matching basis, pursuant to the dam owner contributing at least 20 cents for every 80 cents awarded by the department, in order to finance the project. For the remainder of the funds, including any balance of money not awarded for signs, posts, and related cabling, the department shall only award ~~moneys to a dam owner on a matching basis. A dam owner shall contribute one dollar for each dollar awarded by the department in order to finance a project~~ moneys for the water trails development program or to the lowhead dam public hazard improvement program on a matching basis according to departmental rules.

DIVISION VIII
ANIMAL AGRICULTURE

Sec. 143. Section 459.102, subsection 4, Code 2007, is amended to read as follows:

4. "Animal feeding operation" means a lot, yard, corral, building, or other area in which ani-

[37] Chapter 1103 herein
[38] Chapter 1179 herein
[39] Chapter 1179 herein

mals 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. ~~An~~ Except as required for a national pollutant discharge elimination system permit required pursuant to the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, an animal feeding operation does not include a livestock market.

Sec. 144. Section 459A.103, subsection 3, Code 2007, is amended to read as follows:

3. a. In calculating the animal unit capacity of an open feedlot operation, the animal unit capacity shall not include the animal unit capacity of any confinement feeding operation building as defined in section 459.102, which is part of the open feedlot operation.

b. Notwithstanding paragraph "a", only for purposes of determining whether an open feedlot operation must obtain an operating permit, the animal unit capacity of the animal feeding operation includes the animal unit capacities of both the open feedlot operation and the confinement feeding operation if the animals in the open feedlot operation and the confinement feeding operation are all in the same category or type of animals as used in the definitions of large and medium concentrated animal feeding operations in 40 C.F.R. pt. 122. In all other respects the confinement feeding operation shall be governed by chapter 459 and the open feedlot operation shall be governed by this chapter.

Sec. 145. Section 459A.401, subsection 2, paragraph a, unnumbered paragraph 1, Code Supplement 2007, is amended to read as follows:

An open feedlot operation in compliance with the inspection and recordkeeping requirements of 40 C.F.R. pt. 122 and 40 C.F.R. pt. 412 applicable to the operation may discharge open feedlot effluent into any waters of the United States due to a precipitation event, if any of the following apply:

Sec. 146. COMPLIANCE EDUCATION EFFORT. The department of natural resources shall provide for a compliance education effort. In administering the effort, the department, in cooperation with associations that represent livestock producers and organizations that represent farmers generally, shall provide information on a statewide basis to persons involved with maintaining animals in a confinement feeding operation or open feedlot operation regarding methods and practices to ensure compliance with this Act.

Sec. 147. APPLICABILITY AND ENFORCEMENT.

1. A person required to obtain an operating permit for an animal feeding operation by the department of natural resources pursuant to 567 IAC ch. 65, and section 459.102, subsection 4, as amended by this division of this Act, or section 459A.103, subsection 3, as amended by this division of this Act, shall submit an application for the operating permit to the department of natural resources on or before December 31, 2008. The application for the operating permit must be complete, including all information required to be included in the application according to rules adopted by the department.

2. a. The state shall not take an enforcement action against a person arising from the person's failure to obtain an operating permit by the department of natural resources as required pursuant to this division of this Act if the person's application for the operating permit application is pending in accordance with subsection 1.

b. The state shall not take an enforcement action against a person arising from the person's failure to obtain an operating permit as required pursuant to this division of this Act for the period beginning on the day when the department of natural resources denies the person's application for the operation permit and ending on the thirtieth day after the person receives written notice that such application has been denied.

Sec. 148. EFFECTIVE DATE.

1. Except as provided in subsection 2, this division of this Act takes effect on December 31, 2008.

2. The section of this division of this Act establishing a compliance education effort takes effect upon enactment.

DIVISION IX
RETIREMENT FOR SENIOR JUDGES

Sec. 149. Section 602.9202, Code 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Senior judge retirement age" means seventy-eight years of age or, if the senior judge is reappointed as a senior judge for an additional two-year term upon attaining seventy-eight years of age pursuant to section 602.9203, eighty years of age.

Sec. 150. Section 602.9203, subsection 5, Code 2007, is amended to read as follows:

5. a. A senior judge may be reappointed to additional two-year terms, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

b. A senior judge may be reappointed to an additional two-year term upon attaining seventy-eight years of age, at the discretion of the supreme court, if the judicial officer meets the requirements of subsection 2.

Sec. 151. Section 602.9204, subsection 1, Code 2007, is amended to read as follows:

1. A judge who retires on or after July 1, 1994, and who is appointed a senior judge under section 602.9203 shall be paid a salary as determined by the general assembly. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to the applicable percentage multiplier of the basic senior judge salary, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains ~~seventy-eight years of~~ senior judge retirement age, the annuity paid to the person shall be an amount equal to the applicable percentage multiplier of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed an amount equal to the applicable specified percentage of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains ~~seventy-eight years of~~ senior judge retirement age. The state shall provide, regardless of age, to an active senior judge or a senior judge with six years of service as a senior judge and to the judge's spouse, and pay for medical insurance until the judge attains ~~the~~ senior judge retirement age ~~of seventy-eight years~~.

Sec. 152. Section 602.9204, subsection 2, paragraphs d and e, Code 2007, are amended to read as follows:

d. "Basic senior judge salary cap" means the basic senior judge salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained ~~seventy-eight years of~~ senior judge retirement age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

e. "Escalator" means the difference between the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains ~~seventy-eight years of~~ senior judge retirement age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, and the basic annual salary which the judge is receiving at the time the judge becomes separated from full-time service as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge.

Sec. 153. Section 602.9207, subsection 1, Code 2007, is amended to read as follows:

1. A senior judge shall cease to be a senior judge upon completion of the twelve-month period during which the judge attains ~~seventy-eight years of~~ senior judge retirement age. The clerk of the supreme court shall make a notation of the retirement of a senior judge in the roster of senior judges, at which time the senior judge shall become a retired senior judge.

Sec. 154. Section 602.9208, subsection 1, Code 2007, is amended to read as follows:

1. A senior judge, at any time prior to the end of the twelve-month period during which the judge attains ~~seventy-eight years of~~ senior judge retirement age, may submit to the clerk of the supreme court a written request that the judge's name be stricken from the roster of senior judges. Upon the receipt of the request the clerk shall strike the name of the person from the roster of senior judges, at which time the person shall cease to be a senior judge. A person who relinquishes a senior judgeship as provided in this subsection may be assigned to temporary judicial duties as provided in section 602.1612.

DIVISION X
CORE CURRICULUM FOR SCHOOLS

Sec. 155. Section 256.7, subsection 26, Code Supplement 2007, as amended by 2008 Iowa Acts, Senate File 2216,[40] section 1, is amended to read as follows:

26. a. Adopt rules that establish a core curriculum and requiring, beginning with the students in the 2010-2011 school year graduating class, high school graduation requirements for all students in school districts and accredited nonpublic schools that include at a minimum satisfactory completion of four years of English and language arts, three years of mathematics, three years of science, and three years of social studies. The core curriculum adopted shall address the core content standards in subsection 28 and the skills and knowledge students need to be successful in the twenty-first century. The core curriculum shall include social studies and twenty-first century learning skills which include but are not limited to civic literacy, health literacy, technology literacy, financial literacy, and employability skills; and shall address the curricular needs of students in kindergarten through grade twelve in those areas. ~~For purposes of this subsection, "financial literacy" shall include but not be limited to financial responsibility and planning skills; money management skills, including setting financial goals, creating spending plans, and using financial instruments; applying decision-making skills to analyze debt incurrence and debt management; understanding risk management, including the features and functions of insurance; and understanding saving and investing as applied to long-term financial security and asset building.~~ The department shall further define the twenty-first century learning skills components by rule.

b. Continue the inclusive process begun during the initial development of a core curriculum for grades nine through twelve including stakeholder involvement, including but not limited to representatives from the private sector and the business community, and alignment of the core curriculum to other recognized sets of national and international standards. The state board shall also recommend quality assessments to school districts and accredited nonpublic schools to measure the core curriculum.

~~The state board shall not require school districts or accredited nonpublic schools to adopt a specific textbook or textbook series to meet the core curriculum requirements of~~ Neither the state board nor the department shall require school districts or accredited nonpublic schools to adopt a specific textbook, textbook series, or specific instructional methodology, or acquire specific textbooks, curriculum materials, or educational products from a specific vendor in order to meet the core curriculum requirements of this subsection or the core content standards adopted pursuant to subsection 28.

Sec. 156. Section 256.9, subsection 57, as enacted by 2008 Iowa Acts, Senate File 2216,[41] section 2, is amended to read as follows:

57. a. Develop and distribute, in collaboration with the area education agencies, core cur-

[40] Chapter 1127 herein

[41] Chapter 1127 herein

riculum technical assistance and implementation strategies that school districts and accredited nonpublic schools ~~may~~ shall utilize, including but not limited to the development and delivery of formative and end-of-course model assessments classroom teachers ~~can~~ may use to measure student progress on the core curriculum adopted pursuant to section 256.7, subsection 26. The department shall ~~continue to collaborate with Iowa testing programs on the development of~~, in collaboration with the advisory group convened in accordance with paragraph "b" and educational assessment providers, identify and make available to school districts end-of-course and additional model end-of-course and additional assessments to align with the expectations included in the Iowa core curriculum. The model assessments shall be suitable to meet the multiple assessment measures requirement specified in section 256.7, subsection 21, paragraph "c".

b. Convene an advisory group comprised of education stakeholders including but not limited to school district and accredited nonpublic school teachers, school administrators, higher education faculty who teach in the subjects for which the curriculum is being adopted, private sector employers, members of the boards of directors of school districts, and individuals representing the educational assessment providers. The task force shall review the national assessment of educational progress standards and assessments used by other states, and shall consider standards identified as best practices in the field of study by the national councils of teachers of English and mathematics, the national council for the social studies, the national science teachers association, and other recognized experts.

Sec. 157. Section 257.11, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. A school district shall ensure that any course made available to a student through any sharing agreement between the school district and a community college or any other entity providing course programming pursuant to this section to students enrolled in the school district meets the expectations contained in the core curriculum adopted pursuant to section 256.7, subsection 26. The school district shall ensure that any course that has the capacity to generate college credit shall be equivalent to college-level work.

Sec. 158. Section 280.2, Code 2007, is amended to read as follows:

280.2 DEFINITIONS.

The term "public school" means any school directly supported in whole or in part by taxation. The term "nonpublic school" means any other school which is accredited ~~or which uses licensed practitioners as instructors~~ pursuant to section 256.11.

Sec. 159. 2008 Iowa Acts, Senate File 2216,[42] section 6, is amended to read as follows:

SEC. 6. DEPARTMENT OF EDUCATION — CORE CURRICULUM STUDY. The department of education shall conduct a study of the measures necessary for the successful adoption by the state's school districts and accredited nonpublic schools of core curriculums and core content standards established by rule pursuant to section 256.7, subsections 26 and 28. The study shall include an examination of the possible future expansion of the core curriculum to include content areas not currently included under section 256.7, subsection 26, including but not limited to fine arts, applied arts, humanities, and world languages. The department shall submit its findings and recommendations, including recommendations for statutory and administrative rule changes necessary, to the general assembly by November 14, 2008.

DIVISION XI
WAGE-BENEFITS TAX CREDIT PROGRAM

Sec. 160. Section 15.335A, subsection 2, paragraphs b and c, Code 2007, are amended by striking the paragraphs and inserting in lieu thereof the following:

b. "Average county wage" means the annualized, average hourly wage based on wage information compiled by the department of workforce development.

[42] Chapter 1127 herein

c. "Benefits" means all of the following:

(1) Medical and dental insurance plans. If an employer offers medical insurance under both single and family coverage plans, the employer shall be given credit for providing medical insurance under family coverage plans to all new employees.

(2) Pension and profit sharing plans.

(3) Child care services.

(4) Life insurance coverage.

(5) Other benefits identified by rule of the department of revenue.

Sec. 161. Section 15.336, Code 2007, is amended to read as follows:

15.336 OTHER INCENTIVES.

An eligible business may receive other applicable federal, state, and local incentives and credits in addition to those provided in this part. ~~However, a business which participates in the program under this part shall not receive any wage-benefits tax credits under chapter 15I.~~

Sec. 162. Section 15G.112, subsection 1, Code 2007, is amended to read as follows:

1. In order to receive financial assistance from the department from moneys appropriated from the grow Iowa values fund, the average annual wage, including benefits, of new jobs created must be equal to or greater than one hundred thirty percent of the average county wage. For purposes of this section, "average county wage" and "benefits" mean the same as defined in section ~~15I.1~~ 15.335A.

Sec. 163. Section 422.33, subsection 18, Code Supplement 2007, is amended by striking the subsection.

Sec. 164. Section 422.60, subsection 10, Code Supplement 2007, is amended by striking the subsection.

Sec. 165. Section 533.329, subsection 2, paragraph m, Code Supplement 2007, is amended by striking the paragraph.

Sec. 166. Sections 15I.2, 15I.3, and 422.11L, Code Supplement 2007, are repealed.

Sec. 167. Sections 15I.1, 15I.4, 15I.5, and 432.12G, Code 2007, are repealed.

Sec. 168. CONTINUATION OF TAX CREDITS. The repeal of chapter 15I in this division of this Act does not affect the availability of tax credits for qualified new jobs in existence on June 30, 2008. Qualified new jobs in existence on June 30, 2008, shall continue to be eligible to receive the tax credits for the remainder of the five-year period. However, a business is not entitled to a tax credit for a qualified new job created on or after July 1, 2008.

Approved May 15, 2008, with exceptions noted.

CHESTER J. CULVER, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2700, an Act relating to state and local finances by providing for funding of property tax credits and reimbursements, by making, increasing and reducing appropriations, providing for salaries and compensation of state employees, providing for matters relating to tax credits, providing for fees and penalties, and providing for properly related

matters, and including effective and retroactive applicability date provisions. House File 2700 is approved on this date, with the exceptions noted below, which I hereby disapprove.

I am unable to approve Section 12 of House File 2700 in its entirety. This language increases the annual salary rate of the elective executive officials of the State, including the governor, lieutenant governor, secretary of agriculture, attorney general, auditor of state, secretary of state, and treasurer of state. As Iowans struggle to cope with rising costs and economic uncertainties, this is not the time to increase the salaries of the elected statewide officers of the State.

I am unable to approve Section 44 of House File 2700 in its entirety because this language provides an opportunity for only five active members of the Peace Officers' Retirement System (PORS) to receive undeserved special treatment that will be costly to Iowa taxpayers. Section 44 provides this small group of individuals the opportunity to purchase service for years of employment while at a city fire or police department prior to July 1, 1992. Those who would benefit from this section and Section 98 (see below) of House File 2700 had an opportunity to purchase this service from July 1, 2006 to July 1, 2007 and did not take advantage of this opportunity. In one case, an individual would receive an estimated $33,000 annual increase in benefits. Overall, the unearned benefits for these five individuals could be as high as $1.8 million. This action could establish a worrisome precedent for creating special carve-outs from our pension funds for small groups of employees.

I am unable to approve Section 45 of House File 2700 in its entirety because the section would reduce professional standards of the recently established statewide electrician licensing program. This language would require the Electrical Examining Board to adopt rules to create a specially designated license for those individuals who held a locally issued electrician license obtained by passing an examination not approved by the Board for purposes of granting a state Class A license. I am concerned that grandfathering in more electricians who cannot meet the established Class A license requirements creates a public safety concern. I encourage the Electrical Examining Board to take steps to make the examination process more accessible at the local level.

I am unable to approve the designated item of the last sentence in Section 49 of House File 2700. This proposed language requires that five members of the Hospital Licensing Board shall possess recognized ability in the field of hospital administration and one member shall represent the general public. We need more public representation on the Hospital Licensing Board in order to reduce the inherent conflict of interest that members representing the hospital industry face and in order to provide greater voice for the consumers regarding licensing rules that directly affect hospital care.

I am unable to approve Section 50 of this bill in its entirety because state law has no jurisdiction over Federal regulatory actions. This section imposes timeline and procedural requirements that are in conflict with the Federal survey and certification processes for health care facilities. Even if this language only affected state requirements, the proposed timelines would have a significant fiscal impact on the Department of Inspections and Appeals and are unreasonable.

I am unable to approve Section 56 of House File 2700 in its entirety because the proposed timelines are unreasonable. This language would reduce the timeframe for reporting findings to an assisted living program from the current 20 working days to 10 working days. It would run counter to unannounced evaluations and make it impossible to ensure accurate compliance evaluations, which help protect the welfare of Iowans living in assisted living facilities.

I am unable to approve Section 98 of House File 2700 in its entirety. This section, which is related to the above-referenced Section 44, creates an unlimited appropriation from the General Fund to credit PORS for the amount of lost contributions to the Municipal System plus interest for this select group of individuals. As I have item vetoed Section 44, this section is no longer necessary.

I am unable to approve Sections 120 and 126 in their entireties. These sections provide corrective language to House File 2645, the collective bargaining bill. Since I have already vetoed House File 2645, these sections are no longer necessary.

For the above reasons, I respectfully disapprove the designated items in accordance with Article III, Section 16 of the Constitution of the State of Iowa. All other items in House File 2700 are hereby approved this date.

Sincerely,
CHESTER J. CULVER, *Governor*

CHAPTER 1192

HY-VEE WORLD CUP TRIATHLON AWARDS CEREMONY

S.J.R. 2003

A JOINT RESOLUTION authorizing the temporary use and consumption of alcoholic beverages on the state capitol complex grounds in conjunction with the Hy-Vee Bg World Cup Triathlon, and providing an effective date.

WHEREAS, on June 22, 2008, athletes from around the world will gather in Des Moines, Iowa, to compete for an extraordinary purse prize and for the third and final position on TEAM USA for the Beijing Olympics; and

WHEREAS, the city of Des Moines has the honor of being the only city in the United States on the 2008 World Cup schedule of 15 triathlons; and

WHEREAS, Iowa's state capitol complex grounds provide a unique and memorable setting for the finish line of the triathlon and the following awards ceremony; and

WHEREAS, a champagne toast is a traditional part of the awards ceremony; and

WHEREAS, because 11 IAC 100.4(8) prohibits the consumption of alcoholic beverages on the state capitol complex grounds, it is not possible to serve champagne or other alcoholic beverage[1] at this type of awards ceremony on the state capitol complex grounds; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Notwithstanding 11 IAC 100.4(8) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, alcoholic beverages may be used and consumed on the state capitol complex grounds at an awards ceremony, to be held on or around June 22, 2008, hosted and organized in whole or in part by Hy-Vee, Incorporated, if the person providing the food and alcoholic beverages at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the state capitol complex grounds is a private place.

Sec. 2. EFFECTIVE DATE. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 7, 2008

[1] According to enrolled Act; the word "beverages" probably intended

CHAPTER 1193

WORLD FOOD PRIZE AWARDS CEREMONY

S.J.R. 2005

A JOINT RESOLUTION authorizing the temporary use and consumption of wine and beer in the State Capitol, and the temporary display of ceremonial banners, in conjunction with the awards ceremony of the World Food Prize Foundation.

WHEREAS, the State of Iowa has the honor of being the home of the World Food Prize Foundation which annually presents an international award recognizing outstanding individual achievement in improving the quality, quantity, or availability of food in the world; and

WHEREAS, Iowa's unique State Capitol is an optimal location for this awards ceremony of the World Food Prize Foundation and previously served as the ceremony location; and

WHEREAS, the placement of ceremonial banners signifying the awards ceremony is an appropriate way to announce and commemorate the event; and

WHEREAS, wine and beer are customarily served as an accompaniment to the food and entertainment provided at this type of awards ceremony and wine was served when the ceremony was previously held at the State Capitol; and

WHEREAS, under 11 IAC 100.4(8), which prohibits the consumption of alcoholic beverages on the State Capitol complex, it is not possible to serve wine and beer at this type of awards ceremony in the State Capitol; NOW THEREFORE,

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Notwithstanding 11 IAC 100.4(8) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, wine and beer may be used and consumed within the state capitol at an awards ceremony, to be held on or around October 16, 2008, hosted and organized in whole or in part by the world food prize foundation if the person providing the food, wine, and beer at the awards ceremony possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the state capitol is a private place.

Sec. 2. Three ceremonial banners may be temporarily displayed either inside or outside the state capitol commemorating the ceremony.

Approved May 7, 2008

CHAPTER 1194

PROPOSED CONSTITUTIONAL AMENDMENT —
NATURAL RESOURCES AND OUTDOOR RECREATION TRUST FUND

S.J.R. 2002

First Time Passed

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to dedicate a portion of state revenue from the tax imposed on certain retail sales of tangible personal property and services for the benefit of the state's natural resources.

Be It Resolved by the General Assembly of the State of Iowa:

Section 1. The following amendment to the Constitution of the State of Iowa is proposed:

Article VII of the Constitution of the State of Iowa is amended by adding the following new section:

NATURAL RESOURCES. SEC. 10. A natural resources and outdoor recreation trust fund is created within the treasury for the purposes of protecting and enhancing water quality and natural areas in this State including parks, trails, and fish and wildlife habitat, and conserving agricultural soils in this State. Moneys in the fund shall be exclusively appropriated by law for these purposes.

The general assembly shall provide by law for the implementation of this section, including by providing for the administration of the fund and at least annual audits of the fund.

Except as otherwise provided in this section, the fund shall be annually credited with an amount equal to the amount generated by a sales tax rate of three-eighths of one percent as may be imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this State.

No revenue shall be credited to the fund until the tax rate for the sales tax imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this State in effect on the effective date of this section is increased. After such an increased tax rate becomes effective, an amount equal to the amount generated by the increase in the tax rate shall be annually credited to the fund, not to exceed an amount equal to the amount generated by a tax rate of three-eighths of one percent imposed upon the retail sales price of tangible personal property and the furnishing of enumerated services sold in this State.

Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed amendment to the Constitution of the State of Iowa is referred to the General Assembly to be chosen at the next general election for members of the General Assembly and the Secretary of State is directed to cause it to be published for three consecutive months before the date of the election as provided by law.

ANALYSIS OF TABLES

2008 REGULAR SESSION

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTIONS TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

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473	1051	2216	1127	2341	1140
505	1052	2217	1061	2347	1176
517	1126	2221	1022	2348	1141
572	1004	2222	1136	2349	1103
2036	1085	2230	1036	2350	1119
2054	1001	2246	1110	2354	1120
2059	1005	2248	1062	2361	1104
2089	1053	2250	1099	2367	1105
2101	1007	2251	1100	2379	1106
2108	1054	2269	1111	2380	1069
2111	1020	2276	1118	2386	1133
2117	1055	2277	1063	2392	1155
2123	1011	2281	1087	2394	1185
2124	1129	2286	1177	2400	1184
2129	1086	2289	1064	2405	1128
2132	1153	2292	1028	2406	1156
2133	1096	2301	1065	2413	1142
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2157	1056	2316	1066	2420	1113
2160	1170	2317	1031	2422	1144
2161	1117	2320	1032	2424	1171
2176	1057	2321	1138	2425	1187
2177	1058	2325	1102	2427	1116
2179	1059	2328	1037	2428	1172
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2199	1030	2335	1068	2430	1178
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2103	1107	2383	1074	2609	1048
2119	1038	2385	1075	2612	1161
2137	1008	2390	1089	2620	1115
2140	1002	2392	1090	2626	1049
2145	1108	2393	1095	2628	1151
2151	1009	2400	1034	2633	1162
2164	1071	2407	1042	2642	1050
2165	1015	2410	1076	2646	1094
2166	1016	2411	1077	2647	1182
2167	1010	2417	1027	2651	1124
2177	1158	2423	1043	2653	1125
2194	1017	2450	1122	2660	1180
2195	1039	2452	1044	2662	1189
2196	1040	2526	1148	2663	1134
2197	1146	2539	1188	2668	1167
2212	1084	2542	1091	2669	1168
2213	1018	2547	1092	2672	1163
2215	1024	2551	1045	2673	1164
2233	1006	2553	1046	2674	1183
2266	1147	2554	1047	2679	1181
2268	1025	2555	1123	2685	1165
2283	1131	2556	1160	2687	1173
2287	1026	2558	1149	2688	1174
2309	1019	2564	1078	2689	1169
2310	1121	2568	1079	2690	1132
2328	1072	2570	1109	2694	1175
2338	1114	2580	1080	2699	1190
2359	1012	2581	1081	2700	1191
2364	1041	2591	1093		

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S immediately following Code chapter or section indicates Code Supplement

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2.14(1, 3)	1031, §72
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7E.5(1s)	1031, §7; 1184, §37
7E.7(1) **S**	1156, §6, 58
7J.1[7b(3)]	1031, §95
7K.1(2i)	1032, §2
7K.1(3)	1032, §112; 1156, §7, 8, 58
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8.3A	1031, §74
8.6 **S**	1184, §29
8.7	1191, §25
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8.57(6c) **S**	1179, §37
8.57(6f) **S**	1134, §37
8.57A(4) **S**	1179, §38
8.57B **S**	1179, §39
8.57C(3) **S**	1179, §40
8.60(15)	1126, §1, 33
8.64(2) **S**	1184, §70
8A	1104, §2; 1184, §30
8A.101(1) **S**	1031, §8
8A.121	1184, §36
8A.202(2e)	1184, §31
8A.204 **S**	1156, §9, 58
8A.204(1a) **S**	1032, §113
8A.204[3g(4)] **S**	1031, §75
8A.221[2a(2)]	1184, §32
8A.221(3a)	1156, §10, 58
8A.311(14) **S**	1104, §1
8A.324	1031, §76
8A.362(3b) **S**	1169, §36, 42
8A.371(1) **S**	1156, §11, 58
8A.372(2, 3) **S**	1156, §12, 58
8A.402(2)	1184, §33
8A.413	1031, §77
8A.438	1171, §57
8A.502(14)	1032, §114
8A.505(2)	1183, §1, 2
8D.3(1, 2) **S**	1031, §78
8D.13	1188, §26
8D.13(19)	1031, §96
8F.2(1) **S**	1031, §9
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12A.1 **S**	1065, §1
12A.2 **S**	1065, §2
12A.3 **S**	1065, §3
12A.4 **S**	1065, §4
12A.5 **S**	1065, §5
12A.6 **S**	1065, §6
12A.7 **S**	1065, §7
12A.8 **S**	1065, §8
12A.9 **S**	1065, §12
12A.10 **S**	1065, §9
12A.11 **S**	1065, §10
12B.10(4a)	1075, §1
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12C.16(1b) **S**	1032, §3
12C.16[1b(4)] **S**	1191, §27
12C.17(1c) **S**	1191, §28
12C.17(4) **S**	1191, §29
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15G.111(2) **S**	1031, §15
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[1] Iowa Code chapter 514G, Code 2007, repealed by 2008 Iowa Acts, chapter 1175, §16; new Iowa Code chapter enacted at chapter 514G placement

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[2] Iowa Code chapter 540A, Code 2007, repealed by 2008 Iowa Acts, chapter 1066, §10; chapter 1191, §138; new Iowa Code chapter enacted at chapter 540A placement

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[1] To be codified in Code 2009; 2007 Iowa Acts, chapter 197, §50
[2] To be codified in Code 2009; 2007 Iowa Acts, chapter 197, §50
[3] To be codified in Code 2009; 2007 Iowa Acts, chapter 197, §50
[4] To be codified in Code 2009; 2007 Iowa Acts, chapter 197, §50
[5] To be codified in Code 2009; 2007 Iowa Acts, chapter 198, §35
[6] To be codified in Code 2009; 2007 Iowa Acts, chapter 146, §2

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[7] To be codified in Code Supplement 2009; 2008 Iowa Acts, chapter 1019, §18 herein amending 2007 Iowa Acts, chapter 218, §187

[8] To be codified in Code Supplement 2009; 2008 Iowa Acts, chapter 1019, §18 herein amending 2007 Iowa Acts, chapter 218, §187

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