

**State of Iowa**

2012

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

Enacted at the

**2012 REGULAR SESSION**

of the

**Eighty-Fourth General Assembly**

of the

**State of Iowa**

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

REGULAR SESSION CONVENED ON THE NINTH DAY OF JANUARY  
AND ADJOURNED ON THE NINTH DAY OF MAY, A.D. 2012



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



# PREFACE

## CERTIFICATION

We, Glen P. Dickinson, Director, Legislative Services Agency, Richard L. Johnson, Legal Services Division Director, and Leslie E. W. Hickey, 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 2012 Regular Session of the Eighty-fourth 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 2013 Iowa Code is published. Changes will be shown in the Tables of Disposition of Acts in the 2013 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 2012 Regular Session took effect on July 1, 2012, 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 updated, final estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Pursuant to Iowa Code section 2B.10 requiring that a notation of the filing of such an estimate be included in the Iowa Acts, a dagger is placed at the beginning of the enacting clause and a footnote is included for any enrolled Act or Resolution for which a mandate notation is required. No enrolled Acts required the filing of such an estimate this year.

*Resolutions.* Concurrent resolutions and Senate and House resolutions are generally not included. See 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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# ELECTIVE OFFICERS

Name and Office County from which  
originally chosen

## GOVERNOR

TERRY E. BRANSTAD ..... Boone  
 Jeffrey Boeyink, Chief of Staff  
 Alicia Freed, Executive Scheduler

## LIEUTENANT GOVERNOR

KIM REYNOLDS ..... Clarke  
 Tina Shaw, Senior Policy Advisor to Lieutenant Governor

## SECRETARY OF STATE

MATT SCHULTZ ..... Pottawattamie  
 Jim Gibbons, Chief Deputy  
 Mary Mosiman, Deputy of Elections

## AUDITOR OF STATE

DAVID A. VAUDT ..... Polk  
 Warren G. Jenkins, Chief Deputy Auditor of State  
 Tamera Kusian, Deputy, Performance Investigation Division  
 Andrew E. Nielsen, Deputy, Financial Audit Division

## TREASURER OF STATE

MICHAEL L. FITZGERALD ..... Polk  
 Stefanie Devin, Deputy Treasurer  
 Karen Austin, Deputy Treasurer

## SECRETARY OF AGRICULTURE

WILLIAM NORTHEY ..... Dickinson  
 Jay Johnson, Deputy Secretary  
 James Gillespie, Director, Soil Conservation Division  
 Stephen Moline, Director, Consumer Protection and Industry Services/Food Safety  
 and Animal Health

## ATTORNEY GENERAL

THOMAS J. MILLER ..... Polk  
 Tam Ormiston, Deputy Attorney General  
 Julie Pottorff, Deputy Attorney General  
 Thomas H. Miller, Deputy Attorney General  
 Mark Schantz, Solicitor General  
 Jeffrey S. Thompson, Deputy Attorney General  
 Eric Tabor, Chief of Staff

# GENERAL ASSEMBLY

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

## SENATORS

Name and Residence	Occupation	Senatorial District	Legislative Service
Anderson, Bill Pierson	Small Business Owner	27th—Cherokee, Plymouth, <i>Woodbury</i>	84(1st), 84(2nd)
Bacon, Robert Maxwell	Funeral Director	5th—Hamilton, <i>Story</i> , Webster, <i>Wright</i>	84(1st), 84(2nd)
Bartz, Merlin Grafton	Farmer/Laborer	6th—Cerro Gordo, Franklin, Hancock, Winnebago, <i>Worth</i>	74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Beall, Daryl Fort Dodge	Journalist	25th—Calhoun, Greene, <i>Webster</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Behn, Jerry Boone	Minority Leader/ Farmer/Agribusiness	24th—Boone, Dallas	77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Bertrand, Rick Sioux City		1st— <i>Woodbury</i>	84(1st), 84(2nd)
Black, Dennis H. Grinnell	Retired Conservationist	21st— <i>Jasper</i> , Polk	70(1st), 70(2nd), 71(1st), 71(2nd), 72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Boettger, Nancy J. Harlan	Farmer/Former Educator/Bed and Breakfast Owner-Operator	29th—Adair, Audubon, Cass, Guthrie, Pottawattamie, <i>Shelby</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)



Name and Residence	Occupation	Senatorial District	Legislative Service
Bolkcom, Joe Iowa City	Outreach Director— University of Iowa Center for Global and Regional Environmental Research/Iowa Flood Center	39th— <i>Johnson</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Bowman, Tod Maquoketa	Educator	13th—Clinton, Dubuque, <i>Jackson</i>	84(1st), 84(2nd)
Chelgren, Mark Ottumwa	Entrepreneur	47th—Appanoose, Davis, <i>Wapello</i> , Wayne	84(1st), 84(2nd)
Courtney, Thomas G. Burlington	Retired	44th— <i>Des Moines</i> , Louisa, Muscatine	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Danielson, Jeff Cedar Falls	Professional Firefighter	10th— <i>Black Hawk</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Dearden, Dick L. Des Moines	Retired—Job Developer 5th Judicial District	34th— <i>Polk</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Dix, Bill Shell Rock	Farmer	9th—Black Hawk, Bremer, <i>Butler</i> , Fayette	77(1st), 77(2nd), 78(1st), 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, 84(1st), 84(2nd)
Dotzler, William A., Jr. Waterloo	Retired—John Deere	11th— <i>Black Hawk</i>	77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Dvorsky, Robert E. Coralville	Executive Officer—6th Judicial District Department of Correctional Services	15th— <i>Johnson</i> , Linn	72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Ernst, Joni K. Red Oak	Iowa Army National Guard/Former County Auditor	48th—Adams, Clarke, Decatur, <i>Montgomery</i> , Ringgold, Taylor, Union	84(1st), 84(2nd)

Name and Residence	Occupation	Senatorial District	Legislative Service
Feenstra, Randy Hull	Finance and Insurance—Iowa State Bank	2nd—Lyon, Plymouth, <i>Sioux</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Fraise, Gene Fort Madison	Farmer	46th—Henry, <i>Lee</i>	71(1st), 71(2nd), 72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Greiner, Sandra H. Keota	Farmer	45th—Jefferson, Johnson, Van Buren, Wapello, <i>Washington</i>	75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 84(1st), 84(2nd)
Gronstal, Michael E. Council Bluffs	Majority Leader	50th— <i>Pottawattamie</i>	70(1st), 70(2nd), 71(1st), 71(2nd), 72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hahn, James F. Muscatine	Property Management	40th—Cedar, Johnson, <i>Muscatine</i>	74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hamerlinck, Shawn Dixon	Education, Professor—Clinton Community College/Adjunct Professor—Augustana College	42nd—Clinton, <i>Scott</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Hancock, Tom Epworth	Retired—United States Postal Service	16th—Delaware, <i>Dubuque</i> , Jones	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Senatorial District	Legislative Service
Hatch, Jack Des Moines	Real Estate Developer	33rd— <i>Polk</i>	71(1st), 71(2nd), 72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hogg, Robert M. Cedar Rapids	Attorney	19th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Horn, Wally E. Cedar Rapids	Legislator	17th— <i>Linn</i>	65(1st), 65(2nd), 66(1st), 66(2nd), 67(1st), 67(1st)X, 67(2nd), 68(1st), 68(2nd), 69(1st), 69(1st)X, 69(1st)XX, 69(2nd), 70(1st), 70(2nd), 71(1st), 71(2nd), 72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Houser, Hubert Carson	Farmer	49th— <i>Fremont, Mills, Page, Pottawattamie</i>	75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Jochum, Pam Dubuque	Legislator	14th— <i>Dubuque</i>	75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Johnson, David Ocheyedan	Retired Newspaper Publisher/Dairy Farmer	3rd— <i>Clay, Dickinson, O'Brien, Osceola, Sioux</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Kapucian, Tim L. Keystone	Farmer	20th— <i>Benton, Grundy, Iowa, Tama</i>	83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Senatorial District	Legislative Service
Kettering, Steve Lake View	Community Banker	26th—Buena Vista, Carroll, Crawford, Sac	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Kibbie, John P. (Jack) Emmetsburg	President of the Senate/Farmer	4th—Emmet, Humboldt, Kossuth, <i>Palo Alto</i> , Pocahontas, Webster	59, 60, 60X, 61, 62, 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Mathis, Liz Cedar Rapids	Owner—Advertising Agency	18th— <i>Linn</i>	84(2nd)
McCoy, Matt Des Moines	Owner—Resource Development Consultants (RDC)	31st— <i>Polk</i>	75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
McKinley, Paul Chariton	Businessman	36th—Jasper, <i>Lucas</i> , Mahaska, Marion, Monroe	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Quirnbach, Herman C. Ames	Associate Professor of Economics—Iowa State University	23rd—Boone, <i>Story</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Ragan, Amanda Mason City	Executive Director— Community Kitchen of North Iowa/Executive Director—Meals on Wheels	7th— <i>Cerro Gordo</i> , Floyd, Howard, Mitchell	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Rielly, Tom Oskaloosa	Insurance Sales	38th—Iowa, Keokuk, <i>Mahaska</i> , Poweshiek, Tama	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Schoenjahn, Brian Arlington	Legislator/EMT— Arlington Fire Department	12th—Black Hawk, Buchanan, Clayton, Delaware, <i>Fayette</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Seng, Joe M., Dr. Davenport	Veterinarian	43rd— <i>Scott</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

<b>Name and Residence</b>	<b>Occupation</b>	<b>Senatorial District</b>	<b>Legislative Service</b>
Seymour, James A. Woodbine	Retired Hospital Administrator/CEO	28th—Crawford, <i>Harrison,</i> Ida, Monona, Pottawattamie, Woodbury	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Smith, Roby Davenport	Small Business Owner	41st— <i>Scott</i>	84(1st), 84(2nd)
Sodders, Steven J. State Center	Deputy Sheriff	22nd—Franklin, Hardin, <i>Marshall</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Sorenson, Kent Milo	Business Owner	37th—Dallas, Madison, <i>Warren</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Ward, Pat Clive	Former Public and Government Relations Executive	30th— <i>Polk</i>	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Whitver, Jack Ankeny	Self-Employed/Business Owner	35th— <i>Polk</i>	84(1st), 84(2nd)
Wilhelm, Mary Jo Cresco	Appraiser	8th—Allamakee, <i>Chickasaw, Howard,</i> Winneshiek	83(1st), 83(2nd), 84(1st), 84(2nd)
Zaun, Brad Urbandale	Vice President— R & R Realty Marketing Group	32nd— <i>Polk</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

## REPRESENTATIVES

Name and Residence	Occupation	Representative District	Legislative Service
Abdul-Samad, Ako Des Moines	CEO—Creative Visions	66th— <i>Polk</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Alons, Dwayne A. Hull	Farmer	4th— <i>Lyon, Sioux</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Anderson, Richard T. Clarinda	Attorney	97th— <i>Fremont, Mills, Page</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Arnold, Richard D. Russell	Farmer/Truck Driver Owner-Operator	72nd— <i>Lucas, Mahaska, Marion, Monroe</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Baltimore, Chip Boone	Attorney/General Counsel	48th— <i>Boone, Dallas</i>	84(1st), 84(2nd)
Baudler, Clel E. Greenfield	Retired State Trooper/Farmer	58th— <i>Adair, Audubon, Cass, Guthrie</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Berry, Deborah L. Waterloo		22nd— <i>Black Hawk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Brandenburg, Mark A. Council Bluffs	Retired Adjunct Instructor—Iowa Western Community College/Retired HR Professional—Electric Utility	100th— <i>Pottawattamie</i>	84(1st), 84(2nd)
Byrnes, Josh Osage		14th— <i>Cerro Gordo, Floyd, Howard, Mitchell</i>	84(1st), 84(2nd)
Chambers, Royd E. Sheldon	Educator/Member—Iowa Air National Guard	5th— <i>Clay, O'Brien, Osceola, Sioux</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
Cphoon, Dennis M. Burlington	Retired Special Education Teacher	88th— <i>Des Moines</i>	72(1st), 72(1st)X, 72(1st)XX, 72(2nd), 73(1st), 73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Cownie, Peter West Des Moines	President—Junior Achievement of Central Iowa	60th— <i>Polk</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
De Boef, Betty R. What Cheer		76th—Iowa, <i>Keokuk</i> , <i>Poweshiek</i> , <i>Tama</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Deyoe, Dave Nevada	Farmer	10th—Hamilton, <i>Story</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Dolecheck, Cecil Mount Ayr	Farmer	96th—Adams, Montgomery, <i>Ringgold</i> , Taylor, Union	77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Drake, Jack Griswold	Farmer	57th— <i>Cass</i> , Pottawattamie, Shelby	75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Forristall, Greg Macedonia	Farmer	98th—Mills, <i>Pottawattamie</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Fry, Joel Osceola	Therapist/Educator/ Consultant/Speaker	95th— <i>Clarke</i> , Decatur, Union	84(1st), 84(2nd)
Gaines, Ruth Ann Des Moines		65th— <i>Polk</i>	84(1st), 84(2nd)
Garrett, Julian B. Indianola	Farmer/Attorney	73rd—Dallas, Madison, <i>Warren</i>	84(1st), 84(2nd)
Gaskill, Mary Ottumwa	Retired County Auditor	93rd— <i>Wapello</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Grassley, Pat New Hartford	Farmer	17th—Bremer, <i>Butler</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hagenow, Chris Windsor Heights	Attorney	59th— <i>Polk</i>	83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
Hager, Bob Dorchester		16th— <i>Allamakee, Winneshiek</i>	84(1st), 84(2nd)
Hall, Chris Sioux City		2nd— <i>Woodbury</i>	84(1st), 84(2nd)
Hanson, Curt Fairfield	Retired Teacher	90th— <i>Jefferson, Van Buren, Wapello</i>	83(2nd), 84(1st), 84(2nd)
Hanusa, Mary Ann Council Bluffs	High School Administrator	99th— <i>Pottawattamie</i>	84(1st), 84(2nd)
Heaton, David E. Mount Pleasant	Retired Restaurateur	91st— <i>Henry, Lee</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Heddens, Lisa K. Ames		46th— <i>Boone, Story</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hein, Lee Monticello	Business Owner	31st— <i>Dubuque, Jones</i>	84(1st), 84(2nd)
Helland, Erik Johnston	Banker	69th— <i>Polk</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Horbach, Lance J. Tama	Insurance	40th— <i>Grundy, Tama</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Hunter, Bruce L. Des Moines		62nd— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Huseman, Daniel Adair Aurelia	Farmer	53rd— <i>Cherokee, Plymouth, Woodbury</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Isenhardt, Charles Dubuque	President—Common Good Services/Sports Official	27th— <i>Dubuque</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Iverson, Stewart, Jr. Clarion		9th— <i>Franklin, Hamilton, Webster, Wright</i>	73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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, 84(1st), 84(2nd)



Name and Residence	Occupation	Representative District	Legislative Service
Jacoby, Dave J. Coralville	Self-Employed/Small Business	30th— <i>Johnson</i>	80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Jorgensen, Ron Sioux City	Vice President— Business and Finance— Morningside College	54th— <i>Woodbury</i>	84(1st), 84(2nd)
Kajtazovic, Anesa Waterloo		21st— <i>Black Hawk</i>	84(1st), 84(2nd)
Kaufmann, Jeff Wilton	Teacher/Livestock Operator	79th— <i>Cedar, Johnson, Muscatine</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Kearns, Jerry A. Keokuk	Staff Representative— United Steelworkers Union	92nd— <i>Lee</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Kelley, Dan Newton	Realtor/Small Business Owner—DJ Service	41st— <i>Jasper</i>	84(1st), 84(2nd)
Klein, Jarad Keota	Family Farmer	89th— <i>Jefferson, Johnson, Washington</i>	84(1st), 84(2nd)
Koester, Kevin Ankeny	School Administrator	70th— <i>Polk</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Kressig, Bob M. Cedar Falls	Retired—John Deere	19th— <i>Black Hawk</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Lensing, Vicki S. Iowa City	Funeral Home Owner	78th— <i>Johnson</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Lofgren, Mark S. Muscatine	Investment Sales	80th— <i>Muscatine</i>	84(1st), 84(2nd)
Lukan, Steven F. New Vienna	Account Executive—English & Associates	32nd— <i>Delaware, Dubuque</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Lykam, Jim Davenport	Legislator	85th— <i>Scott</i>	73(1st), 73(2nd), 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Mascher, Mary Iowa City	Retired Teacher	77th— <i>Johnson</i>	76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Massie, Glen H. Des Moines		74th— <i>Warren</i>	84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
McCarthy, Kevin M. Des Moines	Minority Leader/ Attorney	67th— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Miller, Helen Fort Dodge	Attorney/Arts Educator/Principal Rellim Group, LLC	49th— <i>Webster</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Miller, Linda J. Bettendorf	Retired Registered Nurse	82nd— <i>Scott</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Moore, Brian Zwingle	Farmer/Truck Driver	25th— <i>Clinton, Dubuque, Jackson</i>	84(1st), 84(2nd)
Muhlbauer, Dan Manilla	Farmer	51st— <i>Carroll, Crawford, Sac</i>	84(1st), 84(2nd)
Murphy, Patrick J. Dubuque		28th— <i>Dubuque</i>	73(2nd), 74(1st), 74(2nd), 74(2nd)X, 74(2nd)XX, 75(1st), 75(2nd), 76(1st), 76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Oldson, Jo Des Moines		61st— <i>Polk</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Olson, Rick Des Moines	Attorney	68th— <i>Polk</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Olson, Steven N. DeWitt	Farmer	83rd— <i>Clinton, Scott</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Olson, Tyler Cedar Rapids	Small Business Owner	38th— <i>Linn</i>	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Paulsen, Kraig Hiawatha	Speaker of the House/Attorney	35th— <i>Linn</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Paustian, Ross C. Walcott	Farmer	84th— <i>Scott</i>	84(1st), 84(2nd)
Pearson, Kim Pleasant Hill	Retired Attorney/Home Educator	42nd— <i>Jasper, Polk</i>	84(1st), 84(2nd)
Petersen, Janet Des Moines	Marketing Communications Consultant	64th— <i>Polk</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
Pettengill, Dawn E. Mount Auburn	Legislator	39th— <i>Benton, Iowa</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Quirk, Brian J. New Hampton	Electrical Contractor	15th— <i>Chickasaw, Howard, Winneshiek</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Raecker, J. Scott Urbandale	Executive Director— Institute for Character Development	63rd— <i>Polk</i>	78(1st), 78(2nd), 79(1st), 79(1st)X, 79(1st)XX, 79(2nd), 79(2nd)X, 79(2nd)XX, 79(2nd)XX, 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Rasmussen, Dan Independence		23rd— <i>Black Hawk, Buchanan, Fayette</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 84(1st), 84(2nd)
Rayhons, Henry V. Garner	Semi-Retired Farmer	11th— <i>Hancock, Winnebago, Worth</i>	77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Rogers, Walt Cedar Falls	Leadership Consultant/Event Planner	20th— <i>Black Hawk</i>	84(1st), 84(2nd)
Running-Marquardt, Kirsten Cedar Rapids		33rd— <i>Linn</i>	83(2nd), 84(1st), 84(2nd)
Sands, Thomas R. Wapello	Bank Officer/Real Estate Appraiser/Farm Owner	87th— <i>Des Moines, Louisa, Muscatine</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Schulte, Renee Cedar Rapids	Strategic Planning Consultant—Four Oaks, Inc.	37th— <i>Linn</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Schultz, Jason Schleswig	Farmer	55th— <i>Crawford, Ida, Monona, Woodbury</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Shaw, Tom W. Laurens		8th— <i>Humboldt, Kossuth, Pocahontas, Webster</i>	84(1st), 84(2nd)
Smith, Jeff Okoboji	Retired Banker	6th— <i>Clay, Dickinson</i>	84(1st), 84(2nd)
Smith, Mark Marshalltown	Licensed Independent Social Worker	43rd— <i>Marshall</i>	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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
Soderberg, Chuck Le Mars	Vice President— Planning and Legislative Services— Northwest Iowa Power Cooperative	3rd— <i>Plymouth, Sioux</i>	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Steckman, Sharon S. Mason City	Retired Educator	13th— <i>Cerro Gordo</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Swaim, Kurt Bloomfield	Lawyer	94th— <i>Appanoose, Davis, Wayne</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Sweeney, Annette Alden	Farmer/Publisher	44th— <i>Franklin, Hardin, Marshall</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Taylor, Jeremy Sioux City	Educator	1st— <i>Woodbury</i>	84(1st), 84(2nd)
Taylor, Todd E. Cedar Rapids	AFSCME Representative	34th— <i>Linn</i>	76(2nd), 77(1st), 77(2nd), 78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Thede, Phyllis Bettendorf		81st— <i>Scott</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Thomas, Roger Elkader	Executive Director— Elkader Development Corporation/Main Street Elkader	24th— <i>Clayton, Delaware, Fayette</i>	77(1st), 77(2nd), 78(1st), 78(2nd), 80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Tjepkes, David A. Gowrie	Retired State Trooper	50th— <i>Calhoun, Greene, Webster</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Upmeyer, Linda L. Garner	Majority Leader/Nurse Practitioner	12th— <i>Cerro Gordo, Franklin, Hancock</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Van Engelenhoven, James Pella	Farmer	71st— <i>Jasper, Marion</i>	78(1st), 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Vander Linden, Guy Oskaloosa	Retired Marine	75th— <i>Mahaska, Poweshiek</i>	84(1st), 84(2nd)
Wagner, Nick Marion	Electrical Engineer	36th— <i>Linn</i>	83(1st), 83(2nd), 84(1st), 84(2nd)
Watts, Ralph C. Adel	Retired Engineer	47th— <i>Boone, Dallas</i>	80(1st), 80(1st)X, 80(2nd), 80(2nd)X, 81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

Name and Residence	Occupation	Representative District	Legislative Service
Wenthe, Andrew J. West Union	Vice President of External Affairs—Upper Iowa University	18th—Black Hawk, Bremer, Fayette	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Wessel-Kroeschell, Beth Ames	Legislator	45th—Story	81(1st), 81(2nd), 81(2nd)X, 82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Willems, Nathan Lisbon	Attorney	29th—Johnson, Linn	83(1st), 83(2nd), 84(1st), 84(2nd)
Winckler, Cindy L. Davenport	Educational 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), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Windschitl, Matt W. Missouri Valley	Gunsmith/Conductor— Union Pacific Railroad	56th—Harrison, Monona, Pottawattamie	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)
Wittneben, John Estherville	Land Surveyor	7th—Emmet, Kossuth, Palo Alto	84(1st), 84(2nd)
Wolfe, Mary Clinton		26th—Clinton	84(1st), 84(2nd)
Worthan, Gary Storm Lake	Farmer	52nd—Buena Vista, Sac	82(1st), 82(2nd), 83(1st), 83(2nd), 84(1st), 84(2nd)

# JUDICIAL BRANCH

## JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	City of Office	Term Ending
Mark S. Cady, C.J. ....	Fort Dodge .....	December 31, 2016
David S. Wiggins .....	West Des Moines .....	December 31, 2012
Daryl L. Hecht .....	Sloan .....	December 31, 2016
Brent R. Appel .....	Ackworth .....	December 31, 2016
Thomas D. Waterman .....	Pleasant Valley .....	December 31, 2012
Edward M. Mansfield .....	Des Moines .....	December 31, 2012
Bruce B. Zager .....	Waterloo .....	December 31, 2012

## JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Gayle N. Vogel .....	Spirit Lake .....	December 31, 2016
Anuradha Vaitheswaran .....	Des Moines .....	December 31, 2012
Larry J. Eisenhauer, C.J. ....	Ankeny .....	December 31, 2014
Amanda Potterfield .....	Tiffin .....	December 31, 2016
Richard H. Doyle .....	Des Moines .....	December 31, 2016
David R. Danilson .....	Boone .....	December 31, 2016
Mary E. Tabor .....	Des Moines .....	December 31, 2012
Michael R. Mullins .....	Washington .....	December 31, 2012
Thomas N. Bower .....	Cedar Falls .....	December 31, 2014

# CONGRESSIONAL DELEGATION AND DISTRICT OFFICES

## UNITED STATES SENATORS

### Senator Tom Harkin (D)

731 Hart Senate Office Building  
Washington, D.C. 20510-1502  
(202) 224-3254

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<http://harkin.senate.gov>

E-mail address:

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Des Moines, Iowa 50309  
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Suite 370  
Cedar Rapids, Iowa 52401  
(319) 365-4504

1606 Brady Street  
Suite 323  
Davenport, Iowa 52803  
(563) 322-1338

110 Federal Building  
320 6th Street  
Sioux City, Iowa 51101  
(712) 252-1550

315 Federal Building  
350 West 6th Street  
Dubuque, Iowa 52001  
(563) 582-2130

### Senator Chuck Grassley (R)

135 Hart Senate Office Building  
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E-mail address:

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210 Waterloo Building  
531 Commercial Street  
Waterloo, Iowa 50701  
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150 First Avenue, NE  
Suite 325  
Cedar Rapids, Iowa 52401  
(319) 363-6832

103 Federal Building  
320 6th Street  
Sioux City, Iowa 51101  
(712) 233-1860

131 West 3rd Street  
Suite 180  
Davenport, Iowa 52801  
(563) 322-4331

307 Federal Building  
8 South 6th Street  
Council Bluffs, Iowa 51501  
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## UNITED STATES REPRESENTATIVES

First District: **Congressman Bruce Braley (D)**

1727 Longworth House Office Bldg.  
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(202) 225-2911  
Fax (202) 225-6666

Website address:  
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E-mail address:  
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219 East 4th Street  
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1050 Main Street  
Dubuque, Iowa 52001  
(563) 557-7789

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Suite 104  
Davenport, Iowa 52801  
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Second District: **Congressman David Loebsack (D)**

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E-mail address:  
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Fourth District: **Congressman Tom Latham (R)**

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E-mail address:  
[steve.king@mail.house.gov](mailto:steve.king@mail.house.gov)

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Fax (641) 782-2497

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Fax (712) 224-4693

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(712) 580-7754  
Fax (712) 580-3354

800 Oneida Street  
Suite A  
Storm Lake, Iowa 50588  
(712) 732-4197  
Fax (712) 732-4217

# CONDITION OF STATE TREASURY

June 30, 2011

	Balance July 1, 2010	Total Receipts and Transfers	Total Available	Total Disbursements and Transfers	Balance June 30, 2011
General Fund .....	\$ 696,750,394	\$12,090,694,020	\$12,787,444,414	\$11,915,230,613	\$ 872,213,801
Special Revenue Fund .....	1,478,508,947	5,272,534,258	6,751,043,205	5,218,830,229	1,532,212,976
Capitol Projects Fund .....	17,184,418	153,981,292	171,165,710	62,547,703	108,618,007
Debt Service Fund .....	666	3	669	0	669
Enterprise Fund .....	46,148,151	569,725,750	615,873,901	571,890,405	43,983,496
Internal Service Fund .....	88,799,971	596,803,974	685,603,945	554,709,375	130,894,570
Expendable Trust Fund .....	159,862,245	1,026,869,218	1,186,731,463	1,013,980,962	172,750,501
Nonexpendable Trust Fund .....	23,365,894	4,012,123	27,378,017	131,623	27,246,394
Pension Fund .....	18,516,527,323	2,049,971,226	20,566,498,549	1,572,417,621	18,994,080,928
Trust and Agency Fund .....	285,758,341	5,131,455,883	5,417,214,224	5,129,077,932	288,136,292
Totals .....	<u>\$21,312,906,350</u>	<u>\$26,896,047,747</u>	<u>\$48,208,954,097</u>	<u>\$26,038,816,463</u>	<u>\$22,170,137,634</u>

Balance July 1, 2010 .....	\$21,312,906,350
Receipts and Transfers .....	26,896,047,747
Total Available .....	48,208,954,097
Disbursements and Transfers .....	26,038,816,463
Balance June 30, 2011 .....	\$22,170,137,634

DEPARTMENT OF ADMINISTRATIVE SERVICES  
STATE ACCOUNTING ENTERPRISE

May 9, 2012

# ANALYSIS BY CHAPTERS

## 2012 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolutions to chapters of the 2012 Acts, Regular Session, see page 692

CH.	FILE	TITLE
1001	SF 2018	Battleship Iowa — preservation and relocation grant funding
1002	SF 93	Domestic abuse assault — penalties
1003	SF 2086	Health care facility inspections
1004	SF 2120	Regulation of optometry
1005	HF 589	Agricultural production facility fraud
1006	SF 2170	Property tax sales — redemption — notice requirements
1007	HF 2150	Internal Revenue Code references update
1008	HF 2165	Physician orders for scope of treatment
1009	SF 2127	Professional licensing and regulation — land surveyors, landscape architects, architects, and engineers
1010	SF 2058	Records of rural water districts, city utilities, and city enterprises
1011	SF 2092	Informal dispute resolution by prosecuting attorneys training coordinator
1012	SF 2244	Injured veterans grant program eligibility
1013	SF 2282	All-terrain vehicle and off-road utility vehicle — definitions
1014	SF 2292	Legalizing act — Ankeny sanitary sewer improvement project
1015	SF 2218	School bus passenger safety
1016	SF 2146	Rural water district annual meetings
1017	SF 2202	Regulation of financial institutions and practices
1018	SF 2212	Economic development — miscellaneous changes
1019	SF 2247	Mental retardation — definition and terminology changes
1020	SF 2279	Regulation of credit unions and individual development account state match funds
1021	SF 2285	Substantive Code corrections
1022	HF 2368	Certificates of birth resulting in stillbirth
1023	SF 2203	Nonsubstantive Code corrections
1024	HF 2101	Public land survey corner certificates — recording
1025	HF 2145	Surplus lines insurance
1026	HF 2285	Hydronic — definition
1027	HF 2301	Alternate energy production facilities — construction or installation — notice
1028	HF 2320	Area agencies on aging
1029	HF 2402	Veterans trust fund — cemetery grant development
1030	SF 2096	State prisoners in county jails — reimbursements
1031	SF 2122	Out-of-state certified public accounting firms — review services
1032	SF 2153	Commercial and industrial highway network — size
1033	SF 2159	Child support information — release
1034	SF 2160	Medical assistance — private rooms in nursing facilities
1035	SF 2163	Certification for adult day services programs — exception
1036	SF 2172	Confinement feeding operations — swine farrowing and gestating operations
1037	SF 2185	Supervision of physician assistants
1038	SF 2186	Medical assistance — inmates of public institutions
1039	SF 2188	Foster care licensing — renewal requirements
1040	SF 2225	Child abuse — reporting
1041	SF 2248	Respiratory care services
1042	SF 2269	Land application of on-farm processing operation wastewater
1043	SF 2280	Boiler inspections
1044	SF 2288	Railroad crossings
1045	SF 2294	Real estate auctioneers
1046	SF 2296	Solicitation to commit murder
1047	SF 2221	School bus driver qualifications

CH.	FILE	TITLE
1048	SF 2249	Regulation of motor vehicle dealers, sales of motorcycles, and travel trailers
1049	SF 2260	Iowa nonprofit corporation Act
1050	SF 2265	Notarial acts
1051	HF 2168	Public funds — authorized deposits
1052	HF 2321	Uniform commercial Code — secured transactions
1053	HF 2370	Civil actions affecting real estate
1054	HF 2379	Expunging criminal records
1055	HF 2383	School employee misconduct — reporting
1056	HF 2387	Elder abuse — review
1057	HF 2390	Obscene material, commercial sexual activity, and human trafficking
1058	HF 2403	Commercial driver's licenses — military service experience
1059	SF 2038	Veterans affairs
1060	SF 2137	Property taxes for joint county-city buildings
1061	SF 2165	Administrative paternity proceedings — notice of alleged paternity and support debt
1062	SF 2220	Licensing of cosmetology and barber schools
1063	SF 2231	Indigent defense — practices and procedures
1064	HF 2092	Farmers markets
1065	HF 2144	Electrical utilities — transmission facility ownership
1066	HF 2166	Streamlined sales tax agreement — administration
1067	HF 2264	Veterans — interment rights
1068	HF 2306	Medical assistance advisory council membership
1069	HF 2369	Vital statistics — death certificates and burial transit permits
1070	HF 2404	Driver's license effective date — military service
1071	SF 413	Local emergency management commissions — financial responsibilities
1072	SF 2097	Public defense and military affairs
1073	SF 2126	State social security administration — funding
1074	SF 2164	Health or child care facility employment and criminal or abuse records
1075	SF 2208	Arrest warrant confidentiality
1076	SF 2245	Veterans — posttraumatic stress dual diagnosis treatment program study
1077	SF 2267	Oversight of postsecondary educational programs and institutions
1078	SF 2289	Disaster aid individual assistance grant program
1079	SF 2312	Persons with mental health illnesses and substance-related disorders
1080	SF 2318	Iowa health information network
1081	HF 524	Administration of special appraiser's and assessment expense funds
1082	HF 2226	Child abuse reports and disposition data
1083	HF 2228	Operating a motor vehicle — speed, control, and accidents
1084	HF 2231	Memorial hospital commissioner qualifications — residency
1085	HF 2292	Confinement feeding operations — fish — waste disposal permitting
1086	HF 2305	Department on aging
1087	HF 2323	City utilities and enterprises — rental property
1088	HF 2388	Disproportionate share hospital payments
1089	HF 2427	Electrical and mechanical amusement devices
1090	HF 2428	Transportation of goods or products within economic export corridors
1091	SF 2112	Military vehicle registration and titling and veteran designation on driver's licenses and nonoperator's identification cards
1092	SF 2158	Medical assistance — speech pathology services
1093	SF 2216	Apportioned registration of commercial motor vehicles
1094	SF 2217	Flood mitigation
1095	SF 2311	Department of agriculture and land stewardship — miscellaneous changes
1096	SF 2317	Hunting, fur dealer, fur harvester, and fishing licenses
1097	SF 2325	Income tax checkoffs — child abuse prevention, veterans, and volunteer fire fighter preparedness
1098	SF 2329	Sales tax rebate — baseball and softball tournament facility and movie site
1099	HF 2399	Scrap metal transactions
1100	HF 2467	Regulation of snowmobiles, all-terrain vehicles, and watercraft

CH.	FILE	TITLE
1101	SF 364	Regulation of occupational therapy services providers, orthotists, prosthetists, and pedorthists
1102	SF 451	Returning dropout and dropout prevention programs — funding
1103	SF 2322	Income tax credit for volunteer fire fighters and emergency medical services personnel
1104	SF 2333	Sales tax exemption for tangible personal property or services sales to substance abuse treatment or prevention programs
1105	HF 675	Mechanics' liens — state construction registry
1106	HF 2343	Pheasant studies
1107	HF 2455	Audits or examinations of city finances
1108	HF 2458	Rural Iowa primary care loan repayment program
1109	HF 2459	Assessment on sheep and wool production
1110	SF 2328	Administration and oversight of taxes, tax credits and incentives, franchise fees, and annexation or severance by cities
1111	SF 2332	Enhanced 911 emergency communication systems
1112	HF 563	State contracts for legal services
1113	HF 2464	Regulation of public health — miscellaneous changes
1114	HF 2472	Excise tax rates on motor fuel
1115	SF 430	Regulation of open records and public meetings
1116	SF 466	Residential contractors
1117	SF 2237	Social and charitable gambling
1118	SF 2283	Regulation of natural resources and recreation activities
1119	SF 2284	Education — instruction, administration, programs, and assessment
1120	SF 2315	Publicly funded mental health and disability services
1121	SF 2342	Tax credits and exemptions — solar energy systems, geothermal heat pumps, and auto body repair and wash and wax services
1122	SF 2343	Controlled substances
1123	HF 609	Trusts and estates
1124	HF 2460	Urban renewal and taxation
1125	HF 2470	Sales and use taxes on farm machinery and equipment
1126	HF 2473	Economic development programs and funding
1127	SF 2007	National guard educational assistance program — appropriation
1128	SF 2071	Appropriation reductions, transfers, and supplementals
1129	SF 2314	Appropriations — transportation
1130	SF 2324	Appropriations — workforce development — funding restoration
1131	SF 2313	Appropriations — administration and regulation
1132	SF 2321	Appropriations — education
1133	SF 2336	Appropriations — health and human services
1134	HF 2335	Appropriations — justice system
1135	HF 2336	Appropriations — agriculture and natural resources
1136	HF 2337	Appropriations — economic development
1137	HF 2338	Appropriations — judicial branch
1138	HF 2465	State and local government financial and regulatory matters — appropriations and miscellaneous changes
1139	HF 2466	Appropriations — veterans affairs
1140	SF 2316	Appropriations — infrastructure and capital projects
1141	HJR 2008	Nullification of administrative rule — physician services in facility settings — reimbursement



2012 Regular Session  
of the  
**Eighty-Fourth General Assembly**  
of the  
State of Iowa

**CHAPTER 1001**

BATTLESHIP IOWA — PRESERVATION AND RELOCATION GRANT FUNDING  
S.F. 2018

**AN ACT** relating to financial assistance for purposes of the battleship Iowa, BB-61, making appropriations, and including effective date provisions.

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

Section 1. 2011 Iowa Acts, chapter 131, section 82, subsection 2, is amended to read as follows:

2. ~~If the department of the navy, pursuant to a process outlined in a notice published in the federal register on May 24, 2010, volume 75, number 99, awards possession or conditionally awards possession of the battleship Iowa, BB-61, to a nonprofit group that is eligible to receive the battleship, the department of cultural affairs shall award a grant to the nonprofit group in an amount equal to \$3 million in addition to any moneys awarded as a grant from the BB-61 fund. Moneys in the BB-61 fund are appropriated to the department of cultural affairs to be used in accordance with this section. Subject only to the requirements in this subsection, the department of cultural affairs shall award a grant to a nonprofit entity that is awarded possession or conditional possession of the battleship Iowa, BB-61, an amount equal to \$3,000,000 plus any moneys held in the BB-61 fund created in 2010 Iowa Acts, chapter 1194. The grant moneys shall be expended for the limited purposes of hull and superstructure preparation and painting, ship repairs and improvements, transportation and towing of ship, pier, and dock preparation and improvements, and museum development for the purposes of receiving and berthing the battleship Iowa, BB-61. The grant shall be awarded and the moneys shall be remitted to the nonprofit not less than 30 days after the effective date of this 2012 Act. The grant recipient shall file two periodic reports with both the department of cultural affairs and the state auditor itemizing how the moneys have been expended. The first report shall be filed when 50 percent of the moneys have been expended, and the second report shall be filed when 100 percent of the moneys have been expended.~~

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

Approved February 1, 2012

**CHAPTER 1002****DOMESTIC ABUSE ASSAULT — PENALTIES***S.F. 93*

**AN ACT** enhancing the penalty for certain domestic abuse assault cases and providing a penalty.

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

Section 1. Section 236.12, subsection 2, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *e.* Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 2, paragraph “d”, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

NEW PARAGRAPH. *f.* Except as otherwise provided in subsection 3, a peace officer shall, with or without a warrant, arrest a person under section 708.2A, subsection 4A, if, upon investigation, including a reasonable inquiry of the alleged victim and other witnesses, if any, the officer has probable cause to believe that a domestic abuse assault has been committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury.

Sec. 2. Section 236.12, subsection 3, Code 2011, is amended to read as follows:

3. As described in subsection 2, paragraph “b”, “c”, ~~or “d”~~, “e”, or “f”, the peace officer shall arrest the person whom the peace officer believes to be the primary physical aggressor. The duty of the officer to arrest extends only to those persons involved who are believed to have committed an assault. Persons acting with justification, as defined in section 704.3, are not subject to mandatory arrest. In identifying the primary physical aggressor, a peace officer shall consider the need to protect victims of domestic abuse, the relative degree of injury or fear inflicted on the persons involved, and any history of domestic abuse between the persons involved. A peace officer’s identification of the primary physical aggressor shall not be based on the consent of the victim to any subsequent prosecution or on the relationship of the persons involved in the incident, and shall not be based solely upon the absence of visible indications of injury or impairment.

Sec. 3. Section 702.11, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *g.* Domestic abuse assault in violation of section 708.2A, subsection 4A.

Sec. 4. Section 708.2A, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* An aggravated misdemeanor, if the domestic abuse assault is committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat or neck of the other person or by obstructing the nose or mouth of the other person.

Sec. 5. Section 708.2A, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. For a domestic abuse assault committed by knowingly impeding the normal breathing or circulation of the blood of another by applying pressure to the throat



or neck of the other person or by obstructing the nose or mouth of the other person, and causing bodily injury, the person commits a class "D" felony.

Approved February 15, 2012

## CHAPTER 1003

### HEALTH CARE FACILITY INSPECTIONS

*S.F. 2086*

**AN ACT** relating to regular inspections of state-licensed health care facilities and including effective date and retroactive applicability provisions.

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

Section 1. REPEAL. 2011 Iowa Acts, chapter 127, sections 16 and 74, are repealed.

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

Sec. 3. RETROACTIVE APPLICABILITY. This Act applies retroactively to October 24, 2011.

Approved February 22, 2012

## CHAPTER 1004

### REGULATION OF OPTOMETRY

*S.F. 2120*

**AN ACT** relating to the practice of optometry.

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

Section 1. Section 147.108, subsection 2, Code 2011, is amended to read as follows:

2. After contact lenses have been adequately adapted and the patient released from initial follow-up care by a person licensed under chapter 148 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 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, 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, including pharmaceutical-delivering contact lenses as defined in section 154.1, subsection 4 3.

Sec. 2. Section 154.1, Code 2011, is amended to read as follows:

**154.1 Board defined — optometry — ~~diagnostically certified licensed optometrists — therapeutically certified optometrists~~ licensed optometrists.**

1. As used in this chapter, “board” means the board of optometry created under chapter 147.

2. For the purpose of this subtitle, the following classes of persons shall be deemed to be engaged in the practice of optometry:

a. Persons employing any means ~~other than the use of drugs, medicine, or surgery~~ for the measurement of the visual power and visual efficiency of the human eye; persons engaged in the prescribing and adapting of lenses, prisms, and contact lenses; and persons engaged in the using or employing of visual training or ocular exercise for the aid, relief, or correction of vision; and persons employing the use of medicines and procedures for the purposes of diagnosis and treatment of diseases or conditions of the eye and adnexa.

b. Persons who allow the public to use any mechanical device for a purpose described in paragraph “a”.

c. Persons who publicly profess to be optometrists and to assume the duties incident to the profession.

~~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. 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. ~~3. a. Therapeutically certified optometrists~~ An optometrist licensed under this chapter 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. A licensed optometrist may perform minor surgical procedures and use medications for the diagnosis and treatment of diseases, disorders, and conditions of the eye and adnexa. A license to practice optometry under this chapter does not authorize the performance of surgical procedures which require the use of injectable or general anesthesia, moderate sedation, penetration of the globe, or the use of ophthalmic lasers for the purpose of ophthalmic surgery within or upon the globe. The removal of pterygia and Salzmann’s nodules, incisional corneal refractive surgery, and strabismus surgery are prohibited.

b. ~~Therapeutically certified optometrists~~ A licensed optometrist may employ and, notwithstanding section 147.107, supply pharmaceutical-delivering contact lenses for the purpose of treatment of conditions of the human eye and adnexa. For purposes of this paragraph, “pharmaceutical-delivering contact lenses” means contact lenses that contain one or more therapeutic pharmaceutical agents authorized for employment by this section for the purpose of treatment of conditions of the human eye and adnexa and that deliver such agents into the wearer’s eye.

c. ~~Therapeutically certified optometrists~~ A licensed optometrist 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.

d. ~~Therapeutically certified optometrists~~ A licensed optometrist 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.

e. The board ~~shall~~ is not be required to adopt rules relating to topical pharmaceutical agents, oral antimicrobial agents, oral antihistamines, oral antiglaucoma agents, and oral analgesic agents. Superficial A licensed optometrist may remove superficial foreign bodies may be removed from the human eye and adnexa.

f. The therapeutic efforts of a ~~therapeutically certified licensed~~ 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.

g. A ~~therapeutically certified~~ licensed 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.

5. 4. Beginning July 1, 2012, all licensed optometrists shall meet requirements established by the board by rule to employ diagnostic and therapeutic pharmaceutical agents for the practice of optometry. All licensees practicing optometry in this state shall have demonstrated qualifications and obtained certification to use diagnostic and therapeutic pharmaceutical agents as a condition of license renewal.

Sec. 3. Section 154.10, Code 2011, 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 in this state.

2. A ~~therapeutically certified~~ person licensed as an optometrist employing pharmaceutical agents as authorized by section 154.1 pursuant to this chapter 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 in this state.

Sec. 4. Section 155A.21, subsection 2, Code 2011, is amended to read as follows:

2. Subsection 1 does not apply to a licensed pharmacy, licensed wholesaler, physician, veterinarian, dentist, podiatric physician, ~~therapeutically certified~~ optometrist, advanced registered nurse practitioner, physician assistant, a nurse acting under the direction of a physician, or the board of pharmacy, its officers, agents, inspectors, and representatives, or to a common carrier, manufacturer's representative, or messenger when transporting the drug or device in the same unbroken package in which the drug or device was delivered to that person for transportation.

Approved February 22, 2012

## CHAPTER 1005

### AGRICULTURAL PRODUCTION FACILITY FRAUD

H.F. 589

**AN ACT** relating to an offense involving agricultural operations, and providing penalties, and including effective date provisions.

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

Section 1. Section 717A.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Agricultural production facility" means an animal facility as defined in subsection 4, paragraph "a", or a crop operation property.

Sec. 2. NEW SECTION. **717A.3A Agricultural production facility fraud.**

1. A person is guilty of agricultural production facility fraud if the person willfully does any of the following:

a. Obtains access to an agricultural production facility by false pretenses.

b. Makes a false statement or representation as part of an application or agreement to be employed at an agricultural production facility, if the person knows the statement to be false, and makes the statement with an intent to commit an act not authorized by the owner of the agricultural production facility, knowing that the act is not authorized.

2. A person who commits agricultural production facility fraud under subsection 1 is guilty of the following:

a. For the first conviction, a serious misdemeanor.

b. For a second or subsequent conviction, an aggravated misdemeanor.

3. a. A person who conspires to commit agricultural production facility fraud under subsection 1 is subject to the provisions of chapter 706. A person who aids and abets in the commission of agricultural production facility fraud under subsection 1 is subject to the provisions of chapter 703. When two or more persons, acting in concert, knowingly participate in committing agricultural production facility fraud under subsection 1, each person is responsible for the acts of the other person as provided in section 703.2. A person who has knowledge that agricultural production facility fraud under subsection 1 has been committed and that a certain person committed it, and who does not stand in the relation of husband or wife to the person committing the agricultural production facility fraud under subsection 1, and who harbors, aids, or conceals the person committing the agricultural production facility fraud under subsection 1, with the intent to prevent the apprehension of the person committing the agricultural production facility fraud under subsection 1, is subject to section 703.3.

b. A trial information or an indictment relating to agricultural production facility fraud under subsection 1 need not contain allegations of vicarious liability as provided in chapter 703.

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

Approved March 2, 2012

## CHAPTER 1006

### PROPERTY TAX SALES — REDEMPTION — NOTICE REQUIREMENTS

*S.F. 2170*

**AN ACT** relating to service of notice requirements for holders of a property tax sale certificate of purchase.

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

Section 1. Section 447.9, subsections 1 and 2, Code 2011, are amended to read as follows:

1. After one year and nine months from the date of sale, or after nine months from the date of a sale made under section 446.18, or after three months from the date of a sale made under section 446.19A or 446.19B, the holder of the certificate of purchase may cause to be served upon the person in possession of the parcel, and also upon the person in whose name the parcel is taxed, a notice signed by the certificate holder or the certificate holder's agent or attorney, stating the date of sale, the description of the parcel sold, the name of the purchaser, and that the right of redemption will expire and a deed for the parcel be made unless redemption is made within ninety days from the completed service of the notice. The notice shall be served by both regular mail and certified mail to the person's last known address and such service is deemed completed when the notice ~~by certified mail~~ is deposited in the mail and postmarked for delivery. The ninety-day redemption period begins as provided in section 447.12. When the notice is given by a county as a holder of a certificate of purchase the notice shall be signed by the county treasurer or the county attorney, and when given by a city, it shall be signed by the city officer designated by resolution of the council. When the notice is given by the Iowa finance authority or a city or county agency holding the parcel as part of an Iowa homesteading project, it shall be signed on behalf of the agency or authority by one of its officers, as authorized in rules of the agency or authority.

2. Service of the notice shall be made by both regular mail and certified mail on any mortgagee having a lien upon the parcel, a vendor of the parcel under a recorded contract of sale, a lessor who has a recorded lease or recorded memorandum of a lease, and any other person who has an interest of record, at the person's last known address. The notice shall be served on any city where the parcel is situated. Notice shall not be served after the filing of the affidavit required by section 447.12. Only those persons who are required to be served the notice of expiration as provided in this section or who have acquired an interest in or possession of the parcel subsequent to the filing of the notice of expiration of the right of redemption are eligible to redeem a parcel from tax sale. Service of the notice is deemed completed when the notice is deposited in the mail and postmarked for delivery.

Approved March 7, 2012

## CHAPTER 1007

### INTERNAL REVENUE CODE REFERENCES UPDATE

*H.F. 2150*

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

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

Section 1. Section 15.335, subsection 7, paragraph b, Code Supplement 2011, is amended to read as follows:

b. For purposes of this section, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

Sec. 2. Section 15A.9, subsection 8, paragraph e, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) For purposes of this subsection, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

Sec. 3. Section 422.3, subsection 5, Code Supplement 2011, 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, ~~2011~~ 2012.

Sec. 4. Section 422.10, subsection 3, paragraph b, Code Supplement 2011, is amended to read as follows:

b. For purposes of this section, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

Sec. 5. Section 422.32, subsection 1, paragraph g, Code Supplement 2011, is amended to read as follows:

g. "*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, ~~2011~~ 2012.

Sec. 6. Section 422.33, subsection 5, paragraph d, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) For purposes of this subsection, "*Internal Revenue Code*" means the Internal Revenue Code in effect on January 1, ~~2011~~ 2012.

Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 8. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2011, for tax years beginning on or after that date.

Approved March 7, 2012

## CHAPTER 1008

### PHYSICIAN ORDERS FOR SCOPE OF TREATMENT

*H.F. 2165*

**AN ACT** relating to physician orders for scope of treatment.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly recognizes the importance of encouraging individuals to discuss and make health care decisions before a situation necessitates an actual decision. The general assembly also recognizes that health care planning is a process, rather than a single decision, based upon the individual's values and personal health status. Advance directives provide the opportunity for an individual to enunciate and document the individual's wishes and to identify the person authorized to make decisions for the individual if the individual is unable to make decisions. The general assembly recognizes that the physician orders for scope of treatment form, modeled after the national physician orders for life-sustaining treatment paradigm initiative, complements advance directives by converting individual wishes contained in advance directives, or as otherwise expressed, into medical orders that may be recognized and acted upon across medical settings, thereby enhancing the ability of medical providers to understand and honor patients' wishes. An Iowa physician orders for scope of treatment form is intended for individuals who are frail and elderly or who have a chronic, critical medical condition or a terminal illness.

Sec. 2. **NEW SECTION. 144D.1 Physician orders for scope of treatment.**

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

1. "Advanced registered nurse practitioner" means an advanced registered nurse practitioner licensed pursuant to chapter 152 or 152E.
2. "Department" means the department of public health.
3. "Emergency medical care provider" means emergency medical care provider as defined in section 147A.1.
4. "Health care facility" means health care facility as defined in section 135C.1, a hospice program as defined in section 135J.1, an elder group home as defined in section 231B.1, and an assisted living program as defined in section 231C.2.
5. "Health care provider" means an individual, including an emergency medical care provider and an individual providing home and community-based services, and including a home health agency, 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.
6. "Home health agency" means home health agency as defined in 42 C.F.R. pt. 484.
7. "Hospital" means hospital as defined in section 135B.1.
8. "Legal representative" means an individual authorized to execute a POST form on behalf of a patient who is not competent to do so, in the order of priority set out in section 144A.7, subsection 1, and guided by the express or implied intentions of the patient or,

if such intentions are unknown, by the patient's best interests given the patient's overall medical condition and prognosis.

9. "Patient" means an individual who is frail and elderly or who has a chronic, critical medical condition or a terminal illness and for which a physician orders for scope of treatment is consistent with the individual's goals of care.

10. "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in this state.

11. "Physician assistant" means a person licensed as a physician assistant under chapter 148C.

12. "Physician orders for scope of treatment form" or "POST form" means a document containing medical orders which may be relied upon across medical settings that consolidates and summarizes a patient's preferences for life-sustaining treatments and interventions and acts as a complement to and does not supersede any valid advance directive.

**Sec. 3. NEW SECTION. 144D.2 Physician orders for scope of treatment (POST) form.**

1. The POST form shall be a uniform form based upon the national physician orders for life-sustaining treatment paradigm form. The form shall have all of the following characteristics:

a. The form shall include the patient's name and date of birth.

b. The form shall be signed and dated by the patient or the patient's legal representative.

c. The form shall be signed and dated by the patient's physician, advanced registered nurse practitioner, or physician assistant.

d. If preparation of the form was facilitated by an individual other than the patient's physician, advanced registered nurse practitioner, or physician assistant, the facilitator shall also sign and date the form.

e. The form shall include the patient's wishes regarding the care of the patient, including but not limited to all of the following:

(1) The administration of cardiopulmonary resuscitation.

(2) The level of medical interventions in the event of a medical emergency.

(3) The use of medically administered nutrition by tube.

(4) The rationale for the orders.

f. The form shall be easily distinguishable to facilitate recognition by health care providers, hospitals, and health care facilities.

g. An incomplete section on the form shall imply the patient's wishes for full treatment for the type of treatment addressed in that section.

2. The department shall prescribe the uniform POST form and shall post the form on the department's website for public availability.

**Sec. 4. NEW SECTION. 144D.3 Compliance with POST form.**

1. A POST form executed in this state or another state or jurisdiction in compliance with the law of that state or jurisdiction shall be deemed valid and enforceable in this state to the extent the form is consistent with the laws of this state, and may be accepted by a health care provider, hospital, or health care facility.

2. A health care provider, hospital, or health care facility may comply with an executed POST form, notwithstanding that the physician, advanced registered nurse practitioner, or physician assistant who signed the POST form does not have admitting privileges at the hospital or health care facility providing health care or treatment.

3. A POST form may be revoked at any time and in any manner by which the patient or a patient's legal representative is able to communicate the patient's intent to revoke, without regard to the patient's mental or physical condition. A revocation is only effective as to the health care provider, hospital, or health care facility upon communication to the health care provider, hospital, or health care facility by the patient, the patient's legal representative, or by another to whom the revocation was communicated.

4. In the absence of actual notice of the revocation of a POST form, a health care provider, hospital, health care facility, or any other person who complies with a POST form shall not be subject to civil or criminal liability or professional disciplinary action for actions taken under this chapter which are in accordance with reasonable medical standards. A health care

provider, hospital, health care facility, or other person against whom criminal or civil liability or professional disciplinary action is asserted because of conduct in compliance with this chapter may interpose the restriction on liability in this paragraph<sup>1</sup> as an absolute defense.

5. A health care provider, hospital, or health care facility that is unwilling to comply with an executed POST form based on policy, religious beliefs, or moral convictions shall take all reasonable steps to transfer the patient to another health care provider, hospital, or health care facility.

**Sec. 5. NEW SECTION. 144D.4 General provisions.**

1. 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. 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. A POST form shall not supersede a declaration executed pursuant to chapter 144A.

2. 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 POST form shall not supersede a durable power of attorney for health care executed pursuant to chapter 144B.

3. If the individual's physician has issued an out-of-hospital do-not-resuscitate order pursuant to section 144A.7A, the POST form shall not supersede the out-of-hospital do-not-resuscitate order.

4. Death resulting from the withholding or withdrawal of life-sustaining procedures pursuant to an executed POST form and in accordance with this chapter does not, for any purpose, constitute a suicide, homicide, or dependent adult abuse.

5. The executing of a POST form does not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. A policy of life insurance is not legally impaired or invalidated in any manner by the withholding or withdrawal of life-sustaining procedures pursuant to this chapter notwithstanding any term of the policy to the contrary.

6. A health care provider, hospital, health care facility, health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital plan shall not require any person to execute a POST form as a condition of being insured for, or receiving, health care services.

7. This chapter does not create a presumption concerning the intention of an individual who has not executed a POST form with respect to the use, withholding, or withdrawal of life-sustaining procedures in the event of a terminal condition.

8. This chapter shall not be interpreted to affect the right of an individual to make decisions regarding use of life-sustaining procedures as long as the individual is able to do so, nor to impair or supersede any right or responsibility that any person has to effect the withholding or withdrawal of medical care in any lawful manner. In that respect, the provisions of this chapter are cumulative.

9. This chapter shall not be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act or omission to end life other than to permit the natural process of dying.<sup>2</sup>

Approved March 7, 2012

<sup>1</sup> See chapter 1138, §50 herein

<sup>2</sup> See chapter 1133, §95 herein



**CHAPTER 1009****PROFESSIONAL LICENSING AND REGULATION — LAND SURVEYORS, LANDSCAPE ARCHITECTS, ARCHITECTS, AND ENGINEERS***S.F. 2127*

**AN ACT** relating to matters under the purview and authority of the professional licensing and regulation bureau of the banking division of the department of commerce.

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

Section 1. Section 354.2, subsections 15, 18, and 19, Code 2011, are amended to read as follows:

15. “*Plat of survey*” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered licensed professional land surveyor.

18. “*Subdivision plat*” means the graphical representation of the subdivision of land, prepared by a registered licensed professional land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

19. “*Surveyor*” means a registered licensed professional land surveyor who engages in the practice of land surveying pursuant to chapter 542B.

Sec. 2. Section 354.4, subsection 3, paragraph c, Code 2011, is amended to read as follows:

c. The plat shall be signed and dated by a surveyor, bear the surveyor’s Iowa registration license number and legible seal, and shall show a north arrow and bar scale.

Sec. 3. Section 355.1, subsections 9, 11, and 12, Code 2011, are amended to read as follows:

9. “*Plat of survey*” means a graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered licensed professional land surveyor.

11. “*Subdivision plat*” means a graphical representation of the subdivision of land, prepared by a registered licensed professional land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county where the land is located.

12. “*Surveyor*” means a registered licensed professional land surveyor who engages in the practice of land surveying pursuant to chapter 542B.

Sec. 4. Section 355.6, subsection 1, Code 2011, is amended to read as follows:

1. The surveyor shall confirm the prior establishment of control monuments at each controlling corner on the boundaries of the parcel or tract of land being surveyed. If no control monuments exist, the surveyor shall place the monuments. Control monuments shall be constructed of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The surveyor shall affix a cap of reasonably inert material bearing an embossed or stencil cut marking of the Iowa registration license number of the surveyor to the top of each monument which the surveyor places.

Sec. 5. Section 355.7, subsection 15, Code 2011, is amended to read as follows:

15. The plat shall contain a statement by a surveyor that the work was done and the plat was prepared by the surveyor or under the surveyor’s direct personal supervision, shall be signed and dated by the surveyor, and shall bear the surveyor’s Iowa registration license number and legible seal.

Sec. 6. Section 355.8, subsection 21, Code 2011, is amended to read as follows:

21. The plat shall be accompanied by a description of the land included in the subdivision and shall contain a statement by the surveyor that the work was done and the plat was

prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa ~~registration~~ license number and legible seal.

Sec. 7. Section 355.11, subsection 2, paragraph f, Code 2011, is amended to read as follows:

f. The certificate shall contain a statement by the surveyor that the work was done and the certificate was prepared by the surveyor or under the surveyor's direct personal supervision and shall be signed and dated by the surveyor and bear the surveyor's Iowa ~~registration~~ license number and seal.

Sec. 8. Section 468.3, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. The term "*land surveyor*" shall mean a person licensed as a professional land surveyor under the provisions of chapter 542B.

Sec. 9. Section 523I.314A, subsection 2, Code 2011, is amended to read as follows:

2. Prior to the sale of interment rights in an undeveloped area of a cemetery, internal reference markers shall be installed and maintained no more than one hundred feet apart. The internal reference markers shall be established with reference to survey markers that are no more than two hundred feet apart, have been set by a licensed professional land surveyor and mapper, and have been documented in a land plat of survey. Both the map and the land plat of survey shall be maintained by the cemetery and made available upon request to the commissioner and to members of the public.

Sec. 10. Section 542B.1, Code 2011, is amended to read as follows:

**542B.1 Licensed engineers and surveyors.**

A person shall not engage in the practice of engineering or land surveying in the state unless the person is a licensed professional engineer or a licensed professional land surveyor as provided in this chapter, except as permitted by section 542B.26.

Sec. 11. Section 542B.2, subsections 7 and 9, Code 2011, are amended to read as follows:

7. The term "*land surveyor*" as used in this chapter shall mean a person who engages in the practice of professional land surveying as defined in this section. Unless the context otherwise requires, any reference in this chapter to "*land surveyor*" or "*land surveying*" means "*professional land surveyor*" or "*professional land surveying*".

9. The term "*professional engineer*" as used in this chapter means a person, who, by reason of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education or practical experience, is qualified to engage in the practice of engineering. Unless the context otherwise requires, any reference in this chapter to "*engineer*" or "*engineering*" means "*professional engineer*" or "*professional engineering*".

Sec. 12. Section 542B.3, Code 2011, is amended to read as follows:

**542B.3 Engineering and land surveying examining board created.**

An engineering and land surveying examining board is created within the professional licensing and regulation bureau of the banking division of the department of commerce. The board consists of four members who are licensed professional engineers, one member who is a licensed professional land surveyor or a professional engineer who is also a licensed professional land surveyor, and two members who are not licensed professional engineers or licensed professional land surveyors and who shall represent the general public. Members shall be appointed by the governor subject to confirmation by the senate. A licensed member shall be actively engaged in the practice of engineering or land surveying and shall have been so engaged for five years preceding the appointment, the last two of which shall have been in Iowa. Insofar as practicable, licensed engineer members of the board shall be from different branches of the profession of engineering. Professional associations or societies composed of licensed engineers or licensed land surveyors may recommend the names of potential board members whose profession is representative of that association or society to the governor. However, the governor is not bound by the recommendations. A board member shall not be

required to be a member of any professional association or society composed of professional engineers or professional land surveyors.

Sec. 13. Section 542B.11, Code 2011, is amended to read as follows:

**542B.11 Staff — duties.**

The staff shall keep on file a record of all certificates of licensure granted and shall make annual revisions of the record as necessary. ~~In revising the record the staff shall communicate biennially by mail with every professional engineer and surveyor licensed under this chapter, as provided in section 542B.18.~~

Sec. 14. Section 542B.14, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Each applicant for licensure as a professional engineer or professional land surveyor shall have all of the following requirements, respectively, to wit:

Sec. 15. Section 542B.14, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

As a professional land surveyor:

Sec. 16. Section 542B.16, subsection 1, Code 2011, is amended to read as follows:

1. Each licensee, upon licensure, shall obtain a seal of a design approved by the board, bearing the licensee's name, Iowa license number, and the words "professional engineer" or "~~land~~ professional land surveyor" or both, as the case may be. A legible rubber stamp or other facsimile of the seal may be used and shall have the same effect as the use of the actual seal.

Sec. 17. Section 542B.17, Code 2011, is amended to read as follows:

**542B.17 Certificate Engineer's certificate.**

The board shall issue a certificate of licensure as a professional engineer to an applicant who has passed the examination as a professional engineer and who has paid an additional fee. The certificate shall be signed by the chairperson and secretary of the board under the seal of the board. The certificate shall authorize the applicant to engage in the practice of engineering. The certificate shall not carry with it the right to practice land surveying, unless specifically so stated on the certificate, which permission shall be granted by the board without additional fee in cases where the applicant duly qualifies as a professional land surveyor as prescribed by the rules of the board.

Sec. 18. Section 542B.18, Code 2011, is amended to read as follows:

**542B.18 Expirations and renewals.**

Certificates of licensure shall expire in ~~multi~~year intervals as determined by the board. ~~It shall be the duty of the secretary of the board to notify every person licensed under this chapter, of the date of expiration of the certificate and the amount of the fee that shall be required for its renewal; such notice shall be mailed at least one month in advance of the date of the expiration of the certificate.~~ Renewal may be effected by the payment of a fee the amount of which shall be determined by the board. The failure on the part of any licensee to renew a certificate in the month of expiration as required above shall not deprive a person of the right of renewal. A person who fails to renew a certificate by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty. For the duration of any war in which the United States is engaged the board may, in its discretion, defer the collection of renewal fees without penalty, which have or may become due from licensed professional engineers who are employed in the war effort, and residing outside the state, or who are members of the armed forces of the United States, and may renew the engineering certificates of licensed professional engineers.

Sec. 19. Section 542B.19, Code 2011, is amended to read as follows:

**542B.19 Land surveyor's certificate.**

To any applicant who shall have passed the examination as a professional land surveyor and who shall have paid an additional fee as set by the board, the board shall issue a certificate of

licensure signed by its chairperson and secretary under the seal of the board, which certificate shall authorize the applicant to practice land surveying as defined in this chapter and to administer oaths to assistants and to witnesses produced for examination, with reference to facts connected with land surveys being made by such professional land surveyor.

Sec. 20. Section 542B.20, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A person holding a certificate of licensure as a professional engineer or professional land surveyor issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of any foreign country, based on requirements and qualifications, in the opinion of the board equal to or higher than the requirements of this chapter, may be licensed without further examination.

Sec. 21. Section 542B.24, Code 2011, is amended to read as follows:

**542B.24 Injunction.**

Any person who is not legally authorized to practice in this state according to the provisions of this chapter, and shall practice, or shall in connection with the person's name use any designation tending to imply or designate the person as a professional engineer or professional land surveyor, may be restrained by permanent injunction.

Sec. 22. Section 542B.26, Code 2011, is amended to read as follows:

**542B.26 Applicability of chapter.**

1. *a.* This chapter shall not apply to any full-time employee of any corporation while doing work for that corporation, except in the case of corporations offering their services to the public as professional engineers or professional land surveyors.

*b.* Corporations engaged in designing buildings or works for public or private interests not their own shall be deemed to be engaged in the practice of engineering within the meaning of this chapter. With respect to such corporations all principal designing or constructing engineers shall hold certificates of licensure issued under this chapter. This chapter shall not apply to corporations engaged solely in constructing buildings and works.

2. This chapter shall not apply to any professional engineer or professional land surveyor working for the United States government, nor to any professional engineer or professional land surveyor employed as an assistant to a professional engineer or professional land surveyor licensed under this chapter if such assistant is not placed in responsible charge of any work involving the practice of engineering or land surveying work, nor to the operation or maintenance of power and mechanical plants or systems.

Sec. 23. Section 542B.27, subsection 1, Code 2011, is amended to read as follows:

1. In addition to any other penalties provided for in this chapter, the board may by order impose a civil penalty upon a person who is not licensed under this chapter as a professional engineer or a professional land surveyor and who does any of the following:

*a.* Engages in or offers to engage in the practice of professional engineering or professional land surveying.

*b.* Uses or employs the words "professional engineer" or "~~land~~ professional land surveyor", or implies authorization to provide or offer professional engineering or professional land surveying services, or otherwise uses or advertises any title, word, figure, sign, card, advertisement, or other symbol or description tending to convey the impression that the person is a professional engineer or professional land surveyor or is engaged in the practice of professional engineering or professional land surveying.

*c.* Presents or attempts to use the certificate of licensure or the seal of a professional engineer or professional land surveyor.

*d.* Gives false or forged evidence of any kind to the board or any member of the board in obtaining or attempting to obtain a certificate of licensure.

*e.* Falsely impersonates any licensed professional engineer or professional land surveyor.

*f.* Uses or attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure.

*g.* Knowingly aids or abets an unlicensed person who engages in any activity identified in this subsection.

Sec. 24. Section 542B.35, subsection 2, paragraph c, Code 2011, is amended to read as follows:

c. A person who completes the real property inspection report shall not claim to be a licensed professional land surveyor or a licensed professional engineer for purposes of the report.

Sec. 25. Section 543C.2, subsection 5, Code 2011, is amended to read as follows:

5. The complete description of the land offered for subdivision by lots, plots, blocks, or sales, with or without streets, together with plats certified to by a duly ~~registered~~ licensed professional land surveyor accompanied by a certificate attached thereto showing the date of the completion of the survey and of the making of the plat and the name of the subdivision for the purpose of identification of the subdivided land or any part thereof.

Sec. 26. Section 544A.10, Code 2011, is amended to read as follows:

**544A.10 Renewals.**

Certificates of registration expire in ~~multiyear~~ intervals as determined by the board. Registered architects shall renew their certificates of registration and pay a renewal fee in the manner prescribed by the board. The board shall prescribe the conditions and reasonable penalties for renewal after a certificate's expiration date.

Sec. 27. Section 544B.12, Code 2011, is amended to read as follows:

**544B.12 Seal.**

Every professional landscape architect shall have a seal, approved by the board, which shall contain the name of the landscape architect and the words "Professional Landscape Architect, State of Iowa", and such other words or figures as the board may deem necessary. All landscape architectural plans and specifications, prepared by such professional landscape architect or under the supervision of such professional landscape architect, shall be dated and bear the legible seal of such professional landscape architect. Nothing contained in this section shall be construed to permit the seal of a professional landscape architect to serve as a substitute for the seal of a registered architect, a licensed professional engineer, or a licensed professional land surveyor whenever the seal of an architect, engineer, or land surveyor is required under the laws of this state.

Sec. 28. Section 544B.13, Code 2011, is amended to read as follows:

**544B.13 Renewals.**

Certificates of licensure shall expire in ~~multiyear~~ intervals as determined by the board. Professional landscape architects shall renew their certificates of licensure and pay a renewal fee in the manner and amount prescribed by the board. A person who fails to renew a certificate by the expiration date shall be allowed to do so within thirty days following its expiration, but the board may assess a reasonable penalty.

Sec. 29. Section 544B.20, subsection 4, Code 2011, is amended to read as follows:

4. To affect or prevent the practice of land surveying by a professional land surveyor ~~registered~~ licensed under the laws of this state.

Sec. 30. Section 558A.4, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The disclosure statement may include a report or written opinion prepared by a person qualified to make judgment based on education or experience, as provided by rules adopted by the commission, including but not limited to a professional land surveyor licensed pursuant to chapter 542B, a geologist, a structural pest control operator licensed pursuant to section 206.6, or a building contractor. The report or opinion on a matter within the scope of the person's practice, profession, or expertise shall satisfy the requirements of this section or rules adopted by the commission regarding that matter required to be disclosed. If the report or opinion is in response to a request made for purposes of satisfying the disclosure statement, the report or opinion shall indicate which part of the disclosure statement the report or opinion satisfies.

Sec. 31. Section 568.15, Code 2011, is amended to read as follows:

**568.15 How constituted.**

The members of the commission shall be selected with reference to their fitness for the duties required and at least one of them shall be a competent licensed professional land surveyor and competent licensed professional civil engineer.

Sec. 32. Section 622.42, Code 2011, is amended to read as follows:

**622.42 Field notes and plats.**

A copy of the field notes of any licensed professional land surveyor, or a plat made by the surveyor and certified under oath as correct, may be received as evidence to show the shape or dimensions of a tract of land, or any other fact the ascertainment of which requires the exercise of scientific skill or calculation only.

Sec. 33. Section 633.249, Code 2011, is amended to read as follows:

**633.249 Mode of setting off share in real estate.**

The referees may employ a licensed professional land surveyor, and may cause the shares in real estate to be set off by legally sufficient land descriptions. They shall make a report of their proceedings to the court as early as reasonably possible.

Sec. 34. Section 650.7, Code 2011, is amended to read as follows:

**650.7 Commission.**

The court in which ~~said the~~ action is brought shall appoint a commission of one or more disinterested licensed professional land surveyors, who shall, at a date and place fixed by the court in the order of appointment, proceed to locate the lost, destroyed, or disputed corners and boundaries.

Approved March 8, 2012

## CHAPTER 1010

### RECORDS OF RURAL WATER DISTRICTS, CITY UTILITIES, AND CITY ENTERPRISES

*S.F. 2058*

**AN ACT** relating to certain records of rural water districts, city utilities, and city enterprises.

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

Section 1. NEW SECTION. **357A.11A Customer records.**

Notwithstanding section 22.2, subsection 1, public records of a district, which shall not be examined or copied as of right, include private customer information. Except as required pursuant to chapter 476, "*private customer information*" includes information identifying a specific customer and any record of a customer account, including internet-based customer account information.

Sec. 2. NEW SECTION. **388.9A Customer records.**

Notwithstanding section 22.2, subsection 1, public records of a city utility or combined utility system, or a city enterprise or combined city enterprise as defined in section 384.80, which shall not be examined or copied as of right, include private customer information. Except as required pursuant to chapter 476, "*private customer information*" includes information identifying a specific customer and any record of a customer account, including internet-based customer account information.

Approved March 14, 2012

**CHAPTER 1011**INFORMAL DISPUTE RESOLUTION BY PROSECUTING ATTORNEYS TRAINING  
COORDINATOR

S.F. 2092

**AN ACT** relating to informal dispute resolution, by eliminating a program for the establishment and support of locally organized informal dispute resolution centers in the office of prosecuting attorneys training coordinator of the department of justice.

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

Section 1. Section 679A.18, Code 2011, is amended to read as follows:

**679A.18 Chapter not retroactive.**

This chapter applies only to arbitration agreements made on or after July 1, 1981. ~~Sections 679.1 to 679.18, Code 1981, do not apply to agreements to arbitrate entered into after July 1, 1981.~~

Sec. 2. REPEAL. Chapter 679, Code 2011, is repealed.

Approved March 14, 2012

**CHAPTER 1012**

## INJURED VETERANS GRANT PROGRAM ELIGIBILITY

S.F. 2244

**AN ACT** requiring that a veteran be seriously injured or very seriously injured in order to be eligible to receive a grant under the injured veterans grant program.

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

Section 1. Section 35A.14, subsection 4, Code Supplement 2011, is amended to read as follows:

4. Moneys appropriated to or received by the department for providing injured veterans grants under this section may be expended for grants of up to ten thousand dollars to a veteran who is seriously injured veteran or very seriously injured, as defined in the most recently published United States department of defense joint publication 1-02, to provide financial assistance to the veteran so that family members of the veteran may be with the veteran during the veteran's recovery from an injury received in the line of duty in a combat zone or in a zone where the veteran was receiving hazardous duty pay after September 11, 2001.

Approved March 14, 2012

**CHAPTER 1013**

## ALL-TERRAIN VEHICLE AND OFF-ROAD UTILITY VEHICLE — DEFINITIONS

S.F. 2282

**AN ACT** concerning the definitions of “all-terrain vehicle” and “off-road utility vehicle” for purposes of provisions administered by the department of natural resources.

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

Section 1. Section 321.1, subsection 4, Code Supplement 2011, is amended to read as follows:

4. “*All-terrain vehicle*” means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use. “*All-terrain vehicle*” includes off-road utility vehicles ~~as defined in section 321.1~~, but does not include farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

Sec. 2. Section 321.1, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 47A. “*Off-road utility vehicle*” means a motorized flotation-tire vehicle with not less than four and not more than eight low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

Sec. 3. Section 321.1, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. “*All-terrain vehicle*” means a motorized ~~flotation-tire~~ vehicle with not less than three and not more than six ~~low-pressure~~ nonhighway tires that is limited in engine displacement to less than one thousand cubic centimeters and in total dry weight to less than one thousand two hundred pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

Sec. 4. Section 321.1, subsection 16, paragraph a, Code 2011, is amended to read as follows:

a. “*Off-road utility vehicle*” means a motorized ~~flotation-tire~~ vehicle with not less than four and not more than eight ~~low-pressure~~ nonhighway tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than ~~one thousand eight hundred~~ two thousand eight hundred pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

Approved March 14, 2012



**CHAPTER 1014****LEGALIZING ACT — ANKENY SANITARY SEWER IMPROVEMENT PROJECT***S.F. 2292*

**AN ACT** to legalize the proceedings of the City Council of Ankeny, Iowa, including all legal notices given, in connection with the making of a contract for the construction of certain improvements to the NE 7th Street Sanitary Sewer Improvement Project with Pirc-Tobin Construction, Inc. of Alburnett, Iowa, in connection with, and to legalize said contract, and authorize its performance by said Council and the financing including project notes issued thereof.

WHEREAS, on August 15, 2011, the City Council passed a resolution ordering the construction of certain improvements to the NE 7th Street Sanitary Sewer Improvement Project of said City, and directed publication of a Notice of Hearing and Letting, pursuant to the provisions of Chapters 26 and 384 of the Code of Iowa, 2011; and

WHEREAS, on September 19, 2011, said City entered into a contract for the construction of said improvements, covered by the resolution ordering construction hereinabove mentioned, with Pirc-Tobin Construction, Inc., which company thereafter filed its performance and maintenance bond with the City; and

WHEREAS, said construction work has now been commenced and a portion completed by said contractor, and said contractor has been partially paid for such work from available bond proceeds of said City; and

WHEREAS, doubts have arisen concerning the legality of the construction contract due to the omission of the publication of Notice of Hearing and Letting as required by Section 26.3 of the Iowa Code, and further due to said omission, doubts have arisen concerning the power of the Council to order disbursement of additional funds to the contractor and to issue and sell bonds to pay for the remaining cost of said improvements, and it is deemed advisable to put such doubts forever at rest; NOW THEREFORE,

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

Section 1. All proceedings heretofore taken by the City Council of Ankeny, Iowa, including all legal notices given, in connection with and pertaining to the execution of the contract with Pirc-Tobin Construction, Inc. of Alburnett, Iowa, on September 19, 2011, for the construction of certain improvements to the NE 7th Street Sanitary Sewer Improvement Project of said City and said contract itself, are hereby legalized, validated and confirmed, and shall constitute full authority for the said City Council to order the disbursement of the funds, including notes and bond funds, of said City to said contractor, and to issue and sell general obligations bonds, in the manner prescribed by law, to pay for the costs of said improvements, and said bonds when so issued, shall be valid, legal and binding obligations of said City.

Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, shall be in full force and effect upon enactment.

Approved March 14, 2012

**CHAPTER 1015**  
**SCHOOL BUS PASSENGER SAFETY**  
*S.F. 2218*

**AN ACT** relating to school bus safety, including providing penalties for failure to obey school bus warning lamps and stop signal arms, providing for a school bus safety study and administrative remedies, and making an appropriation.

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

Section 1. Section 321.372, Code 2011, is amended by adding the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. This section shall be known and may be cited as the “Keep Aware Driving — Youth Need School Safety Act”.

Sec. 2. Section 321.372, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 5. *a.* The driver of a school bus who commits a violation of subsection 1 or 2 is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 10.

*b.* A person convicted of a violation of subsection 3 is subject to the following:

(1) For a first offense under subsection 3, the person is guilty of a simple misdemeanor punishable by a fine of at least two hundred fifty dollars but not more than six hundred seventy-five dollars or by imprisonment for not more than thirty days, or by both.

(2) For a second or subsequent offense under subsection 3, the person is guilty of a serious misdemeanor.

Sec. 3. Section 321.482A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Notwithstanding section 321.482, a person who is convicted of operating a motor vehicle in violation of section 321.178, subsection 2, paragraph “a”, subparagraph (2), section 321.180B, subsection 6, section 321.194, subsection 1, paragraph “c”, section 321.256, section 321.257, section 321.275, subsection 4, section 321.276, 321.297, 321.298, 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307, 321.308, section 321.309, subsection 2, or section 321.311, 321.319, 321.320, 321.321, 321.322, 321.323, 321.323A, 321.324, 321.324A, 321.327, 321.329, or 321.333, or 321.372, subsection 3, causing serious injury to or the death of another person may be subject to the following penalties in addition to the penalty provided for a scheduled violation in section 805.8A or any other penalty provided by law:

Sec. 4. Section 805.8A, subsection 10, paragraph b, Code Supplement 2011, is amended by striking the paragraph.

Sec. 5. **SCHOOL BUS SAFETY STUDY — RULEMAKING — REQUESTS FOR REEXAMINATION OF A DRIVER — EDUCATION PROGRAMS — APPROPRIATION.**

1. The department of transportation, the department of public safety, and the department of education shall jointly conduct a study relating to school bus safety, or may contract with an outside vendor to conduct such a study under the joint direction of the departments. The study shall focus on the use of cameras mounted on school buses to enhance the safety of children riding the buses and to aid in enforcement of motor vehicle laws pertaining to school bus safety. The study shall also consider the feasibility of requiring school children to be picked up and dropped off on the side of the road on which their home is located, the inclusion of school bus safety as a priority in driver training curriculum, and any other issues deemed appropriate by the departments. The findings and recommendations shall be reported to the general assembly by December 31, 2012.

2. By July 1, 2012, the department of transportation shall initiate rulemaking to establish a violation of section 321.372, subsection 3, as a serious violation. The rules may provide for an increasing tier of driver’s license suspensions for conviction of a first, second, or subsequent violation. The specific direction provided under this subsection does not, by implication or otherwise, invalidate any prior rulemaking by the department designating certain violations

as serious violations and does not preclude future rulemaking by the department to designate certain violations other than violations of section 321.372, subsection 3, as serious violations.

3. By December 31, 2012, the department of transportation shall make available to local law enforcement agencies, electronically through the Iowa traffic and criminal software, the form for requesting departmental reexamination of a person who may be physically or mentally incapable of operating a motor vehicle safely.

4. The department of transportation, the department of public safety, and the department of education shall cooperate to establish educational programs to foster increased public awareness of motor vehicle laws and safe driving behaviors relating to school bus safety.

5. There is appropriated from the statutory allocations fund to the department of transportation an amount sufficient to fund the study required under this section and an amount sufficient to fund the development and programming necessary to make the request for departmental reexamination form available through the Iowa traffic and criminal software.

Sec. 6. EFFECTIVE UPON ENACTMENT. The section of this Act providing for a school bus safety study, the adoption of rules, law enforcement requests for reexamination of a driver, and educational programs and making an appropriation, being deemed of immediate importance, takes effect upon enactment.

Approved March 16, 2012

## CHAPTER 1016

### RURAL WATER DISTRICT ANNUAL MEETINGS

S.F. 2146

**AN ACT** relating to meeting requirements for rural water districts.

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

Section 1. Section 357A.8, subsection 1, Code 2011, is amended to read as follows:

1. For an annual meeting of participating members ~~between January 1 and May 1~~ by July 31 of each year following the year of incorporation of the district, and for the mailing of written notice of the time and place of each annual meeting to each participating member and publication of the notice in a newspaper of general circulation in the district not less than ten nor more than thirty days prior to each meeting.

Approved March 22, 2012

## CHAPTER 1017

### REGULATION OF FINANCIAL INSTITUTIONS AND PRACTICES

S.F. 2202

**AN ACT** relating to matters under the purview of the banking division of the department of commerce, and including effective date provisions.

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

DIVISION I  
MUTUAL OWNERSHIP FOR STATE-CHARTERED BANKS AND STATE HOLDING  
COMPANIES TO FACILITATE CONVERSIONS BY FEDERALLY CHARTERED SAVINGS  
ASSOCIATIONS

Section 1. Section 524.103, subsections 27 and 28, Code 2011, are amended to read as follows:

27. "*Member*" means a person with a membership interest in a state bank organized as a limited liability company or incorporated as a mutual corporation under this chapter.

28. "*Membership interest*" means a member's share of the profits and losses, the right to receive distributions of assets, and any right to vote or participate in management of a state bank organized as a limited liability company under this chapter or of a state bank incorporated as a mutual corporation under this chapter.

Sec. 2. Section 524.103, Code 2011, is amended by adding the following new subsections:  
NEW SUBSECTION. 27A. "*Member vote*" means one vote for each one hundred dollars, or fraction thereof, of the withdrawal value of a member's account with respect to a mutual corporation.

NEW SUBSECTION. 29A. "*Mutual bank holding company*" means a bank holding company that is a mutual corporation or that owns or controls a mutual corporation.

NEW SUBSECTION. 29B. "*Mutual corporation*" means a corporation that is incorporated on a mutual ownership basis under this chapter or converted to become subject to this chapter and is not authorized to issue capital stock.

Sec. 3. Section 524.103, subsections 35, 36, and 39, Code 2011, are amended to read as follows:

35. "*Shareholder*" means one who is a holder of record of shares in a state bank. If a state bank is organized as a limited liability company under this chapter, "*shareholder*" means ~~any~~ a member of the limited liability company. If a state bank is incorporated as a mutual corporation under this chapter, "shareholder" means a member of the mutual corporation.

36. "*Shares*" means the units into which the proprietary interests in a state bank incorporated as a stock corporation are divided, including any membership interests of a state bank organized as a limited liability company under this chapter.

39. "*State bank*" means any bank incorporated pursuant to the provisions of this chapter after January 1, 1970, and any "*state bank*" or "~~savings bank~~" incorporated pursuant to the laws of this state and doing business as such on January 1, 1970, or a bank organized as a limited liability company or a mutual corporation under this chapter.

Sec. 4. Section 524.103, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 39A. "*Stock corporation*" means a corporation which is authorized to issue capital stock.

Sec. 5. Section 524.302, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. (1) ~~The~~ If the state bank will be a stock corporation, the aggregate number of common and preferred shares which the state bank shall have authority to issue and the par value of such shares. If such shares are to be divided into classes or series, the number of shares of each class or series and a statement of the par value of the shares of each class or series.

(2) If the state bank will be a mutual corporation, that the corporation will be a mutual corporation.

Sec. 6. NEW SECTION. **524.316 State banks as mutual corporations.**

The superintendent may adopt rules to ensure that a state bank incorporated as a mutual corporation is operating in a safe and sound manner and is subject to the superintendent's authority in the same manner as a state bank incorporated as a stock corporation.

Sec. 7. Section 524.405, Code 2011, is amended to read as follows:

**524.405 Increase or decrease of capital structure.**

1. A state bank incorporated as a stock corporation may increase its capital structure or effect an allocation of amounts within its capital structure, by the use of any of the following methods:

- a. Sale of authorized but unissued shares.
- b. Transfer of surplus or undivided profits to capital for authorized but unissued shares.
- c. Transfer of undivided profits to surplus.
- d. Authorization and issuance of common shares, preferred shares, or capital notes or debentures.

2. The superintendent, whenever it appears necessary to do so in the interest of the safety of the deposits of a state bank incorporated as a stock corporation, may require that the capital structure of the state bank be increased by either of the methods provided for in subsection 1, paragraphs "a" and "d".

3. Capital or surplus shall not be decreased except with the approval of the superintendent.

4. A state bank incorporated as a mutual corporation may raise capital by accepting payments on savings and demand accounts and by any other means authorized by the superintendent. Whenever it appears necessary to do so in the interest of the safety of the deposits of a state bank incorporated as a mutual corporation, the superintendent may require that the capital structure of the state bank be increased by any means authorized by the superintendent.

Sec. 8. Section 524.521, subsections 1 and 2, Code 2011, are amended to read as follows:

1. The articles of incorporation of a stock corporation must prescribe the classes of shares and the number of shares of each class that the state bank is authorized to issue. If more than one class of shares is authorized, the articles of incorporation must prescribe a distinguishing designation for each class. Prior to the issuance of shares of a class, the preferences, limitations, and relative rights of that class must be described in the articles of incorporation. All shares of a class must have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by section 524.523.

2. The articles of incorporation of a stock corporation must authorize both of the following:

- a. One or more classes of shares that together have unlimited voting rights.
- b. One or more classes of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the state bank upon dissolution.

Sec. 9. Section 524.523, subsection 1, Code 2011, is amended to read as follows:

1. The shares of a state bank incorporated as a stock corporation shall be represented by certificates signed by such officers, employees, or agents as are authorized by the articles of incorporation or bylaws to sign. If no contrary provisions are made in the articles of incorporation or bylaws, the certificates shall be signed by the president or a vice president and the cashier or an assistant cashier of the state bank.

Sec. 10. Section 524.526, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A state bank incorporated as a stock corporation may do any of the following:

Sec. 11. Section 524.527, Code 2011, is amended to read as follows:

**524.527 Liability of shareholders.**

1. A purchaser of the shares of a state bank incorporated as a stock corporation is not liable to the bank, its creditors, or depositors with respect to the shares except to pay the consideration for which the shares were authorized to be issued under section 524.521, or the consideration specified in the subscription agreement authorized under section 524.525.

2. Unless otherwise provided in the articles of incorporation, a shareholder of a state bank is not personally liable for the acts or debts of the state bank, its creditors, or depositors.

3. A member of a state bank incorporated as a mutual corporation is not personally liable for the acts or debts of the state bank, its creditors, or depositors.

Sec. 12. NEW SECTION. 524.538A Voting by member of mutual corporation.

All holders of savings, demand, or other authorized accounts of a bank incorporated as or converted to be a mutual corporation are members of the state bank. In the consideration of all questions requiring action by the members of the state bank, each holder of an account shall be permitted to cast one vote for each one hundred dollars, or fraction thereof, of the withdrawal value of the member's account. No member, however, shall cast more than one thousand member votes. All accounts shall be nonassessable.

Sec. 13. Section 524.545, Code 2011, is amended to read as follows:

**524.545 Options for shares.**

A state bank incorporated as a stock corporation may authorize the granting of options to officers and employees to purchase unissued shares of the state bank in accordance with a plan approved by the superintendent.

Sec. 14. NEW SECTION. **524.1421 Mutual to stock conversions.**

1. A mutual corporation, a mutual holding company, a federal mutual association, or a federal mutual holding company, subject to the provisions of this chapter, may convert into a stock corporation that is either a state bank or a state bank mutual bank holding company upon approval of the superintendent.

2. A mutual corporation, a mutual holding company, a federal mutual association, or a federal mutual holding company shall make an application to the superintendent for approval of the conversion in a manner prescribed by the superintendent and shall deliver to the superintendent, when available, the following:

- a. Articles of conversion.
- b. A business plan addressing factors prescribed by the superintendent.
- c. Proof of publication of the notice required by section 524.1422.
- d. The applicable fee payable to the secretary of state, under section 490.122, for the filing and recording of the articles of conversion.

3. The superintendent may adopt rules governing mutual to stock conversions.

Sec. 15. NEW SECTION. **524.1422 Notice of mutual to stock conversion.**

Within thirty days after an application for conversion has been accepted for processing, the mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company shall publish a notice of the delivery of the articles of conversion to the superintendent in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the mutual corporation, mutual holding company, federal mutual association, or federal mutual holding company has its principal place of business. The notice shall set forth the information required by the superintendent.

Sec. 16. Section 524.1504, subsection 1, paragraphs e and f, Code 2011, are amended to read as follows:

e. ~~The~~ For a stock corporation, the number of shares entitled to vote on the amendment, and if the shares of any class are entitled to vote thereon as a class, the number of shares of each class. For a mutual corporation, the number of member votes entitled to be cast.

f. The number of shares or member votes voted for and against such amendment, respectively, and if the shares of any class are entitled to vote thereon as a class, the number of shares of each such class voted for and against such amendment.

Sec. 17. NEW SECTION. **524.1809 Mutual bank holding companies.**

1. A state bank may be owned, directly or indirectly, by a mutual bank holding company.

2. A mutual holding company authorized pursuant to 12 U.S.C. § 1467a and regulations promulgated thereunder may convert to a mutual bank holding company authorized under this chapter.

3. A mutual corporation may reorganize as a mutual holding company in the manner provided in 12 U.S.C. § 1467a(o). The resulting mutual holding company shall be a mutual bank holding company authorized under this chapter.

4. A mutual bank holding company authorized under this chapter shall also be subject to chapter 490, the Iowa business corporations Act. If a provision of chapter 490 conflicts with the provisions of this chapter or a rule of the superintendent adopted pursuant to this chapter, the provisions of this chapter or rule of the superintendent shall control.

5. The superintendent may adopt rules pursuant to chapter 17A pertaining to mutual bank holding companies and reorganizations into mutual bank holding companies under this chapter.

Sec. 18. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

## DIVISION II MISCELLANEOUS PROVISIONS

Sec. 19. Section 524.226, unnumbered paragraph 4, Code 2011, is amended to read as follows:

The superintendent, during the period of the superintendent's management of the property and business of the state bank, ~~and prior to such time as the superintendent may apply to the district court for appointment as receiver,~~ may require reimbursement by the state bank to the extent of the expenses incurred by the superintendent in connection with such management.

Sec. 20. Section 524.802, subsection 9, Code 2011, is amended to read as follows:

9. Acquire and hold shares of stock in the appropriate federal home loan bank and to exercise all powers conferred on member banks of the federal home loan bank system that are not inconsistent with this chapter. A purchase of federal home loan bank shares which causes the state bank's holdings to exceed fifteen percent of aggregate capital requires the prior approval of the superintendent. In addition, a state bank may own federal home loan bank shares in an amount exceeding fifteen percent of the state bank's aggregate capital, but not exceeding twenty-five percent of the state bank's aggregate capital, if the ownership of shares exceeding fifteen percent is needed to support the state bank's participation in the federal home loan bank's acquired member assets program as provided for in 12 C.F.R. pt. 955.

Sec. 21. Section 524.1103, Code 2011, is amended to read as follows:

### **524.1103 Exceptions.**

1. The provisions of section 524.1102 shall not apply to any affiliate:

1. a. Engaged solely in holding or operating real estate used wholly or substantially by the state bank in its operations or acquired for its future use.

2. b. Engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation eligible to discount loans with a farm credit bank.

3. c. Engaged solely in holding obligations of the United States, the farm credit banks, the federal home loan banks, or obligations fully guaranteed by the United States as to principal and interest.

4. d. Where the affiliate relationship has arisen as a result of shares acquired in satisfaction of a bona fide debt contracted prior to the date of the creation of such relationship provided that such shares shall be sold at public or private sale within one year from the date of the creation of the relationship, unless the time is extended by the superintendent.

5. e. Where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a state bank as executor, administrator, trustee, receiver, agent, depository, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the shareholders of such state bank.

6. f. Which is a bank.

7. g. Which is an operations subsidiary or other subsidiary in which the state bank owns or controls eighty percent or more of the voting shares. However, an operations subsidiary shall not conduct any activity at any location where the state bank itself would not be permitted to conduct that activity without the prior approval of the superintendent.

2. a. The superintendent may, in the superintendent's discretion, by regulation or order, exempt transactions or relationships from the requirements of section 524.1102 if the

superintendent finds such exemptions to be in the public interest and consistent with the purposes of section 524.1102.

b. A state bank may request an exemption from the requirements of section 524.1102 by submitting a written request to the superintendent including all of the following:

(1) A detailed description of the transaction or relationship for which the state bank seeks an exemption.

(2) A statement of the reasons for exemption of the transaction or relationship.

(3) An explanation of how the exemption would be in the public interest and consistent with the purposes of section 524.1102.

Sec. 22. Section 524.1305, subsection 9, Code 2011, is amended to read as follows:

9. If at any time during the course of dissolution proceedings the superintendent finds that the assets of the state bank will not be sufficient to discharge its obligations, the superintendent shall ~~apply to the district court for appointment as receiver tender to the federal deposit insurance corporation the receivership~~ in the manner required by section 524.1310, and the dissolution shall thereafter be treated as an involuntary dissolution in accordance with the terms of that section and sections 524.1311 and 524.1312.

Sec. 23. Section 524.1310, Code 2011, is amended to read as follows:

**524.1310 Involuntary dissolution after commencement of business — superintendent as receiver.**

1. *a.* In a situation in which the superintendent has required, in accordance with section 524.226, that the state bank cease to carry on its business, the superintendent shall ~~apply to the district court for the county in which the state bank is located for appointment as receiver for the state bank. The district court shall appoint the superintendent as receiver unless the superintendent has tendered the appointment to the federal deposit insurance corporation as provided for in section 524.1313, in which case the district court shall appoint tender to the federal deposit insurance corporation as receiver the receivership for the state bank.~~ The affairs of the state bank shall thereafter be ~~under the direction of the district court, and the assets of the state bank shall be distributed in accordance with section 524.1312 governed by this section, section 524.1311, and the provisions of federal law, and shall be subject to federal court jurisdiction, and the assets of the state bank shall be distributed in accordance with section 524.1312.~~ If there is a conflict between the provisions of state and federal law, federal law shall govern.

*b.* All amounts due creditors and shareholders described in section 490.1440 shall be deposited with the treasurer of state in accordance with that section. Such amounts shall be retained by the treasurer of state and subject to claim in the manner provided for in section 490.1440. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state in the manner required by section 524.1305, subsection 6. Such property shall be treated as abandoned, retained by the treasurer of state, and is subject to claim, in the manner provided for in sections 556.14 to 556.21. ~~The attorney general, or assistants appointed by the court, shall represent the superintendent in all proceedings connected with the receivership.~~

2. Under the receivership, the rights of depositors and other creditors of the insured state bank shall be determined in accordance with the laws of this state.

3. The federal deposit insurance corporation as receiver shall possess all the powers, rights, and privileges provided under section 524.1311, except insofar as that section may be in conflict with the laws of the United States.

4. If the federal deposit insurance corporation pays or makes available for payment the insured deposit liabilities of an insured state bank, the federal deposit insurance corporation shall be subrogated by operation of law to all rights against such insured state bank of the owners of such deposits in the same manner and to the same extent as subrogation of the federal deposit insurance corporation is provided for in applicable federal law in the case of a national bank.



Sec. 24. Section 524.1311, Code 2011, is amended to read as follows:

**524.1311 Involuntary dissolution after commencement of business — receivership procedure.**

1. ~~In all situations in which the superintendent has been named the receiver as provided in section 524.1310 the superintendent shall make~~ Under the receivership, a diligent effort shall be made to collect and realize on the assets of the state bank, and to make distribution of the proceeds from time to time to those entitled thereto. ~~The superintendent~~ federal deposit insurance corporation may execute assignments, releases, and satisfactions to effectuate sales and transfers as receiver or after the receivership has terminated. ~~Upon the order of the court in which the receivership is pending, the superintendent~~ The federal deposit insurance corporation may sell or compound all bad or doubtful debts, and, ~~on a like order,~~ may sell all the real and personal property of such state bank, ~~on such terms as the court shall direct.~~

2. ~~All expenses of the receivership and dissolution shall be fixed by the superintendent, subject to the approval of the district court, and shall be paid out of the assets of the state bank. After the involuntary dissolution of a state bank, the superintendent shall file notice of the dissolution with the secretary of state and the county recorder of the county in which the state bank is located. No fee shall be charged by the secretary of state or the county recorder for the filing or recording. The corporate existence of the state bank shall cease upon filing of the notice of dissolution with the secretary of state.~~

3. ~~At the termination of the receivership, the superintendent shall file a final report containing the details of the superintendent's actions therein, together with such additional facts as the court may require.~~

4. ~~Upon the submission and approval of the final report, the court shall enter a decree dissolving the state bank whereupon the corporate existence of the state bank shall cease. It shall be the duty of the clerk of such court to cause certified copies of the decree to be filed with and recorded by the secretary of state and the county recorder of the county in which is located the state bank. No fee shall be charged by the secretary of state or said county recorder for the filing or recording thereof.~~

Sec. 25. Section 535B.10, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *h.* The administrator may furnish information relating to supervision of closing agent licensees whose activities relate to the issuance of title guaranty certificates issued by the title guaranty division of the Iowa finance authority to the title guaranty division. The title guaranty division may use this information to satisfy its reinsurance requirements and may provide the information to its reinsurer to the extent necessary to satisfy reinsurer requirements provided the reinsurer agrees to maintain the confidentiality of the information. The title guaranty division shall maintain the confidentiality of the information provided pursuant to this paragraph in all other respects.

Sec. 26. Section 602.8102, subsection 72, Code 2011, is amended by striking the subsection.

Sec. 27. REPEAL. Section 524.1313, Code 2011, is repealed.

Sec. 28. EFFECTIVE UPON ENACTMENT. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 524.226, unnumbered paragraph 4.
2. The section of this Act amending section 524.1305, subsection 9.
3. The section of this Act amending section 524.1310.
4. The section of this Act amending section 524.1311.
5. The section of this Act repealing section 524.1313.
6. The section of this Act striking section 602.8102, subsection 72.

DIVISION III  
SAVINGS AND LOAN ASSOCIATIONS

Sec. 29. Section 7C.9, Code 2011, is amended to read as follows:

**7C.9 Nonbusiness days.**

If the expiration date of either the one-hundred-twenty-day period or the 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, ~~or 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.

Sec. 30. Section 12.61, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. "*Financial institution*" means a state bank as defined in section 524.103, subsection 39, a federally chartered state bank having its principal office within this state, a federally chartered credit union having its principal office within this state, a federally chartered savings and loan association having its principal office within the state, a credit union organized under chapter 533, ~~an association incorporated or authorized to do business under chapter 534,~~ or a trust company organized or incorporated under the laws of this state.

Sec. 31. Section 12.71, subsection 5, Code 2011, is amended to read as follows:

5. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 32. Section 12.81, subsection 5, Code 2011, is amended to read as follows:

5. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 33. Section 12.87, subsection 5, Code Supplement 2011, is amended to read as follows:

5. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 34. Section 12.91, subsection 6, Code 2011, is amended to read as follows:

6. The 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 bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 35. Section 12A.4, subsection 4, Code 2011, is amended to read as follows:

4. 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. 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 bonds of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 36. Section 12C.1, subsection 2, Code Supplement 2011, is amended to read as follows:

2. As used in this chapter unless the context otherwise requires:

a. “*Bank*” means a corporation or limited liability company engaged in the business of banking and organized under the laws of this state, another state, or the United States. “*Bank*” also means a savings and loan, savings association, or savings bank organized under the laws of ~~this state~~, another state, or the United States.

b. “*Credit union*” means a cooperative, nonprofit association incorporated under chapter 533 or the federal Credit Union Act, 12 U.S.C. § 1751 et seq., and that is insured by the national credit union administration and includes an office of a credit union.

c. “*Depository*” means a bank, ~~a savings and loan~~, or a credit union in which public funds are deposited under this chapter.

d. “*Financial institution*” means a bank or a credit union.

e. “*Public funds*” and “*public deposits*” mean any of the following:

(1) The moneys of the state or a political subdivision or instrumentality of the state including a county, school corporation, special district, drainage district, unincorporated town or township, municipality, or municipal corporation or any agency, board, or commission of the state or a political subdivision. Moneys of the state include moneys which are transmitted to a depository for purposes of completing an electronic financial transaction pursuant to section 159.35.

(2) The moneys of any court or public body noted in subsection 1.

(3) The moneys of a legal or administrative entity created pursuant to chapter 28E.

(4) The moneys of an electric power agency as defined in section 28F.2 or 390.9.

(5) Federal and state grant moneys of a quasi-public state entity that are placed in a depository pursuant to this chapter.

(6) Moneys placed in a depository for the purpose of completing an electronic financial transaction pursuant to section 8A.222 or 331.427.

f. “*Public officer*” means the person authorized by and acting for a public body to deposit public funds of the public body.

~~g. “*Savings and loan*” means a corporation authorized to operate under chapter 534 or the federal Home Owner’s Loan Act of 1933, 12 U.S.C. § 1461 et seq., and includes a savings and loan association, a savings bank, or any branch of a savings and loan association or savings bank.~~

~~h.~~ g. “*Superintendent*” means the superintendent of banking of this state when the depository is a bank, and the superintendent of credit unions of this state when the depository is a credit union.

~~i.~~ h. “*Uninsured public funds*” means any amount of public funds of a public funds depositor on deposit in an account at a financial institution that exceeds the amount of public funds in that account that are insured by the federal deposit insurance corporation or the national credit union administration.

Sec. 37. Section 12C.13, Code 2011, is amended to read as follows:

**12C.13 Deposit not membership.**

Notwithstanding chapter 534 ~~524~~, the deposit of public funds in a credit union as defined in section 533.102 or ~~an association defined in section 534.102~~ a mutual corporation as defined in section 524.103 does not constitute being a shareholder, stockholder, or owner of a corporation in violation of Article VIII of the Constitution of the State of Iowa or any other

provision of law.

Sec. 38. Section 12C.20, subsections 1 and 4, Code 2011, are amended to read as follows:

1. On or before the tenth day of February, May, August, and November of each year, each ~~savings and loan and each~~ out-of-state bank that has one or more branches in the state shall calculate and certify to the superintendent of banking in the form prescribed by the superintendent the amount of public funds on deposit ~~at the savings and loan and~~ at each such branch of the out-of-state bank as of the end of the previous calendar quarter.

4. On or before the twentieth day of February, May, August, and November of each year, the superintendent shall notify the treasurer of state of the amount of collateral required to be pledged as of the end of the previous calendar quarter based upon the certification provided to the superintendent under subsection 1 or 2 and a review by the superintendent of the quarterly call report filed by each bank that is not ~~a savings and loan or~~ an out-of-state bank.

Sec. 39. Section 12E.11, subsection 8, Code 2011, is amended to read as follows:

8. The bonds issued under this chapter are securities in which insurance companies and associations and other persons engaged in the business of insurance; 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 bonds or other obligations of the state may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 40. Section 16.1, subsection 1, paragraph y, Code Supplement 2011, is amended to read as follows:

y. "*Mortgage lender*" means any bank, trust company, mortgage company, national banking association, federal ~~savings and loan~~ association, life insurance company, any governmental agency, or any other financial institution authorized to make mortgage loans in this state and includes a financial institution as defined in section 496B.2, subsection 4, which lends moneys for industrial or business purposes.

Sec. 41. Section 16.30, Code 2011, is amended to read as follows:

**16.30 Bonds and notes as legal investments.**

Bonds and notes of the authority are securities in which public officers, state departments and agencies, political subdivisions, insurance companies, and other persons carrying on an insurance business, banks, trust companies, ~~savings and loan~~ associations, investment companies and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees and other fiduciaries, and other persons authorized to invest in bonds or other obligations of this state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also securities which may be deposited with and may be received by public officers, state departments and agencies, and political subdivisions, for any purpose for which the deposit of bonds or other obligations of this state is authorized.

Sec. 42. Section 16.177, subsection 5, Code 2011, is amended to read as follows:

5. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 43. Section 28J.18, Code 2011, is amended to read as follows:

**28J.18 Revenue bonds are lawful investments.**

Port authority revenue bonds issued pursuant to this chapter are lawful investments of banks, credit unions, trust companies, ~~savings and loan~~ associations, deposit guaranty associations, insurance companies, trustees, fiduciaries, trustees or other officers having charge of the bond retirement funds or sinking funds of port authorities and governmental

agencies, and taxing districts of this state, the pension and annuity retirement system, the Iowa public employees' retirement system, the police and fire retirement systems under chapters 410 and 411, a revolving fund of a governmental agency of this state, and are acceptable as security for the deposit of public funds under chapter 12C.

Sec. 44. Section 68A.503, subsections 1 through 4, Code 2011, are amended to read as follows:

1. Except as provided in subsections 3, 4, 5, and 6, an insurance company, savings ~~and loan~~ association, bank, credit union, or corporation shall not make a monetary or in-kind contribution to a candidate or committee except for a ballot issue committee.

2. Except as provided in subsection 3, a candidate or committee, except for a ballot issue committee, shall not receive a monetary or in-kind contribution from an insurance company, savings ~~and loan~~ association, bank, credit union, or corporation.

3. An insurance company, savings ~~and loan~~ association, bank, credit union, or corporation may use money, property, labor, or any other thing of value of the entity for the purposes of soliciting its stockholders, administrative officers, professional employees, and members for contributions to a political committee sponsored by that entity and for financing the administration of a political committee sponsored by that entity. The entity's employees to whom the foregoing authority does not extend may voluntarily contribute to such a political committee but shall not be solicited for contributions. A candidate or committee may solicit, request, and receive money, property, labor, and any other thing of value from a political committee sponsored by an insurance company, savings ~~and loan~~ association, bank, credit union, or corporation as permitted by this subsection.

4. The prohibitions in subsections 1 and 2 shall not apply to an insurance company, savings ~~and loan~~ association, bank, credit union, or corporation engaged in any of the following activities:

a. Using its funds to encourage registration of voters and participation in the political process or to publicize public issues.

b. Using its funds to expressly advocate the passage or defeat of ballot issues.

c. Using its funds for independent expenditures as provided in section 68A.404.

d. Using its funds to place campaign signs as permitted under section 68A.406.

Sec. 45. Section 175.2, subsection 1, paragraphs l and o, Code 2011, are amended to read as follows:

l. "*Lending institution*" means a bank, trust company, mortgage company, national banking association, ~~savings and loan association~~, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institution or entity authorized to make farm operating loans in this state.

o. "*Mortgage lender*" means a bank, trust company, mortgage company, national banking association, ~~savings and loan association~~, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the federal land bank or any of its local associations, or any other financial institution or entity authorized to make mortgage loans or secured loans in this state.

Sec. 46. Section 175.21, Code 2011, is amended to read as follows:

**175.21 Bonds and notes as legal investments.**

Bonds and notes are securities in which public officers, state departments and agencies, political subdivisions, insurance companies and other persons carrying on an insurance business, banks, trust companies, ~~savings and loan associations~~, investment companies and other persons carrying on a banking business, administrators, executors, guardians, conservators, trustees and other fiduciaries and other persons authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also securities which may be deposited with and may be received by public officers, state departments and agencies and political subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized.

Sec. 47. Section 179.1, subsection 8, Code 2011, is amended to read as follows:

8. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 48. Section 181.1, subsection 7, Code 2011, is amended to read as follows:

7. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 49. Section 183A.1, subsection 9, Code 2011, is amended to read as follows:

9. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 50. Section 184.1, subsection 10, Code 2011, is amended to read as follows:

10. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 51. Section 184A.1, subsection 8, Code 2011, is amended to read as follows:

8. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 52. Section 185.1, subsection 13, Code 2011, is amended to read as follows:

13. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 53. Section 185C.1, subsection 13, Code 2011, is amended to read as follows:

13. “*Qualified financial institution*” means a bank, or credit union, ~~or savings and loan~~ as defined in section 12C.1.

Sec. 54. Section 202C.1, subsection 4, Code 2011, is amended to read as follows:

4. “*Financial institution*” means a bank or savings ~~and loan~~ association authorized by ~~this state or~~ by the laws of the United States, which is a member of the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national bank for cooperatives established in the Agricultural Credit Act, Pub. L. No. 100-233.

Sec. 55. Section 203.1, subsection 7, paragraph a, Code 2011, is amended to read as follows:

a. A bank or savings ~~and loan~~ association authorized by the laws of ~~this state~~, any other state, or the United States, which is a member of the federal deposit insurance corporation.

Sec. 56. Section 206.2, subsection 12, Code 2011, is amended to read as follows:

12. “*Financial institution*” means a bank or savings ~~and loan~~ association authorized by ~~this state 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.

Sec. 57. Section 216.10, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. Person authorized or licensed to do business in this state pursuant to chapter 524, 533, 534, 536, or 536A to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to persons of similar economic backgrounds because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, physical disability, or familial status.

Sec. 58. Section 234.37, Code 2011, is amended to read as follows:

**234.37 Department may establish accounts for certain children.**

The department of human services is authorized to establish an account in the name of any child committed to the director of human services or the director’s designee, or whose legal custody has been transferred to the department, or who is voluntarily placed in foster care pursuant to section 234.35. Any money which the child receives from the United States government or any private source shall be placed in the child’s account, unless a guardian

of the child's property has been appointed and demands the money, in which case it shall be paid to the guardian. The account shall be maintained by the department as trustee for the child in an interest-bearing account at a reputable bank or savings ~~and loan~~ association, except that if the child is residing at an institution administered by the department a limited amount of the child's funds may be maintained in a separate account, which need not be interest bearing, in the child's name at the institution. Any money held in an account in the child's name or in trust for the child under this section may be used, at the discretion of the department and subject to restrictions lawfully imposed by the United States government or other source from which the child receives the funds, for the purchase of personal incidentals, desires and comforts of the child. All of the money held for a child by the department under this section and not used in the child's behalf as authorized by law shall be promptly paid to the child or the child's parent or legal guardian upon termination of the commitment of the child to the director or the director's designee, or upon transfer or cessation of legal custody of the child by the department.

Sec. 59. Section 235B.19, subsection 3, paragraph d, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) Withdrawing funds from any bank, savings ~~and loan~~ association, credit union, or other financial institution, or from an account containing securities in which the dependent adult has an interest.

Sec. 60. Section 235B.19, subsection 8, paragraph f, Code Supplement 2011, is amended to read as follows:

f. Withdrawing funds from any bank, savings ~~and loan~~ association, credit union, or other financial institution, or from a stock account in which the dependent adult has an interest.

Sec. 61. Section 252I.1, subsection 1, Code 2011, is amended to read as follows:

1. "Account" means "account" as defined in section 524.103, ~~"share account or shares" as defined in section 534.102~~, the savings or deposits of a member received or being held by a credit union, or certificates of deposit. "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102 and money-market mutual fund accounts and "account" as defined in 42 U.S.C. § 666(a)(17). However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

Sec. 62. Section 252I.1, subsection 7, Code 2011, is amended by striking the subsection.

Sec. 63. Section 257C.8, subsection 7, Code 2011, is amended to read as follows:

7. The bonds of the authority 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 64. Section 260C.64, Code 2011, is amended to read as follows:

**260C.64 Who may invest.**

All banks, trust companies, building and loan associations, savings ~~and loan~~ associations, investment companies, and other persons carrying on an investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or notes issued pursuant to this division. However, this section shall not be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

Sec. 65. Section 261.71, subsection 2, Code 2011, is amended to read as follows:

2. The contract for the loan repayment shall stipulate the time period the chiropractor shall practice in an underserved area in this state. In addition, the contract shall stipulate that the chiropractor repay any funds paid on the chiropractor's loan by the commission if the chiropractor fails to practice in an underserved area in this state for the required period of time. Forgivable loans made to eligible students shall not become due, for repayment purposes, until one year after the student has graduated. A loan that has not been forgiven may be sold to a bank, savings and loan association, credit union, or nonprofit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., by the commission when the loan becomes due for repayment.

Sec. 66. Section 261A.19, Code 2011, is amended to read as follows:

**261A.19 Investment of funds of authority.**

Except as otherwise provided in section 261A.18, subsection 3, the authority may invest funds in direct obligations of the United States of America; obligations for which the timely payment of principal and interest is fully guaranteed by the United States of America; obligations of the federal intermediate credit banks, federal banks for cooperatives, federal land banks, federal home loan banks, federal national mortgage association, government national mortgage association and the student loan marketing association; certificates of deposit or time deposits constituting direct obligations of a bank as defined by chapter 524; and in withdrawable capital accounts or deposits of state or federal chartered savings and loan associations which are insured by the federal savings and loan deposit insurance corporation. However, investments may be made only in certificates of deposit or time deposits in banks which are insured by the federal deposit insurance corporation if then in existence. Securities authorized in this section may be purchased at the offering or market price at the time of the purchase. The securities purchased shall mature or be redeemable on dates prior to the time when, in the judgment of the authority, the funds invested will be required for expenditure. The judgment of the authority as to the time when funds will be required for expenditure or be redeemable is final.

Sec. 67. Section 261A.20, Code 2011, is amended to read as follows:

**261A.20 Obligations as legal investments.**

Banks, bankers, trust companies, ~~savings banks and institutions, building and loan associations, federally chartered savings and loan associations,~~ investment companies, and other persons carrying on a banking or investment business, insurance companies and insurance associations, and executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, moneys, or other funds belonging to them or within their control in obligations of the authority.

Sec. 68. Section 262.63, Code 2011, is amended to read as follows:

**262.63 Who may invest.**

All banks, trust companies, ~~building and loan associations,~~ savings and loan associations, investment companies, and other persons carrying on an investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or notes issued pursuant to this division; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

Sec. 69. Section 262A.11, Code 2011, is amended to read as follows:

**262A.11 Bonds as security for investments.**

All banks, trust companies, bankers, ~~savings banks and institutions, building and loan associations,~~ savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking



funds, moneys, or other funds belonging to them or within their control in any bonds issued pursuant to this chapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

Sec. 70. Section 263A.9, Code 2011, is amended to read as follows:

**263A.9 Investment in bonds or notes by financial institutions.**

All banks, trust companies, bankers, ~~savings banks and institutions, building and loan associations,~~ savings and loan associations, investment companies, and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or notes issued pursuant to this chapter; provided, however, that nothing contained in this section may be construed as relieving any persons from any duty of exercising reasonable care in selecting securities for purchase or investment.

Sec. 71. Section 322.7A, subsection 6, paragraph e, Code 2011, is amended to read as follows:

e. Banks, credit unions, and savings ~~and loan~~ associations.

Sec. 72. Section 331.301, subsection 10, paragraph g, Code Supplement 2011, is amended to read as follows:

g. A lease or lease-purchase contract to which a county is a party or in which a county has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, ~~building and loan associations,~~ savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 73. Section 331.402, subsection 3, paragraph f, Code Supplement 2011, is amended to read as follows:

f. A loan agreement to which a county is a party or in which a county has a participatory interest is an obligation of a political subdivision of this state for the purpose of chapters 502 and 636, and is a lawful investment for banks, trust companies, ~~savings and loan~~ associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 74. Section 331.602, subsection 27, Code 2011, is amended by striking the subsection.

Sec. 75. Section 364.4, subsection 4, paragraph g, Code Supplement 2011, is amended to read as follows:

g. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, ~~building and loan~~ associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 76. Section 384.24A, subsection 6, Code 2011, is amended to read as follows:

6. A loan agreement to which a city is a party or in which the city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, ~~building and loan~~ associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

Sec. 77. Section 390.20, subsection 1, Code 2011, is amended to read as follows:

1. A bank, trust company, savings association, ~~building and loan association, savings and loan association,~~ or investment company.

Sec. 78. Section 403.10, Code 2011, is amended to read as follows:

**403.10 Bonds as legal investment.**

All banks, trust companies, ~~building and loan associations,~~ savings and loan associations, investment companies, and other persons carrying on an investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this chapter, or those issued by any urban renewal agency vested with urban renewal project powers under section 403.14. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Sec. 79. Section 421.17A, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. “Account” means “account” as defined in section 524.103, ~~“share account or shares” as defined in section 534.102,~~ or the savings or deposits of a member received or being held by a credit union ~~or a savings association,~~ or certificates of deposit. “Account” also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, “account” does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

Sec. 80. Section 421.17A, subsection 1, paragraph e, Code 2011, is amended to read as follows:

e. “Financial institution” includes a bank, credit union, or savings ~~and loan~~ association. “Financial institution” also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

Sec. 81. Section 421.17A, subsection 1, paragraph g, Code 2011, is amended by striking the paragraph.

Sec. 82. Section 422.34, subsection 1, Code 2011, is amended to read as follows:

1. All state, national, private, cooperative, and savings banks, credit unions, title insurance and trust companies, ~~federally chartered savings and loan associations,~~ production credit associations, insurance companies or insurance associations, reciprocal or inter-insurance exchanges, and fraternal beneficiary associations.

Sec. 83. Section 422.61, subsection 1, Code 2011, is amended to read as follows:

1. “Financial institution” means a state bank as defined in section 524.103, subsection 39, a state bank chartered under the laws of any other state, a national banking association, a trust company, a federally chartered savings and loan association, an out-of-state state chartered savings bank, a financial institution chartered by the federal home loan bank board, a non-Iowa chartered savings and loan association, ~~an association incorporated or authorized to do business under chapter 534,~~ or a production credit association.

Sec. 84. Section 423.2, subsection 6, paragraph b, Code Supplement 2011, is amended to read as follows:

b. For the purposes of this subsection, “financial institutions” means all national banks, federally chartered savings and loan associations, ~~federally chartered savings banks,~~ federally chartered credit unions, banks organized under chapter 524, ~~savings and loan associations and savings banks organized under chapter 534,~~ credit unions organized under

chapter 533, and all banks, savings banks, credit unions, and savings and loan associations chartered or otherwise created under the laws of any state and doing business in Iowa.

Sec. 85. Section 445.5, subsection 2, paragraph a, subparagraph (4), Code Supplement 2011, is amended to read as follows:

(4) Financial institution organized or chartered or holding an authorization certificate pursuant to chapter 524, or 533, ~~or 534~~.

Sec. 86. Section 455G.6, subsection 11, Code 2011, is amended to read as follows:

11. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 87. Section 463C.12, subsection 5, Code 2011, is amended to read as follows:

5. The 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 bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

Sec. 88. Section 483A.55, Code 2011, is amended to read as follows:

**483A.55 Bonds as legal investments.**

Bonds are securities in which all public officers and bodies of the state and all municipalities and political subdivisions of this state, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, ~~savings banks~~, and savings associations, ~~including savings and loan associations, building loan associations~~, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries and all other persons who are now or may be authorized to invest in bonds or other obligations of this state may properly and legally invest funds including capital in their control or belonging to them. The bonds are also securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and legal subdivisions of this state for any purpose for which the deposit of bonds or other obligations of the state is now or may be authorized.

Sec. 89. Section 490.1701, subsection 2, Code 2011, is amended to read as follows:

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

A corporation organized under chapter 496C may voluntarily elect to adopt the provisions of this chapter by complying with the provisions prescribed by subsection 3.

Sec. 90. Section 491.10, Code 2011, is amended to read as follows:

**491.10 Interpretative clause.**

Nothing in sections 491.5 to 491.9 shall be construed as repealing or modifying any statute now in force in respect to the approval of articles of incorporation relating to insurance companies, ~~building and loan associations~~ or investment companies.

Sec. 91. Section 491.50, unnumbered paragraph 2, Code 2011, is amended to read as follows:

The provisions of sections 491.46 and 491.47 and this section shall not apply to ~~building and loan associations,~~ savings and loan associations, deposit, loan, and investment records of banks, and trust companies, or insurance companies organized under the laws of the state of Iowa, and to whom the provisions of this chapter would otherwise be applicable.

Sec. 92. Section 491.58, Code 2011, is amended to read as follows:

**491.58 Liability of stockholders.**

Neither anything in this chapter contained, nor any provisions in the articles of corporation, shall exempt the stockholders from individual liability to the amount of the unpaid installments on the stock owned by them, or transferred by them for the purpose of defrauding creditors; and execution against the company may, to that extent, be levied upon the private property of any such individual. ~~The foregoing provisions shall not apply to building and loan associations, and savings and loan associations.~~

Sec. 93. Section 492.5, Code 2011, is amended to read as follows:

**492.5 Par value required.**

No corporation organized under the laws of this state, ~~except building and loan associations,~~ shall issue any certificate of a share of capital stock, or any substitute therefor, until the corporation has received the par value thereof.

Sec. 94. Section 492.9, Code 2011, is amended to read as follows:

**492.9 Certificate of issuance of stock.**

It shall be the duty of every corporation, ~~except corporations qualified under chapter 534,~~ to file a certificate under oath with the secretary of state, within thirty days after the issuance of any capital stock, stating the date of issue, the amount issued, the sum received therefor, if payment be made in money, or the property or thing taken, if such be the method of payment. If the corporation fails to file said certificate of issuance of stock within the thirty-day period herein provided, it may thereafter file the same upon first paying to the secretary of state a penalty of ten dollars when the said certificate is offered for filing. Provided further that the penalty herein provided for is first paid and provided the said report contains the specific information required by this section as to the issuance of any capital stock not previously reported, then the first annual report filed by such corporation following such failure to comply with the provisions of this section, shall be received by the secretary of state as a compliance with this section.

Sec. 95. Section 493.1, Code 2011, is amended to read as follows:

**493.1 Authorization.**

Any corporation, heretofore or hereafter organized for pecuniary profit under the laws of this state, except state banks, trust companies, ~~building and loan associations~~ and insurance companies, may create one or more classes of stock without any nominal or par value, with such rights, preferences, privileges, voting powers, limitations, restrictions and qualifications thereon not inconsistent with law as shall be expressed in its articles of incorporation, or any amendment thereto. Stock without par value which is preferred as to dividends, or as to its distributive share of the assets of the corporation upon dissolution, may be made subject to redemption at such times and prices as may be determined in such articles of incorporation, or any amendment thereto. In the case of stock without par value which is preferred as to its distributive share of the assets of the corporation upon dissolution, the amount of such preference shall be stated in the articles of incorporation, or any amendment thereto.

Sec. 96. Section 496B.2, subsection 4, Code Supplement 2011, is amended to read as follows:

4. “*Financial institution*” means any bank, trust company, savings and loan association, insurance company or related corporation, partnership, foundation or other institution licensed to do business in the state of Iowa and engaged primarily in lending or investing funds.

Sec. 97. Section 496B.9, subsection 3, paragraph b, subparagraph (2), Code 2011, is amended by striking the subparagraph.

Sec. 98. Section 501A.601, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. This section does not give a cooperative the power or authority to exercise the powers of a credit union under chapter 533; or a bank under chapter 524, ~~or a savings and loan association under chapter 534.~~

Sec. 99. Section 515C.9, Code 2011, is amended to read as follows:

**515C.9 Restrictions on advertising.**

No bank, savings and loan association, insurance company, or other lending institution, any of whose authorized real estate securities are insured by mortgage guaranty insurance companies may state in any brochure, pamphlet, report, or any form of advertising that the real estate loans of the bank, savings and loan association, insurance company, or other lending institution are “insured loans” unless the brochure, pamphlet, report, or advertising also clearly states that the loans are insured by private insurers and the names of the private insurers are given and shall not make any such statement at all unless such insurance is by an insurer authorized to write this coverage in this state.

Sec. 100. Section 516E.10, subsection 1, paragraph h, Code 2011, is amended to read as follows:

h. A bank, savings and loan association, credit union, insurance company, or other lending institution shall not require the purchase of a service contract as a condition of a loan.

Sec. 101. Section 523A.102, subsection 11, unnumbered paragraph 1, Code 2011, is amended to read as follows:

“*Financial institution*” means a state or federally insured bank, savings and loan association, credit union, trust department thereof, or a trust company authorized to do business within this state and which has been granted trust powers under the laws of this state or the United States, which holds funds under a trust agreement. “*Financial institution*” does not include:

Sec. 102. Section 523C.17, Code 2011, is amended to read as follows:

**523C.17 Lending institutions, service companies, and insurance companies.**

A bank, savings and loan association, insurance company, or other lending institution shall not require the purchase of a residential service contract as a condition of a loan. A service company or an insurer, either directly or indirectly, as a part of any real property transaction in which a residential service contract will be issued, purchased, or acquired, shall not require that a residential service contract be issued, purchased, or acquired in conjunction with or as a condition precedent to the issuance, purchase, or acquisition, by any person, of a policy of insurance. A lending institution shall not sell a residential service contract to a borrower unless the borrower signs an affidavit acknowledging that the purchase is not required. Violation of this section is punishable as provided in section 523C.13.

Sec. 103. Section 523I.102, subsection 12, Code 2011, is amended to read as follows:

12. “*Financial institution*” means a state or federally insured bank, savings and loan association, credit union, trust department thereof, or a trust company that is authorized to do business within this state, that has been granted trust powers under the laws of this state or the United States, and that holds funds under a trust agreement. “*Financial institution*” does not include a cemetery or any person employed by or directly involved with a cemetery.

Sec. 104. Section 524.103, subsection 38, Code 2011, is amended by striking the subsection.

Sec. 105. Section 524.107, subsection 2, Code 2011, 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. 106. Section 524.211, subsection 1, Code Supplement 2011, 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. 107. Section 524.216, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. A summary of the assets, liabilities, and capital structure of all state banks ~~and state savings and loan associations~~ as of June 30 of the year for which the report is made.

Sec. 108. Section 524.821, subsection 1, Code 2011, is amended to read as follows:

1. A state bank may engage in any transaction incidental to the conduct of the business of banking and otherwise permitted by applicable law, by means of either the direct transmission of electronic impulses to or from customers and banks or the recording of electronic impulses or other indicia of a transaction for delayed transmission to a bank. Subject to the provisions of chapter 527, a state bank may utilize, establish or operate, alone or with one or more other banks, savings and loan associations incorporated under ~~the provisions of chapter 534 or~~ federal law, credit unions incorporated under the provisions of chapter 533 or federal law, corporations licensed under chapter 536A, or third parties, the satellite terminals permitted under chapter 527, by means of which customers and banks may transmit and receive electronic impulses constituting transactions pursuant to this section. However, such utilization, establishment, or operation shall be lawful only when in compliance with chapter 527. Nothing in this section shall be construed as authority for any person to engage in transactions not otherwise permitted by applicable law, nor shall anything in this section be deemed to repeal, replace or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by any bank.

Sec. 109. Section 524.1401, subsections 1 and 3, Code 2011, are amended to read as follows:

1. Upon compliance with the requirements of this chapter, one or more state banks, one or more national banks, ~~one or more state associations~~, one or more federal associations, one or more corporations, or any combination of these entities, with the approval of the superintendent, may merge into a state bank.

3. Upon compliance with the requirements of this chapter ~~and chapter 534~~, one or more state banks may merge with one or more ~~state associations or~~ federal associations. The authority of a state bank to merge into a ~~state or~~ federal association is subject to the conditions the laws of the United States authorize at the time of the transaction.

Sec. 110. Section 524.1409, Code 2011, is amended to read as follows:

**524.1409 Conversion of national bank or federal savings association ~~or state savings and loan association~~ into state bank.**

A national bank, ~~or~~ federal savings association, ~~or state savings and loan association~~, subject to the provisions of this chapter, may convert into a state bank upon authorization by and compliance with the laws of the United States, adoption of a plan of conversion by the

affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders, and upon approval of the superintendent.

Sec. 111. Section 524.1410, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A national bank, or federal savings association, ~~or state savings and loan association~~ shall make an application to the superintendent for approval of the conversion in a manner prescribed by the superintendent and shall deliver to the superintendent, when available:

Sec. 112. Section 524.1411, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The articles of conversion shall be signed by two duly authorized officers of the national bank, or federal savings association, ~~or state savings and loan association~~ and shall contain all of the following:

Sec. 113. Section 524.1411, subsection 1, Code 2011, is amended to read as follows:

1. The name of the national bank, or federal savings association, ~~or state savings and loan association~~ and the name of the resulting state bank.

Sec. 114. Section 524.1412, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Within thirty days after the application for conversion has been accepted for processing, the national bank, or federal savings association, ~~or state savings and loan association~~ shall publish a notice of the delivery of the articles of conversion to the superintendent in a newspaper of general circulation published in the municipal corporation or unincorporated area in which the national bank, or federal savings association, ~~or state savings and loan association~~ has its principal place of business, or if there is none, a newspaper of general circulation published in the county, or in a county adjoining the county, in which the national bank, or federal savings association, ~~or state savings and loan association~~ has its principal place of business. Proof of publication of the notice shall be delivered to the superintendent within fourteen days. The notice shall set forth all of the following:

Sec. 115. Section 524.1412, subsection 1, Code 2011, is amended to read as follows:

1. The name of the national bank, or federal savings association, ~~or state savings and loan association~~ and the name of the resulting state bank.

Sec. 116. Section 524.1415, Code 2011, is amended to read as follows:

**524.1415 Effect of filing of articles of conversion with secretary of state.**

1. The conversion is effective upon the filing of the articles of conversion with the secretary of state, or at any later date and time as specified in the articles of conversion. The acknowledgment of filing is conclusive evidence of the performance of all conditions required by this chapter for conversion of a national bank, or federal savings association, ~~or state savings and loan association~~ into a state bank, except as against the state.

2. When a conversion becomes effective, the existence of the national bank, or federal savings association, ~~or state savings and loan association~~ shall continue in the resulting state bank which shall have all the property, rights, powers, and duties of the national bank, or federal savings association, ~~or state savings and loan association~~, except that the resulting state bank shall have only the authority to engage in such business and exercise such powers as it would have, and shall be subject to the same prohibitions and limitations to which it would be subject, upon original incorporation under this chapter. The articles of incorporation of the resulting state bank shall be the provisions stated in the articles of conversion.

3. A liability of the national bank, or federal savings association, ~~or state savings and loan association~~, or of the national bank's, or federal savings association's, ~~or state savings and loan association's~~ shareholders, directors, or officers, is not affected by the conversion. A lien on any property of the national bank, or federal savings association, ~~or state savings and loan association~~ is not impaired by the conversion. A claim existing or action pending by or

against the national bank, ~~or federal savings association, or state savings and loan association~~ may be prosecuted to judgment as if the conversion had not taken place, or the resulting state bank may be substituted in its place.

4. The title to all real estate and other property owned by the converting national bank, ~~or federal savings association, or state savings and loan association~~ is vested in the resulting state bank without reversion or impairment.

Sec. 117. Section 524.1416, Code 2011, is amended to read as follows:

**524.1416 Authority for conversion of state bank into national bank or federal savings association ~~or state savings and loan association.~~**

1. A state bank may convert into a national bank, ~~or~~ federal savings association, ~~or state savings and loan association upon authorization by and~~ compliance with the laws of the United States, and adoption of a plan of conversion by the affirmative vote of at least a majority of its directors and the holders of two-thirds of each class of its shares at a meeting held upon not less than ten days' notice to all shareholders. The authority of a state bank to convert into a national bank or federal savings association shall be subject to the condition that at the time of the transaction, the laws of the United States shall authorize a national bank or federal savings association located in this state, without approval by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, to convert into a state bank under limitations and conditions no more restrictive than those contained in this section and section 524.1417 with respect to conversion of a state bank into a national bank or federal savings association.

2. A state bank which converts into a national bank or federal savings association shall notify the superintendent of the proposed conversion, provide such evidence of the adoption of the plan as the superintendent may request, notify the superintendent of any abandonment or disapproval of the plan, and file with the superintendent and with the secretary of state a certificate of the approval of the conversion by the comptroller of the currency of the United States or director of the office of thrift supervision, as applicable, and the date upon which such conversion is to become effective. A state bank that converts into a national bank or federal savings association shall comply with the provisions of section 524.310, subsection 1.

~~3. A state bank that converts into a state savings and loan association shall file with the secretary of state a certificate of the approval of the conversion by the superintendent and the date upon which such conversion is to be effective.~~

Sec. 118. Section 524.1417, Code 2011, is amended to read as follows:

**524.1417 Appraisal rights of shareholder of converting state or national bank or federal ~~or state savings association.~~**

1. A shareholder of a state bank that converts into a national bank, ~~or~~ federal savings association, ~~or a state savings and loan association~~ who objects to the plan of conversion is entitled to appraisal rights as provided in chapter 490, division XIII.

2. If a shareholder of a national bank or federal savings association that converts into a state bank objects to the plan of conversion and complies with the requirements of applicable laws of the United States, the resulting state bank is liable for the value of the shareholder's shares as determined in accordance with such laws of the United States.

~~3. If a shareholder of a state savings and loan association that converts to a state bank objects to the plan of conversion and complies with the requirements of applicable laws of this state, the resulting bank is liable for the value of the shareholder's shares as determined in accordance with such laws of this state.~~

Sec. 119. Section 524.1418, Code 2011, is amended to read as follows:

**524.1418 Succession to fiduciary accounts and appointments — application for appointment of new fiduciary.**

The provisions of section 524.1009 apply to a resulting state or national bank, ~~or federal savings association, or state savings and loan association~~ after a conversion with the same effect as though the state or national bank, ~~or federal savings association, or state savings and loan association~~ were a party to a plan of merger, and the conversion were a merger, within the provisions of that section.



Sec. 120. Section 524.1805, subsection 5, Code 2011, is amended to read as follows:

5. For purposes of subsection 1, a bank that resulted from the conversion of a ~~state savings and loan association or~~ federal savings association, as defined in 12 U.S.C. § 1813, is deemed to have been in continuous existence and operation as a bank for the combined periods of continuous existence and operation of the bank and the association from which it was converted.

Sec. 121. Section 527.2, subsections 2 and 9, Code 2011, are amended to read as follows:

2. ~~“Administrator” means and includes the superintendent of banking, the superintendent of savings and loan associations, and the superintendent of credit unions within the department of commerce and the supervisor of industrial loan companies within the office of the superintendent of banking. However, the powers of administration and enforcement of this chapter shall be exercised only as provided in sections 527.3, 527.5, subsection 7, sections 527.11, 527.12, and any other pertinent provision of this chapter.~~

9. ~~“Financial institution” means and includes any bank incorporated under the provisions of any state or federal law, any savings and loan association incorporated under the provisions of any state or federal law, any credit union organized under the provisions of any state or federal law, any corporation licensed as an industrial loan company under chapter 536A, and any affiliate of a bank, savings and loan association, credit union, or industrial loan company.~~

Sec. 122. Section 527.3, subsection 1, Code 2011, is amended to read as follows:

1. For purposes of this chapter the superintendent of banking only has the power to issue rules applicable to, to accept and approve or disapprove applications or informational statements from, to conduct hearings and revoke any approvals relating to, and to exercise all other supervisory authority created by this chapter with respect to banks; ~~the superintendent of savings and loan associations only shall have and exercise such powers and authority with respect to savings and loan associations;~~ the superintendent of credit unions only has such powers and authority with respect to credit unions; and the superintendent of banking or the superintendent’s designee only has such powers and authority with respect to industrial loan companies.

Sec. 123. Section 527.5, subsection 11, paragraph d, Code 2011, is amended to read as follows:

d. For purposes of this subsection, a national card association must be a membership corporation or organization, wherever incorporated and maintaining a principal place of business, which is engaged in the business of administering for the benefit of the association’s members a program involving electronic funds transfer transaction cards or access devices depicting a service mark, logo, or trademark associated with the national card association and which may be utilized to perform transactions at point-of-sale terminals. A national card association must have a membership solely comprised of insured depository financial institutions, organizations directly or indirectly owned or controlled solely by insured depository financial institutions, entities wholly owned by one or more insured depository financial institutions, holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions, organizations wholly owned by one or more holding companies having at least two-thirds of their assets consisting of the voting stock of insured depository financial institutions and which are solely engaged in activities related to the programs sponsored by the national card association, or such other entities or organizations which are authorized by the national card association’s bylaws to participate in the electronic funds transfer transaction card or access device programs or other services and programs sponsored by the national card association. For purposes of this subsection, a national card association shall not include a financial institution, bank holding company as defined in section 524.1801, or in the federal Bank Holding Company Act of 1956, 12 U.S.C. § 1842(d), as amended to July 1, 1994, ~~association holding company as defined in section 534.102, or a supervised organization as defined in section 534.102, or~~ any other financial institution holding company organized under federal or state law, or a subsidiary or affiliate corporation owned or controlled by a financial institution or financial institution holding company, which has authorized a customer or member to engage in satellite

terminal transactions. For purposes of this subsection, a national card association shall also not include a membership corporation or organization which is conducting business as a regional or nationwide network of shared electronic funds transfer terminals which do not constitute point-of-sale terminals, and is engaged in satellite terminal transaction services utilizing a common service mark, logo, or trademark to identify such terminal services.

Sec. 124. Section 527.9, subsection 5, Code 2011, is amended to read as follows:

5. a. Effective July 1, 1987, a person owning or operating a central routing unit authorized under this section shall include public representation on any board setting policy for the central routing unit. Four or five public members shall be appointed to the board in the following manner:

(1) ~~Two~~ Three members shall be appointed by the superintendent of banking.

(2) One member shall be appointed by the superintendent of credit unions.

~~(3) One member shall be appointed by the superintendent of savings and loan associations.~~

(4) (3) If an industrial loan company is connected to the central routing unit, one member shall be appointed by the superintendent of banking.

b. The superintendent of banking, and superintendent of credit unions, ~~and superintendent of savings and loan associations~~ shall form a committee to set, in conjunction with the entity owning or operating the central routing unit, the term of office, the rate of compensation, and the rate of reimbursement for each public member. However, the public members shall be entitled to reasonable compensation and reimbursement from the board.

c. Each public member is entitled to all the rights of participation and voting as any other member of the board. The public members are to represent the interest of consumers and the business and agricultural communities in establishing policies for the central routing unit.

d. It is the intention of the general assembly that the ratio of public members to the overall membership of the board shall not be less than one public member for each seven members of the board. If the number of members on the board is increased, then the number of members appointed pursuant to paragraph "a" shall be increased to maintain the minimum ratio. In this event, ~~a committee composed of the superintendent of banking, and the superintendent of credit unions, and the superintendent of savings and loan associations~~ shall appoint additional public members in order to maintain the minimum ratio.

e. An individual shall not be appointed as a public member pursuant to this subsection if the individual is a director of a financial institution or is directly employed by a financial institution doing business in this state.

Sec. 125. Section 528.2, subsection 1, Code 2011, is amended to read as follows:

1. "~~Administrator~~" means the superintendent of banking, ~~the superintendent of savings and loan associations,~~ and the superintendent of credit unions within the department of commerce.

Sec. 126. Section 533.301, subsection 4, Code Supplement 2011, is amended to read as follows:

4. Make deposits in state and national banks, ~~state and~~ federal savings banks or savings and loan associations, and state and federal credit unions, the accounts of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

Sec. 127. Section 533.301, subsection 5, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Time deposits in state and national banks, ~~state and~~ federal savings banks or savings and loan associations, and state and federal credit unions, the deposits of which are insured by the federal deposit insurance corporation or the national credit union share insurance fund.

Sec. 128. Section 533.301, subsection 18, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Subject to the provisions of chapter 527, a state credit union may utilize, establish, or operate, alone or with one or more other credit unions, banks incorporated under chapter 524 or federal law, savings and loan associations incorporated under ~~chapter 534 or federal~~

law, corporations licensed under chapter 536A, or third parties, the satellite terminals permitted under chapter 527, by means of which the state credit union may transmit to or receive from any member electronic impulses constituting transactions pursuant to this subsection. However, such utilization, establishment, or operation shall be lawful only when in compliance with chapter 527.

Sec. 129. Section 533.305, subsection 4, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 130. Section 533.313, subsection 1, paragraph c, Code 2011, is amended to read as follows:

c. The term does not include a draft issued by a state credit union for the transfer of funds between the issuing credit union and another credit union, a bank, a savings and loan association chartered under federal law, or another depository financial institution.

Sec. 131. Section 533A.2, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. Banks, federally chartered 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.

Sec. 132. Section 535.2, subsection 2, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) With respect to any transaction referred to in paragraph "a" of this subsection, this subsection supersedes any interest-rate or finance-charge limitations contained in the Code, including but not limited to this chapter and chapters 321, 322, 524, 533, ~~534~~, 536A, and 537.

Sec. 133. Section 535.8, subsection 2, paragraph b, subparagraph (3), Code 2011, is amended to read as follows:

(3) A lender shall not charge the borrower any costs other than expressly permitted by this paragraph "b". 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, ~~or 533, or 534~~, to the extent permitted 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.

Sec. 134. Section 535A.2, subsection 2, paragraph b, Code 2011, is amended by striking the paragraph.

Sec. 135. Section 535B.11, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. Compliance with sections 524.905, 533.315, ~~534.206~~, and 536A.20 shall constitute compliance with this subsection.

Sec. 136. Section 535C.2, subsection 4, paragraph i, Code 2011, is amended by striking the paragraph.

Sec. 137. Section 536A.24, Code 2011, is amended to read as follows:

**536A.24 Electronic transactions.**

A licensee may engage in any transaction otherwise permitted by this chapter and applicable law, by means of either the direct transmission of electronic impulses or other

indicia of a transaction for delayed transmission to the licensee. Subject to the provisions of chapter 527, a licensee may utilize, establish or operate, alone or with one or more other licensees, banks incorporated under the provisions of chapter 524 or federal law, credit unions incorporated under the provisions of chapter 533 or federal law, savings and loan associations incorporated under the provisions of ~~chapter 534~~ or federal law, or third parties, the satellite terminals permitted under chapter 527, by means of which the licensee may transmit to or receive from any customer electronic impulses constituting transactions pursuant to this section. However, such utilization, establishment or operation is lawful only when in compliance with chapter 527. Nothing in this section authorizes a licensee or other person to engage in transactions not otherwise permitted by applicable law, nor does anything in this section repeal, replace or in any other way affect any applicable law or rule regarding the maintenance of or access to financial information maintained by a licensee.

Sec. 138. Section 536C.2, subsection 1, Code 2011, is amended to read as follows:

1. *“Administrator”* means the superintendent of banking, ~~the superintendent of savings and loan associations or the superintendent’s successor~~, or the superintendent of credit unions. However, the powers of administration and enforcement of this chapter are to be exercised pursuant to section 536C.14.

Sec. 139. Section 536C.3, Code 2011, is amended to read as follows:

**536C.3 Exemptions.**

This chapter does not apply to a bank chartered under chapter 524 or a bank chartered under federal law which has its principal place of business located in this state, ~~a savings and loan association chartered under chapter 534~~ or a savings and loan association chartered under federal law which has its principal place of business located in this state, a credit union chartered under chapter 533 or a credit union chartered under federal law which has its principal place of business located in this state, regulated loan companies licensed under chapter 536, or industrial loan companies licensed under chapter 536A.

Sec. 140. Section 536C.14, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 141. Section 537.1108, subsection 2, Code 2011, is amended to read as follows:

2. This chapter does not displace limitations on powers of credit unions, savings and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

Sec. 142. Section 537.1301, subsection 3, Code 2011, is amended to read as follows:

3. *“Affiliate”* as used in reference to a state bank means the same as defined in section 524.1101. *“Affiliate”* as used in reference to a national banking association means the same as defined in section 524.1101, except that the term “national banking association” shall be substituted for the term “state bank”. *“Affiliate”* as used in reference to a federally chartered or out-of-state chartered savings and loan association shall mean the same as defined in 12 C.F.R. § 561.4.

Sec. 143. Section 537.1301, subsection 44, Code 2011, is amended to read as follows:

44. *“Supervised financial organization”* means a person, other than an insurance company or other organization primarily engaged in an insurance business, which is organized, chartered, or holding an authorization certificate pursuant to chapter 524, or 533, ~~or 534~~, or pursuant to the laws of any other state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate or deposit account, and which is subject to supervision by an official or agency of this state, such other state, or of the United States.

Sec. 144. Section 537.2301, subsection 1, Code 2011, is amended to read as follows:

1. As used in this part, *“licensing authority”* means the agency designated in chapter 524, 533, ~~534~~, 536, or 536A to issue licenses or otherwise authorize the conduct of business pursuant to the respective chapter or this chapter, and *“licensee”* includes any person subject

to regulation by a licensing authority. "License" includes the authorization, of whatever form, to engage in the conduct regulated under those chapters.

Sec. 145. Section 537.2305, subsection 1, Code 2011, is amended to read as follows:

1. For the purpose of discovering violations of this chapter or securing information lawfully required, the licensing authority shall examine periodically at intervals the licensing authority deems appropriate, but not less frequently than is required for other examinations of the licensee by section 524.217, 533.113, ~~534.401~~, 536.10, or 536A.15, whichever is applicable, the loans, business, and records of every licensee, except a licensee which has no office physically located in this state and engages in no face-to-face solicitation in this state. In addition, the licensing authority may at any time investigate the loans, business, and records of any lender. For these purposes the licensing authority shall be given free and reasonable access to the offices, places of business, and records of the lender.

Sec. 146. Section 537.2501, subsection 1, paragraph j, Code 2011, is amended to read as follows:

j. For a consumer loan where the amount financed does not exceed three thousand dollars and the term of the loan does not exceed twelve months, a bank, ~~savings bank, savings and loan association, or~~ credit union incorporated pursuant to state or federal law, ~~or a federally chartered or out-of-state chartered savings bank or savings and loan association~~ may charge an additional application fee not to exceed the lesser of ten percent of the amount financed or thirty dollars. If the loan is not approved, the application fee shall not exceed the lesser of ten percent of the amount applied for by the applicant or thirty dollars. The fee permitted pursuant to this paragraph shall not be charged in connection with a loan used for the purchase of a motor vehicle, or for a loan where the borrower's dwelling is used as security.

Sec. 147. Section 537.6105, subsection 1, Code 2011, is amended to read as follows:

1. With respect to supervised financial organizations subject to regulation under ~~chapters chapter 524, or 533 and 534,~~ and persons licensed under chapters 536 and 536A, the powers of examination and investigation as provided in sections 537.2305 and 537.6106, and administrative enforcement as provided in sections 537.2303 and 537.6108, shall be exercised by the official or agency to whose supervision the person is subject. All other powers of the administrator under this chapter may be exercised by the administrator with respect to such persons. In all actions or other court proceedings brought to enforce this chapter, the attorney general or the attorney general's designee shall participate.

Sec. 148. Section 537.6201, Code 2011, is amended to read as follows:

**537.6201 Applicability.**

This part applies to all of the following:

1. Creditors engaged in consumer credit transactions and acts, practices or conduct involving consumer credit transactions to which this chapter applies pursuant to section 537.1201, but not to those licensed, certificated, or otherwise authorized to engage in business by chapter 524, 533, ~~534~~, 536 or 536A.

2. Debt collectors, as defined in section 537.7102, subsection 5, to whose acts, practices, or conduct this chapter applies pursuant to section 537.1201 if the total debt collected by a debt collector in the preceding calendar year exceeds twenty-five thousand dollars, or if not, if the total debt collected during the current calendar year exceeds twenty-five thousand dollars, but this part does not apply to those licensed, certified, or otherwise authorized to engage in business under chapter 524, 533, ~~534~~, 536, or 536A.

Sec. 149. Section 537.7103, subsection 4, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

(2) Communications issued directly by a state bank as defined in section 524.103 or its affiliate, a state bank chartered under the laws of any other state or its affiliate, a national banking association or its affiliate, a trust company, a federally chartered savings and loan association or savings bank or its affiliate, an out-of-state chartered savings and loan association or savings bank or its affiliate, a financial institution chartered by the federal home loan bank board, ~~an association incorporated or authorized to do business under~~

~~chapter 534~~, a state or federally chartered credit union, a credit union service organization, or a company or association organized or authorized to do business under chapter 515, 518, 518A, or 520, or an officer, employee, or agent of such company or association, provided the communication does not deceptively conceal its origin or its purpose.

Sec. 150. Section 543B.46, subsections 1, 2, and 3, Code 2011, are 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 Iowa finance authority for deposit in the housing trust fund established in section 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.

2. Each broker shall notify the real estate commission of the name of each bank or savings and loan association in which a trust account is maintained and also the name of the account on forms provided therefor.

3. Each broker shall authorize the real estate commission to examine each trust account and shall obtain the certification of the bank or savings and loan association attesting to each trust account and consenting to the examination and audit of each account by a duly authorized representative of the commission. The certification and consent shall be furnished on forms prescribed by the commission. This subsection does not apply to an individual farm account maintained in the name of the owner or owners for the purpose of conducting ongoing farm business whether it is conducted by the farm owner or by an agent or farm manager when the account is part of a farm management agreement between the owner and agent or manager. This subsection also does not apply to an individual property management account maintained in the name of the owner or owners for the purpose of conducting ongoing property management whether it is conducted by the property owner or by an agent or manager when the account is part of a property management agreement between the owner and agent or manager.

Sec. 151. Section 546.3, subsection 1, Code 2011, is amended to read as follows:

1. The banking division shall regulate and supervise banks under chapter 524, debt management licensees under chapter 533A, money services under chapter 533C, delayed deposit services under chapter 533D, ~~savings and loan associations under chapter 534~~, mortgage bankers and brokers under chapter 535B, regulated loan companies under chapter 536, and industrial loan companies under chapter 536A, and shall perform other duties assigned to the division by law. The division is headed by the superintendent of banking who is appointed pursuant to section 524.201. The state banking council shall render advice within the division when requested by the superintendent.

Sec. 152. Section 551A.4, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. The offer or sale of a business opportunity if the purchaser is a bank, federally chartered savings and loan association, trust company, insurance company, credit union, or investment company as defined by the federal Investment Company Act of 1940, a pension or profit-sharing trust, or other financial institution or institutional buyer, or a broker-dealer registered pursuant to chapter 502, whether the purchaser is acting for itself or in a fiduciary capacity.

Sec. 153. Section 556.1, subsections 1 and 4, Code 2011, are amended to read as follows:

1. "*Banking organization*" means any bank, trust company, savings bank, savings association, industrial bank, land bank, safe deposit company, or a private banker engaged in business in this state.

4. “*Financial organization*” means any ~~savings and loan association, building and loan association, federally chartered savings and loan association,~~ credit union, cooperative bank or investment company, engaged in business in this state.

Sec. 154. Section 636.23, subsections 10 and 14, Code 2011, are amended to read as follows:

10. ~~*Building and loan Savings associations.*~~ Shares of ~~building and loan associations and savings and loan associations, incorporated under the laws of Iowa and in shares of federal savings and loan associations organized under the laws of the United States of America.~~

14. ~~*Limitation as to court-approved investments.*~~ This section does not prohibit investment of such funds in a savings account or time certificate of deposit of a bank or savings and loan association located within the city or its county of this state and when first approved by the court. However, a city that is the trustee of a cemetery as provided in section 523I.508 may invest perpetual care funds in a savings account or certificates of deposit at a bank ~~or savings and loan association~~ located in this state without court approval.

Sec. 155. Section 636.45, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Insurance companies, ~~savings and loan~~ associations, trustees, guardians, executors, administrators, and other fiduciaries, the state and its political subdivisions, and institutions and agencies thereof, and all other persons, associations, and corporations:

Sec. 156. Section 636.45, subsection 2, Code Supplement 2011, is amended to read as follows:

2. It shall be lawful for insurance companies, ~~savings and loan~~ associations, trustees, guardians, executors, administrators, and other fiduciaries, the state and its political subdivisions, and institutions and agencies thereof, and all other persons, associations, and corporations, subject to the laws of this state, to originate real estate loans which are guaranteed or insured by the secretary of the United States department of veterans affairs under the provisions of 38 U.S.C. § 3701 et seq., and originate loans secured by real property or leasehold, as the federal housing administrator insures or makes a commitment to insure pursuant to Tit. II of the National Housing Act (1934), and may obtain such insurance and may invest their funds, and the moneys in their custody or possession, eligible for investment, in bonds and notes secured by mortgage or trust deed insured by the federal housing administrator, and in the debentures issued by the federal housing administrator pursuant to Tit. II of the National Housing Act (1934), and in securities issued by national mortgage associations or similar credit institutions now or hereafter organized under Tit. III of the National Housing Act (1934), and in real estate loans which are guaranteed or insured by the secretary of the United States department of veterans affairs under the provisions of 38 U.S.C. § 3701 et seq.

Sec. 157. REPEAL. Chapter 534, Code and Code Supplement 2011, is repealed.

Approved March 22, 2012

**CHAPTER 1018****ECONOMIC DEVELOPMENT — MISCELLANEOUS CHANGES***S.F. 2212*

**AN ACT** relating to economic development by making technical and policy changes related to environmental response projects and to certain programs administered by the economic development authority and including retroactive applicability provisions.

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

**DIVISION I****TARGETED JOBS WITHHOLDING ELIGIBILITY**

Section 1. Section 403.19A, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. “Business” means any an enterprise that is located in this state and that is operated for profit and under a single management. “Business” includes professional services, or industrial enterprise, including and industrial enterprises, including but not limited to medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. “Business” does not include a retail operation, a government entity, or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

**DIVISION II****ACCELERATED CAREER EDUCATION PHYSICAL INFRASTRUCTURE PROJECTS**

Sec. 2. Section 260G.6, subsections 1, 3, and 4, Code Supplement 2011, are amended to read as follows:

1. An accelerated career education fund is established in the state treasury ~~under the control of the economic development authority~~ consisting of moneys appropriated to the authority fund for purposes of funding the cost of accelerated career education program capital projects.

3. If moneys are appropriated by the general assembly to support program capital costs, the moneys shall be allocated ~~according to rules adopted by the economic development authority pursuant to chapter 17A~~ equally to each community college.

4. ~~In order to receive moneys pursuant to this section, a program agreement approved by the community college board of directors shall be in place, program capital cost requests shall be approved by the economic development authority created in section 15.105, and employer contributions toward program capital costs shall be certified and agreed to in the agreement. Program capital cost requests shall be approved or denied not later than sixty days following receipt of the request by the economic development authority.~~

**DIVISION III****IOWA INNOVATION COUNCIL**

Sec. 3. Section 15.117A, subsection 2, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A vacancy on the council shall be filled in the same manner as the original selection and shall be for the remainder of the term.

**DIVISION IV****ENTERPRISE ZONE CERTIFICATION SUNSET**

Sec. 4. Section 15E.192, subsection 4, paragraph b, Code Supplement 2011, is amended to read as follows:

b. A county or city may apply to the authority for an area to be certified as an enterprise zone at any time prior to July 1, ~~2012~~ 2014. However, the total amount of land designated as enterprise zones under subsection 1, and any other enterprise zones certified by the authority,



excluding those approved pursuant to subsection 2 and section 15E.194, subsections 3 and 5, shall not exceed in the aggregate one percent of the total county area.

#### DIVISION V ENVIRONMENTAL RESPONSE PROJECTS

Sec. 5. Section 455I.2, subsection 5, unnumbered paragraph 1, Code 2011, is amended to read as follows:

“*Environmental response project*” means a plan or work performed for environmental remediation or flood control affecting real property and conducted under or by one of the following:

Sec. 6. Section 455I.11, subsection 3, Code 2011, is amended to read as follows:

3. A person is not responsible for or subject to liability for environmental remediation or flood control solely because it has the right to enforce an environmental covenant.

Sec. 7. RETROACTIVE APPLICABILITY AND COVENANT VALIDITY.

1. This division of this Act applies retroactively to an instrument entered into on or after July 1, 1992, and before the effective date of this division of this Act, if the instrument meets the following requirements:

a. The instrument creates restrictions or obligations with respect to flood control affecting real property that would qualify as activity and use limitations under chapter 455I, as amended in this division of this Act.

b. A grantor or holder or a party to or beneficiary of the instrument, as named in the instrument, files by July 1, 2013, in the office of the recorder of deeds of the county in which the real estate is situated, a statement in writing, duly acknowledged, doing all of the following:

(1) Definitely describing the real estate involved and the originally recorded instrument creating the restrictions or obligations with respect to flood control affecting real property.

(2) Declaring that such instrument is an environmental covenant for purposes of chapter 455I, as amended in this division of this Act.

2. An instrument meeting the requirements of this section of this division of this Act is valid and enforceable under the provisions of chapter 455I, as amended in this division of this Act, and the validity of the environmental covenant established by the instrument is not impaired by section 558.68 or 614.24.

#### DIVISION VI REGIONAL SPORTS AUTHORITY DISTRICTS

Sec. 8. Section 15E.321, subsection 2, Code Supplement 2011, is amended to read as follows:

2. a. A convention and visitors bureau may apply to the authority for certification of a regional sports authority district which may include more than one city and more than one convention and visitors bureau within the district. The authority shall not certify more than ten such districts.

b. If more than ten applications are received in any certification year, the authority shall certify the districts on a competitive basis. In evaluating the applications for certification, the authority shall consider the economic impact to the state of the activities proposed in the application, the geographic diversity of the districts applying, and any other factors the authority deems relevant.

#### DIVISION VII CONFIDENTIAL INFORMATION

Sec. 9. Section 15.118, subsection 2, Code Supplement 2011, is amended to read as follows:

2. All information contained in an application for financial assistance submitted to the authority shall remain confidential while the authority 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 authority may release certain information in an application for financial assistance to a third party for technical review. If the authority releases such information to a third party, the authority shall ensure that the third party protects such information from public disclosure. After the authority has considered a request for confidentiality pursuant to subsection 3, any information not deemed confidential shall be made publicly available. Any information deemed confidential by the authority shall also be kept confidential during and following administration of a contract executed pursuant to a successful application. Information deemed confidential may be treated as such for as long as the authority deems necessary to protect an applicant's competitive position, and the confidential treatment of the information shall apply whether the authority is in possession of the information or whether the information has been sent to off-site storage or to the state archivist.

DIVISION VIII  
EMPLOYEES ELIGIBLE FOR JOBS TRAINING PROGRAMS

Sec. 10. Section 260E.2, subsection 6, Code 2011, is amended to read as follows:

6. *“Employee”* means the person employed in a new job. *“Employee”* does not include a person not subject to the withholding of Iowa income pursuant to a reciprocal agreement under section 422.8, subsection 5.

Sec. 11. Section 260F.2, subsection 6, Code Supplement 2011, is amended to read as follows:

6. *“Employee”* means a person currently employed by a business who is to be trained. However, *“employee”* does not include a person with executive responsibilities or replacement workers who are hired as a result of a strike, lockout, or other labor dispute in Iowa.

Approved March 22, 2012

## CHAPTER 1019

### MENTAL RETARDATION — DEFINITION AND TERMINOLOGY CHANGES

S.F. 2247

**AN ACT** relating to terminology changes in Iowa Code references to mental retardation.

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

Section 1. Section 4.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 09A. *“Intellectual disability”* means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, *“intellectual disability”* means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, text revised, published by the American psychiatric association.

Sec. 2. Section 4.1, subsection 21A, Code 2011, is amended to read as follows:

21A. *Persons with mental illness.* The words *“persons with mental illness”* include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to ~~mental retardation as defined in section 222.2~~ intellectual disability, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental

illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

Sec. 3. Section 8A.311, subsection 16, Code Supplement 2011, is amended to read as follows:

16. A state agency shall make every effort to purchase those products produced for sale by sheltered workshops, work activity centers, and other special programs funded in whole or in part by public moneys that employ persons with ~~mental retardation~~ an intellectual disability or other developmental disabilities or mental illness if the products meet the required specifications.

Sec. 4. Section 23A.2, subsection 10, paragraph 1, subparagraph (4), Code 2011, is amended to read as follows:

(4) Nothing in this paragraph shall be construed to prohibit a state resource center from providing a service a resident needs for compliance with accreditation standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability.

Sec. 5. Section 48A.2, subsection 3, Code 2011, is amended to read as follows:

3. "~~Person who is incompetent to vote~~" means a person ~~described in section 222.2, subsection 5,~~ with an intellectual disability who has been found to lack the mental capacity to vote in a proceeding held pursuant to section 222.31 or 633.556.

Sec. 6. Section 126.16, subsection 2, Code 2011, is amended to read as follows:

2. For the purpose of this chapter, advertising is false if it represents a drug, device, or cosmetic to have any effect in the diagnosis, prevention, or treatment of arthritis, blood disorders, bone or joint diseases, kidney diseases or disorders, cancer, diabetes, gall bladder disease or disorders, heart and vascular disease, high blood pressure, diseases or disorders of the ear, mental disease or ~~mental retardation~~ an intellectual disability, degenerative neurological diseases, paralysis, prostate gland disorders, conditions of the scalp affecting hair loss, baldness, endocrine disorders, sexual impotence, tumors, venereal diseases, varicose ulcers, breast enlargement, purifying blood, metabolic disorders, immune system disorders or conditions affecting the immune system, extension of life expectancy, stress and tension, brain stimulation or performance, the body's natural defense mechanisms, blood flow, and depression. However, advertising not in violation of subsection 1 is not false under this subsection if it is disseminated only to members of the medical, dental, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices. However, if the board determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named in this subsection, the board shall by rule authorize the advertising of drugs having curative or therapeutic effect for such disease, subject to the conditions and restrictions the board deems necessary in the interests of the public health. However, this subsection does not indicate that self-medication for diseases other than those named in this subsection is safe and efficacious.

Sec. 7. Section 135.63, subsection 1, Code 2011, is amended to read as follows:

1. A new institutional health service or changed institutional health service shall not be offered or developed in this state without prior application to the department for and receipt of a certificate of need, pursuant to this division. The application shall be made upon forms furnished or prescribed by the department and shall contain such information as the department may require under this division. The application shall be accompanied by a fee equivalent to three-tenths of one percent of the anticipated cost of the project with a minimum fee of six hundred dollars and a maximum fee of twenty-one thousand dollars. The fee shall be remitted by the department to the treasurer of state, who shall place it in the general fund of the state. If an application is voluntarily withdrawn within thirty calendar days after submission, seventy-five percent of the application fee shall be refunded; if the application is voluntarily withdrawn more than thirty but within sixty days after submission, fifty percent of the application fee shall be refunded; if the application is withdrawn

voluntarily more than sixty days after submission, twenty-five percent of the application fee shall be refunded. Notwithstanding the required payment of an application fee under this subsection, an applicant for a new institutional health service or a changed institutional health service offered or developed by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or an intermediate care facility for persons with mental illness as defined pursuant to section 135C.1 is exempt from payment of the application fee.

Sec. 8. Section 135.63, subsection 2, paragraphs f and p, Code 2011, are amended to read as follows:

f. A residential care facility, as defined in section 135C.1, including a residential care facility for persons with ~~mental retardation~~ an intellectual disability, notwithstanding any provision in this division to the contrary.

p. The conversion of an existing number of beds by an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability to a smaller facility environment, including but not limited to a community-based environment which does not result in an increased number of beds, notwithstanding any provision in this division to the contrary, including subsection 4, if all of the following conditions exist:

(1) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the number and type of beds to be converted on a form prescribed by the department at least thirty days before the conversion.

(2) The intermediate care facility for persons with ~~mental retardation~~ an intellectual disability reports the conversion of beds on its next annual report to the department.

Sec. 9. Section 135.63, subsection 4, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A copy of the application shall be sent to the department of human services at the time the application is submitted to the Iowa department of public health. The department shall not process applications for and the council shall not consider a new or changed institutional health service for an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability unless both of the following conditions are met:

Sec. 10. Section 135.63, subsection 4, paragraph a, Code 2011, is amended to read as follows:

a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility beds for persons with ~~mental retardation~~ an intellectual disability in the state, exclusive of those beds at the state resource centers or other state institutions, beyond one thousand six hundred thirty-six beds.

Sec. 11. Section 135C.1, subsections 6, 9, and 13, Code 2011, are amended to read as follows:

6. “*Health care facility*” or “*facility*” means a residential care facility, a nursing facility, an intermediate care facility for persons with mental illness, or an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

9. “*Intermediate care facility for persons with* ~~mental retardation~~ an intellectual disability” means an institution or distinct part of an institution with a primary purpose to provide health or rehabilitative services to three or more individuals, who primarily have ~~mental retardation~~ an intellectual disability or a related condition and who are not related to the administrator or owner within the third degree of consanguinity, and which meets the requirements of this chapter and federal standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1936d, which are contained in 42 C.F.R. pt. 483, subpt. D, § 410 – 480.

13. “*Nursing facility*” means an institution or a distinct part of an institution housing three or more individuals not related to the administrator or owner within the third degree of consanguinity, which is primarily engaged in providing health-related care and services, including rehabilitative services, but which is not engaged primarily in providing treatment or care for mental illness or ~~mental retardation~~ an intellectual disability, for a period

exceeding twenty-four consecutive hours for individuals who, because of a mental or physical condition, require nursing care and other services in addition to room and board.

Sec. 12. Section 135C.2, subsection 3, paragraphs b, c, and d, Code 2011, are amended to read as follows:

b. The department may also establish by administrative rule special classifications within the residential care facility, intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition. The rules may grant special variances or considerations to facilities licensed within the special classification.

c. The rules adopted for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order for an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability to be licensed, the state fire marshal must certify to the department that the facility meets the applicable provisions of the rules adopted for such facilities by the state fire marshal. The state fire marshal's rules shall be based upon such a facility's compliance with either the provisions applicable to health care occupancies or residential board and care occupancies of the life safety code of the national fire protection association, 2000 edition. The department shall adopt additional rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability pursuant to section 135C.14, subsection 8.

d. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, the department shall consider the federal interpretive guidelines issued by the federal centers for Medicare and Medicaid services when interpreting the department's rules for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 13. Section 135C.2, subsection 5, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with ~~mental retardation~~ an intellectual disability, chronic mental illness, a developmental disability, or brain injury, as described under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, chapter 1246, section 206, and which include all of the following provisions:

Sec. 14. Section 135C.2, subsection 5, paragraphs a and f, Code 2011, are amended to read as follows:

a. A facility provider under the special classification must comply with rules adopted by the department for the special classification. However, a facility provider which has been accredited by the accreditation council for services to persons with ~~mental retardation~~ an intellectual disability and other developmental disabilities shall be deemed to be in compliance with the rules adopted by the department.

f. The facilities licensed under this subsection shall be eligible for funding utilized by other licensed residential care facilities for persons with ~~mental retardation~~ an intellectual disability, or licensed residential care facilities for persons with mental illness, including

but not limited to funding under or from the federal social services block grant, the state supplementary assistance program, state mental health and developmental disabilities services funds, and county funding provisions.

Sec. 15. Section 135C.6, subsection 8, paragraphs a and b, Code 2011, are amended to read as follows:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with intellectual disabilities or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with ~~mental retardation~~ an intellectual disability.

b. Not more than forty residential care facilities for persons with ~~mental retardation~~ an intellectual disability that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with intellectual disabilities. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph "a" except that the program shall not serve more than five individuals.<sup>1</sup>

Sec. 16. Section 135C.6, subsection 9, Code 2011, is amended to read as follows:

9. Contingent upon the department of human services receiving federal approval, a residential program which serves not more than eight individuals and is licensed as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability may surrender the facility license and continue to operate under a federally approved medical assistance home and community-based services waiver for persons with an intellectual ~~disabilities~~ disability, if the department of human services has approved a plan submitted by the residential program.

Sec. 17. Section 135C.23, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility when the intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for persons with mental illness, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and disability services commission created in section 225C.5, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for persons with mental illness, intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

<sup>1</sup> See chapter 1138, §49 herein

Sec. 18. Section 135C.25, subsection 1, Code 2011, is amended to read as follows:

1. Each health care facility shall have a resident advocate committee whose members shall be appointed by the director of the department on aging or the director's designee. A person shall not be appointed a member of a resident advocate committee for a health care facility unless the person is a resident of the service area where the facility is located. The resident advocate committee for any facility caring primarily for persons with mental illness, ~~mental retardation~~ an intellectual disability, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health and disability services of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on resident advocate committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the resident advocate committee and shall not be present at committee meetings except upon request of the committee.

Sec. 19. Section 155.1, subsection 3, Code 2011, is amended to read as follows:

3. "Nursing home" means an institution or facility, or part of an institution or facility, whether proprietary or nonprofit, licensed as a nursing facility, but not including an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or an intermediate care facility for persons with mental illness, defined as such for licensing purposes under state law or administrative rule adopted pursuant to section 135C.2, including but not limited to, a nursing home owned or administered by the federal or state government or an agency or political subdivision of government.

Sec. 20. Section 217.1, Code 2011, is amended to read as follows:

**217.1 Programs of department.**

There is established a department of human services to administer programs designed to improve the well-being and productivity of the people of the state of Iowa. The department shall concern itself with the problems of human behavior, adjustment, and daily living through the administration of programs of family, child, and adult welfare, economic assistance including costs of medical care, rehabilitation toward self-care and support, delinquency prevention and control, treatment and rehabilitation of juvenile offenders, care and treatment of persons with mental illness or ~~mental retardation~~ an intellectual disability, and other related programs as provided by law.

Sec. 21. Section 218.92, Code 2011, is amended to read as follows:

**218.92 Patients with dangerous mental disturbances.**

When a patient in a state resource center for persons with ~~mental retardation~~ an intellectual disability, a state mental health institute, or another institution under the administration of the department of human services has become so mentally disturbed as to constitute a danger to self, to other patients or staff of the institution, or to the public, and the institution cannot provide adequate security, the administrator in charge of the institution, with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the superintendent of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court that ordered the hospitalization of the patient, as required by section 229.15, subsection 5. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient was transferred had while the patient was hospitalized in the institution. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 22. Section 222.1, Code 2011, is amended to read as follows:

**222.1 Purpose of state resource centers.**

1. The Glenwood state resource center and the Woodward state resource center are established and shall be maintained as the state's regional resource centers for the purpose of providing treatment, training, instruction, care, habilitation, and support of persons with ~~mental retardation~~ an intellectual disability or other disabilities in this state, and providing

facilities, services, and other support to the communities located in the region being served by a state resource center. In addition, the state resource centers are encouraged to serve as a training resource for community-based program staff, medical students, and other participants in professional education programs. A resource center may request the approval of the council on human services to change the name of the resource center for use in communication with the public, in signage, and in other forms of communication.

2. A special ~~mental retardation~~ intellectual disability unit may be maintained at one of the state mental health institutes for the purposes set forth in sections 222.88 to 222.91.

Sec. 23. Section 222.2, subsections 5 and 6, Code 2011, are amended to read as follows:

5. ~~“Mental retardation” or “mentally retarded”~~ “Intellectual disability” means a term or terms to describe children and adults who as a result of inadequately developed intelligence are significantly impaired in ability to learn or to adapt to the demands of society the same as defined in section 4.1.

6. “Special unit” means a special ~~mental retardation~~ intellectual disability unit established at a state mental health institute pursuant to sections 222.88 to 222.91.

Sec. 24. Section 222.6, Code 2011, is amended to read as follows:

**222.6 State districts.**

The administrator shall divide the state into two districts in such manner that one of the resource centers shall be located within each of the districts. Such districts may from time to time be changed. After such districts have been established, the administrator shall notify all boards of supervisors, county auditors, and clerks of the district courts of the action. Thereafter, unless the administrator otherwise orders, all admissions or commitments of persons with ~~mental retardation~~ an intellectual disability from a district shall be to the resource center located within such district.

Sec. 25. Section 222.9, Code 2011, is amended to read as follows:

**222.9 Unauthorized departures.**

If any person with ~~mental retardation~~ an intellectual disability shall depart without proper authorization from a resource center or a special unit, it shall be the duty of the superintendent and the superintendent’s assistants and all peace officers of any county in which such patient may be found to take and detain the patient without a warrant or order and to immediately report such detention to the superintendent who shall immediately provide for the return of such patient to the resource center or special unit.

Sec. 26. Section 222.10, Code 2011, is amended to read as follows:

**222.10 Duty of peace officer.**

When any person with ~~mental retardation~~ an intellectual disability departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the administrator. The administrator shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the administrator or by the administrator of the division of child and family services of the department of human services. The provisions of this section relating to the administrator shall also apply to the return of other nonresident persons with ~~mental retardation~~ an intellectual disability having legal settlement outside the state of Iowa.

Sec. 27. Section 222.12, subsections 1 and 3, Code 2011, are amended to read as follows:

1. Upon the death of a patient of a resource center or special unit, a preliminary investigation of the death shall be 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~~ an intellectual disability. The chief administrative officer of any private institution may request an investigation of the death of any patient by the county medical examiner.



3. The parent, guardian, or other person responsible for the admission of a patient to a private institution for persons with ~~mental retardation~~ an intellectual disability may also request 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 are liable for the expense of such preliminary investigation and payment for the expense may be required in advance.

Sec. 28. Section 222.13, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If an adult person is believed to be a person with ~~mental retardation~~ an intellectual disability, the adult person or the adult person's guardian may submit a request through the central point of coordination process for the county board of supervisors to apply to the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. After determining the legal settlement of the adult person as provided by this chapter, the board of supervisors shall, on forms prescribed by the administrator, apply to the superintendent of the resource center in the district for the admission of the adult person to the resource center. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the adult person or the adult person's guardian. The superintendent shall accept the application providing a preadmission diagnostic evaluation, performed through the central point of coordination process, confirms or establishes the need for admission, except that an application may not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

2. If the resource center has no appropriate program for the treatment of an adult or minor person with ~~mental retardation~~ an intellectual disability applying under this section or section 222.13A, the board of supervisors shall arrange for the placement of the person in any public or private facility within or without the state, approved by the director of the department of human services, which offers appropriate services for the person, as determined through the central point of coordination process.

Sec. 29. Section 222.13A, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If a minor is believed to be a person with ~~mental retardation~~ an intellectual disability, the minor's parent, guardian, or custodian may request the county board of supervisors to apply for admission of the minor as a voluntary patient in a state resource center. If the resource center does not have appropriate services for the minor's treatment, the board of supervisors may arrange for the admission of the minor in a public or private facility within or without the state, approved by the director of human services, which offers appropriate services for the minor's treatment.

2. Upon receipt of an application for voluntary admission of a minor, the board of supervisors shall provide for a preadmission diagnostic evaluation of the minor to confirm or establish the need for the admission. The preadmission diagnostic evaluation shall be performed by a person who meets the qualifications of a qualified ~~mental retardation~~ intellectual disability professional who is designated through the central point of coordination process.

Sec. 30. Section 222.16, Code 2011, is amended to read as follows:

**222.16 Petition for adjudication of ~~mental retardation~~ intellectual disability.**

A petition for the adjudication of ~~the mental retardation~~ of a person as having an intellectual disability within the meaning of this chapter may, with the permission of the court, be filed without fee against a person with the clerk of the district court of the county or city in which the person who is alleged to have ~~mental retardation~~ an intellectual disability resides or is found. The petition may be filed by any relative of the person, by a guardian, or by any reputable citizen of the county where the person who is alleged to have ~~mental retardation~~ an intellectual disability resides or is found.

Commitment of a person pursuant to section 222.31 does not constitute a finding or raise a presumption that the person is incompetent to vote. The court shall make a separate determination as to the person's competency to vote. The court shall find a person

incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 31. Section 222.17, subsection 1, Code 2011, is amended to read as follows:

1. Allege that such person is ~~mentally retarded~~ has an intellectual disability within the meaning of this chapter.

Sec. 32. Section 222.18, Code 2011, is amended to read as follows:

**222.18 County attorney to appear.**

The county attorney shall, if requested, appear on behalf of any petitioner for the commitment of a person alleged to be ~~mentally retarded~~ have an intellectual disability under this chapter, and on behalf of all public officials and superintendents in all matters pertaining to the duties imposed upon them by this chapter.

Upon the filing of the petition, the court shall enter an order directing the county attorney of the county in which the person who is alleged to have ~~mental retardation~~ an intellectual disability resides to make a full investigation regarding the financial condition of that person and of those persons legally liable for that person's support under section 222.78.

Sec. 33. Section 222.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The following persons, in addition to the person alleged to be ~~mentally retarded~~ have an intellectual disability, shall be made party respondents if the persons reside in this state and their names and residences are known:

Sec. 34. Section 222.21, Code 2011, is amended to read as follows:

**222.21 Order requiring attendance.**

If the person alleged to have ~~mental retardation~~ an intellectual disability is not before the court, the court may issue an order requiring the person who has the care, custody, and control of the person who is alleged to have ~~mental retardation~~ an intellectual disability to bring the person into court at the time and place stated in the order.

Sec. 35. Section 222.22, Code 2011, is amended to read as follows:

**222.22 Time of appearance.**

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have ~~mental retardation~~ an intellectual disability may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have ~~mental retardation~~ an intellectual disability. Counsel shall prior to proceedings personally consult with the person who is alleged to have ~~mental retardation~~ an intellectual disability unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 36. Section 222.25, Code 2011, is amended to read as follows:

**222.25 Custody pending hearing.**

Pending final hearing, the court may at any time after the filing of the petition and on satisfactory showing that it is in the best interest of the person who is alleged to have ~~mental retardation~~ an intellectual disability and of the community that the person be at once taken into custody, or that service of notice will be ineffectual if the person is not taken into custody, issue an order for the immediate production of the person before the court. In such case, the court may make any proper order for the custody or confinement of the person as will protect the person and the community and insure the presence of the person at the hearing. The person shall not be confined with those accused or convicted of crime.

Sec. 37. Section 222.27, Code 2011, is amended to read as follows:

**222.27 Hearing in public.**

Hearings shall be public, unless otherwise requested by the parent, guardian, or other

person having the custody of the person with ~~mental retardation~~ an intellectual disability, or if the judge considers, a closed hearing in the best interests of the person with ~~mental retardation~~ an intellectual disability.

Sec. 38. Section 222.28, Code 2011, is amended to read as follows:

**222.28 Commission to examine.**

The court may, at or prior to the final hearing, appoint a commission of one qualified physician and one qualified psychologist, designated through the central point of coordination process, who shall make a personal examination of the person alleged to be ~~mentally retarded~~ have an intellectual disability for the purpose of determining the mental condition of the person.

Sec. 39. Section 222.31, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If in the opinion of the court, or of a commission as authorized in section 222.28, the person is ~~mentally retarded~~ has an intellectual disability within the meaning of this chapter and the court determines that it will be conducive to the welfare of that person and of the community to commit the person to a proper institution for treatment, training, instruction, care, habilitation, and support, and that services or support provided to the family of such a person who is a child will not enable the family to continue to care for the child in the child's home, the court shall by proper order:

Sec. 40. Section 222.34, Code 2011, is amended to read as follows:

**222.34 Guardianship proceedings.**

If a guardianship is proposed for a person with ~~mental retardation~~ an intellectual disability, guardianship proceedings shall be initiated and conducted as provided in chapter 633.

Sec. 41. Section 222.38, Code 2011, is amended to read as follows:

**222.38 Delivery of person to institution, resource center, or special unit.**

The court may, for the purpose of committing a person direct the clerk to authorize the employment of one or more assistants. If a person with ~~mental retardation~~ an intellectual disability is taken to an institution, resource center, or special unit, at least one attendant shall be of the same sex.

Sec. 42. Section 222.43, subsection 1, paragraphs a, b, and c, Code 2011, are amended to read as follows:

a. That the person adjudged to be ~~mentally retarded~~ is not mentally retarded have an intellectual disability does not have an intellectual disability.

b. That the person adjudged to be ~~mentally retarded~~ have an intellectual disability has improved as to be capable of ~~self-care~~ self-care.

c. That the relatives or friends of the person with ~~mental retardation~~ an intellectual disability are able and willing to support and care for the person with ~~mental retardation~~ an intellectual disability and request the person's discharge, and in the judgment of the superintendent of the institution or resource center having charge of the person, no harmful consequences are likely to follow such discharge.

Sec. 43. Section 222.45, Code 2011, is amended to read as follows:

**222.45 Power of court.**

On the hearing, the court may discharge the person with ~~mental retardation~~ an intellectual disability from all supervision, control, and care, or may transfer the person from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a resource center, or vice versa, as the court deems appropriate under all the circumstances. If the person has been determined to lack the mental capacity to vote, the court shall include in its order a finding that this determination remains in force or is revoked.

Sec. 44. Section 222.47, Code 2011, is amended to read as follows:

**222.47 Penalty for false petition of commitment.**

Any person who shall maliciously seek to have any person adjudged ~~mentally retarded~~ as

a person with an intellectual disability, knowing that such person is not mentally retarded does not have an intellectual disability, shall be guilty of a fraudulent practice.

Sec. 45. Section 222.49, Code 2011, is amended to read as follows:

**222.49 Costs paid.**

The costs of proceedings shall be defrayed from the county treasury unless otherwise ordered by the court. When the person alleged to ~~be mentally retarded~~ have an intellectual disability is found not to ~~be mentally retarded~~ have an intellectual disability, the court shall render judgment for such costs against the person filing the petition except when the petition is filed by order of court.

Sec. 46. Section 222.50, Code 2011, is amended to read as follows:

**222.50 County of legal settlement to pay.**

When the proceedings are instituted in a county in which the person who is alleged to have ~~mental retardation~~ an intellectual disability was found but which is not the county of legal settlement of the person, and the costs are not taxed to the petitioner, the county which is the legal settlement of the person shall, on presentation of a properly itemized bill for such costs, repay the costs to the former county. When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the administrator.

Sec. 47. Section 222.51, Code 2011, is amended to read as follows:

**222.51 Costs collected.**

Costs incident to the hearings and commitment of a person with ~~mental retardation~~ an intellectual disability to an institution, a resource center, or a special unit may be collected from the person with ~~mental retardation~~ an intellectual disability and from all persons legally chargeable with the support of the person with ~~mental retardation~~ an intellectual disability.

Sec. 48. Section 222.52, Code 2011, is amended to read as follows:

**222.52 Proceedings against delinquent — hearing on ~~retardation~~ intellectual disability.**

When in proceedings against an alleged delinquent or dependent child, the court is satisfied from any evidence that such child ~~is mentally retarded~~ has an intellectual disability, the court may order a continuance of such proceeding, and may direct an officer of the court or some other proper person to file a petition against such child permitted under the provisions of this chapter. Pending hearing of the petition the court may by order provide proper custody for the child.

Sec. 49. Section 222.53, Code 2011, is amended to read as follows:

**222.53 Conviction — suspension.**

If on the conviction in the district court of any person for any crime or for any violation of any municipal ordinance, or if on the determination in ~~said courts~~ the court that a child is dependent, neglected, or delinquent and it appears from any evidence presented to the court before sentence, that such person ~~is mentally retarded~~ has an intellectual disability within the meaning of this chapter, the court may suspend sentence or order, and may order any officer of the court or some other proper person to file a petition permitted under the provisions of this chapter against ~~said such~~ such person. Pending hearing of the petition, the court shall provide for the custody of ~~said such~~ such person as directed in section 222.52.

Sec. 50. Section 222.54, Code 2011, is amended to read as follows:

**222.54 Procedure after hearing.**

Should it be found under sections 222.52 and 222.53 that ~~said such~~ such person ~~is not mentally retarded~~ does not have an intellectual disability, the court shall proceed with the original proceedings as though no petition had been filed.

Sec. 51. Section 222.56, Code 2011, is amended to read as follows:

**222.56 Transfer to institution for persons with ~~mental retardation~~ an intellectual disability.**

When the mental condition of a person in a private institution for persons with mental illness is found to be such that the patient should be transferred to an institution for persons with ~~mental retardation~~ an intellectual disability, the person may be proceeded against under this chapter.

Sec. 52. Section 222.58, Code 2011, is amended to read as follows:

**222.58 Administrator to keep record.**

The administrator shall keep a record of all persons adjudged to ~~be mentally retarded~~ have an intellectual disability and of the orders respecting such persons by the courts throughout the state. Copies of such orders shall be furnished by the clerk of the court without the administrator's application therefor.

Sec. 53. Section 222.60, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with ~~mental retardation~~ an intellectual disability, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

Sec. 54. Section 222.60, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Prior to a county of legal settlement approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has ~~mental retardation~~ an intellectual disability or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to ~~mental retardation~~ an intellectual disability. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods.

Sec. 55. Section 222.60, subsection 3, Code 2011, is amended to read as follows:

3. a. A diagnosis of ~~mental retardation~~ an intellectual disability under this section shall be made only when the onset of the person's condition was prior to the age of eighteen years and shall be based on an assessment of the person's intellectual functioning and level of adaptive skills. The diagnosis shall be made by an individual who is a psychologist or psychiatrist who is professionally trained to administer the tests required to assess intellectual functioning and to evaluate a person's adaptive skills.

b. A diagnosis of ~~mental retardation~~ an intellectual disability shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, ~~fourth edition~~, published by the American psychiatric association, as provided in the definition of intellectual disability in section 4.1.

Sec. 56. Section 222.66, Code 2011, is amended to read as follows:

**222.66 Transfers — expenses.**

The transfer to a resource center or a special unit or to the place of legal settlement of a person with ~~mental retardation~~ an intellectual disability who has no legal settlement in this state or whose legal settlement is unknown, shall be made in accordance with such directions as shall be prescribed by the administrator and when practicable by employees of the state resource center or the special unit. The actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the administrator from any funds in the state treasury not otherwise appropriated.

Sec. 57. Section 222.78, Code 2011, is amended to read as follows:

**222.78 Parents and others liable for support.**

The father and mother of any patient admitted or committed to a resource center or to

a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with ~~mental retardation~~ an intellectual disability.

Sec. 58. Section 222.80, Code 2011, is amended to read as follows:

**222.80 Liability to county.**

A person admitted or committed to a county institution or home or admitted or committed at county expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with ~~mental retardation~~ an intellectual disability shall be liable to the county for the reasonable cost of the support as provided in section 222.78.

Sec. 59. Section 222.88, Code 2011, is amended to read as follows:

**222.88 Special ~~mental retardation~~ intellectual disability unit.**

The director of human services may organize and establish a special ~~mental retardation~~ intellectual disability unit at an existing institution which may provide:

1. Psychiatric and related services to children with ~~mental retardation~~ an intellectual disability and adults who are also emotionally disturbed or otherwise mentally ill.
2. Specific programs to meet the needs of such other special categories of persons with ~~mental retardation~~ an intellectual disability as may be designated by the director.
3. Appropriate diagnostic evaluation services.

Sec. 60. Section 225C.1, subsection 1, Code 2011, is amended to read as follows:

1. The general assembly finds that services to persons with mental illness, ~~mental retardation~~ an intellectual disability, developmental disabilities, or brain injury are provided in many parts of the state by highly autonomous community-based service providers working cooperatively with state and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and ~~mental retardation~~ intellectual disability services has enabled many counties to exceed minimum state standards for the services resulting in an uneven level of services around the state. Consequently, greater efforts should be made to assure ensure close coordination and continuity of care for those persons receiving publicly supported disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the services to persons with disabilities now available in the state of Iowa, to make disability services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

Sec. 61. Section 225C.2, subsections 6 and 8, Code 2011, are amended to read as follows:

6. “Disability services” means services and other support available to a person with mental illness, ~~mental retardation~~ an intellectual disability or other developmental disability, or brain injury.

8. “Person with a disability” means a person with mental illness, ~~mental retardation~~ an intellectual disability or other developmental disability, or brain injury.

Sec. 62. Section 225C.3, subsections 1 and 3, Code 2011, are amended to read as follows:

1. The division is designated the state mental health authority as defined in 42 U.S.C. § 201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. § 201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and ~~mental retardation~~ intellectual disability. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, ~~mental retardation~~ intellectual disability, or other disability services, and preferably in more than one field. The administrator shall have at least five years of experience as an administrator in one or more of these fields.

Sec. 63. Section 225C.4, subsection 1, paragraphs a, c, g, and q, Code 2011, are amended to read as follows:

a. Prepare and administer the comprehensive mental health and disability services plan as provided in section 225C.6B, including state mental health and ~~mental retardation~~ intellectual disability plans for the provision of disability services within the state and the state developmental disabilities plan. The administrator shall consult with the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the department of workforce development and any other appropriate governmental body, in order to facilitate coordination of disability services provided in this state. The state mental health and ~~mental retardation~~ intellectual disability plans shall be consistent with the state health plan, and shall incorporate county disability services plans.

c. Emphasize the provision of outpatient services by community mental health centers and local ~~mental retardation~~ intellectual disability providers as a preferable alternative to inpatient hospital services.

g. Administer state programs regarding the care, treatment, and supervision of persons with mental illness or ~~mental retardation~~ an intellectual disability, except the programs administered by the state board of regents.

q. In cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to persons with mental illness and ~~mental retardation~~ an intellectual disability residing in county care facilities.

Sec. 64. Section 225C.5, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

A mental health and disability services commission is created as the state policy-making body for the provision of services to persons with mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disabilities, or brain injury. The commission's voting members shall be appointed to three-year staggered terms by the governor and are subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, ~~mental retardation~~ intellectual disability, or other developmental disabilities, and brain injury, in a manner so as to ensure adequate representation from persons with disabilities and individuals knowledgeable concerning disability services. The department shall provide staff support to the commission, and the commission may utilize staff support and other assistance provided to the commission by other persons. The commission shall meet at least four times per year. The membership of the commission shall consist of the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

Sec. 65. Section 225C.7, subsections 2 and 4, Code 2011, are amended to read as follows:

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, ~~mental retardation~~ intellectual disability, developmental disabilities, and brain injury services in the manner provided in the appropriation to the

fund. If the allocation methodology includes a population factor, the most recent population estimates issued by the United States bureau of the census shall be applied.

4. a. A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. With reference to the fiscal year beginning July 1, 1980, money “*raised by county levy and expended for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services*” means the county’s maintenance of effort determined by using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, subsection 1, Code 1993. The department, with the agreement of each county, shall establish the actual amount expended by each county for persons with mental illness, ~~mental retardation~~ an intellectual disability, or a developmental disability in the fiscal year which began on July 1, 1980, and this amount shall be deemed each county’s maintenance of effort.

Sec. 66. Section 225C.12, subsection 2, Code 2011, is amended to read as follows:

2. A county may claim reimbursement by filing with the administrator a claim in a form prescribed by the administrator by rule. Claims may be filed on a quarterly basis, and when received shall be verified as soon as reasonably possible by the administrator. The administrator shall certify to the director of the department of administrative services the amount to which each county claiming reimbursement is entitled, and the director of the department of administrative services shall issue warrants to the respective counties drawn upon funds appropriated by the general assembly for the purpose of this section. A county shall place funds received under this section in the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created under section 331.424A. If the appropriation for a fiscal year is insufficient to pay all claims arising under this section, the director of the department of administrative services shall prorate the funds appropriated for that year among the claimant counties so that an equal proportion of each county’s claim is paid in each quarter for which proration is necessary.

Sec. 67. Section 225C.13, subsection 2, Code 2011, is amended to read as follows:

2. The division administrator may work with the appropriate administrator of the department’s institutions to establish mental health and ~~mental retardation~~ intellectual disability services for all institutions under the control of the director of human services and to establish an autism unit, following mutual planning and consultation with the medical director of the state psychiatric hospital, at an institution or a facility administered by the department to provide psychiatric and related services and other specific programs to meet the needs of autistic persons, and to furnish appropriate diagnostic evaluation services.

Sec. 68. Section 225C.21, subsection 1, Code 2011, is amended to read as follows:

1. As used in this section, “*supported community living services*” means services provided in a noninstitutional setting to adult persons with mental illness, ~~mental retardation~~ an intellectual disability, or developmental disabilities to meet the persons’ daily living needs.

Sec. 69. Section 225C.25, Code 2011, is amended to read as follows:

**225C.25 Short title.**

Sections 225C.25 through 225C.28B shall be known as “the bill of rights and service quality standards of persons with ~~mental retardation~~ an intellectual disability, developmental disabilities, brain injury, or chronic mental illness”.

Sec. 70. Section 225C.26, Code 2011, is amended to read as follows:

**225C.26 Scope.**

These rights and service quality standards apply to any person with ~~mental retardation~~ an intellectual disability, a developmental disability, brain injury, or chronic mental illness who receives services which are funded in whole or in part by public funds or services which are permitted under Iowa law.



Sec. 71. Section 225C.28A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

As the state participates more fully in funding services and other support to persons with mental retardation an intellectual disability, developmental disabilities, brain injury, or chronic mental illness, it is the intent of the general assembly that the state shall seek to attain the following quality standards in the provision of the services:

Sec. 72. Section 225C.28B, Code 2011, is amended to read as follows:

**225C.28B Rights of persons with mental retardation an intellectual disability, developmental disabilities, brain injury, or chronic mental illness.**

All of the following rights shall apply to a person with mental retardation an intellectual disability, a developmental disability, brain injury, or chronic mental illness:

1. *Wage protection.* A person with mental retardation an intellectual disability, a developmental disability, brain injury, or chronic mental illness engaged in work programs shall be paid wages commensurate with the going rate for comparable work and productivity.

2. *Insurance protection.* Pursuant to section 507B.4, subsection 7, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation an intellectual disability, a developmental disability, brain injury, or chronic mental illness.

3. *Due process.* A person with mental retardation an intellectual disability, a developmental disability, brain injury, or chronic mental illness retains the right to citizenship in accordance with the laws of the state.

4. *Participation in planning activities.* If an individual treatment, habilitation, and program plan is developed for a person with mental retardation an intellectual disability, a developmental disability, brain injury, or chronic mental illness, the person has the right to participate in the formulation of the plan.

Sec. 73. Section 225C.32, Code 2011, is amended to read as follows:

**225C.32 Plan appeals process.**

The department shall establish an appeals process by which a mental health, mental retardation intellectual disability, and developmental disabilities coordinating board or an affected party may appeal a decision of the department or of the coordinating board.

Sec. 74. Section 225C.52, subsection 1, Code 2011, is amended to read as follows:

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 and disability 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 intellectual disability, 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.

Sec. 75. Section 226.8, Code 2011, is amended to read as follows:

**226.8 Persons with mental retardation an intellectual disability not receivable — exception.**

No A person who is mentally retarded has an intellectual disability, as defined by in section 222.2 4.1, shall not be admitted, or transferred pursuant to section 222.7, to a state mental health institute unless a professional diagnostic evaluation indicates that such person will benefit from psychiatric treatment or from some other specific program available at the mental health institute to which it is proposed to admit or transfer the person. Charges for the care of any person with mental retardation an intellectual disability admitted to a state mental health institute shall be made by the institute in the manner provided by chapter 230,

but the liability of any other person to any county for the cost of care of such person with ~~mental retardation~~ an intellectual disability shall be as prescribed by section 222.78.

Sec. 76. Section 226.9C, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

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

Sec. 77. Section 227.2, subsections 1, 2, and 4, Code 2011, are amended to read as follows:

1. The director of inspections and appeals shall make, or cause to be made, at least one licensure inspection each year of every county care facility. Either the administrator of the division or the director of inspections and appeals, in cooperation with each other, upon receipt of a complaint or for good cause, may make, or cause to be made, a review of a county care facility or of any other private or county institution where persons with mental illness or ~~mental retardation~~ an intellectual disability reside. A licensure inspection or a review shall be made by a competent and disinterested person who is acquainted with and interested in the care of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability. The objective of a licensure inspection or a review shall be an evaluation of the programming and treatment provided by the facility. After each licensure inspection of a county care facility, the person who made the inspection shall consult with the county authorities on plans and practices that will improve the care given patients and shall make recommendations to the administrator of the division and the director of public health for coordinating and improving the relationships between the administrators of county care facilities, the administrator of the division, the director of public health, the superintendents of state mental health institutes and resource centers, community mental health centers, and other cooperating agencies, to cause improved and more satisfactory care of patients. A written report of each licensure inspection of a county care facility under this section shall be filed with the administrator of the division and the director of public health and shall include:

- a. The capacity of the institution for the care of residents.
- b. The number, sex, ages, and primary diagnoses of the residents.
- c. The care of residents, their food, clothing, treatment plan, employment, and opportunity for recreational activities and for productive work intended primarily as therapeutic activity.
- d. The number, job classification, sex, duties, and salaries of all employees.
- e. The cost to the state or county of maintaining residents in a county care facility.
- f. The recommendations given to and received from county authorities on methods and practices that will improve the conditions under which the county care facility is operated.
- g. Any failure to comply with standards adopted under section 227.4 for care of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability in county care facilities, which is not covered in information submitted pursuant to paragraphs "a" to "f", and any other matters which the director of public health, in consultation with the administrator of the division, may require.

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and ~~mental retardation~~ intellectual disability coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its resident advocate committee, and to the department on aging.

4. In addition to the licensure inspections required or authorized by this section, the administrator of the division shall cause to be made an evaluation of each person cared for in a county care facility at least once each year by one or more qualified mental health, ~~mental retardation~~ intellectual disability, or medical professionals, whichever is appropriate.

a. It is the responsibility of the state to secure the annual evaluation for each person who is on convalescent leave or who has not been discharged from a state mental health institute. It is the responsibility of the county to secure the annual evaluation for all other persons with mental illness in the county care facility.

b. It is the responsibility of the state to secure the annual evaluation for each person who is on leave and has not been discharged from a state resource center. It is the responsibility

of the county to secure the annual evaluation for all other persons with ~~mental retardation~~ an intellectual disability in the county care facility.

c. It is the responsibility of the county to secure an annual evaluation of each resident of a county care facility to whom neither paragraph “a” nor paragraph “b” is applicable.

Sec. 78. Section 227.4, Code 2011, is amended to read as follows:

**227.4 Standards for care of persons with mental illness or ~~mental retardation~~ an intellectual disability in county care facilities.**

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

Sec. 79. Section 227.6, Code 2011, is amended to read as follows:

**227.6 Removal of residents.**

If a county care facility fails to comply with rules and standards adopted under this chapter, the administrator may remove all persons with mental illness and all persons with ~~mental retardation~~ an intellectual disability cared for in the county care facility at public expense, to the proper state mental health institute or resource center, or to some private or county institution or hospital for the care of persons with mental illness or ~~mental retardation~~ an intellectual disability that has complied with the rules prescribed by the administrator. Residents being transferred to a state mental health institute or resource center shall be accompanied by an attendant or attendants sent from the institute or resource center. If a resident is transferred under this section, at least one attendant shall be of the same sex. If the administrator finds that the needs of residents with mental illness and residents with ~~mental retardation~~ an intellectual disability of any other county or private institution are not being adequately met, those residents may be removed from that institution upon order of the administrator.

Sec. 80. Section 229.1, subsection 9, Code Supplement 2011, is amended to read as follows:

9. “*Mental illness*” means every type of mental disease or mental disorder, except that it does not refer to ~~mental retardation~~ an intellectual disability as defined in section 222.2, ~~subsection 5 4.1~~, or to insanity, diminished responsibility, or mental incompetency as the terms are defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules.

Sec. 81. Section 229.26, Code 2011, is amended to read as follows:

**229.26 Exclusive procedure for involuntary hospitalization.**

Sections 229.6 through 229.19 constitute the exclusive procedure for involuntary hospitalization of persons by reason of serious mental impairment in this state, except that this chapter does not negate the provisions of section 904.503 relating to transfer of prisoners with mental illness to state hospitals for persons with mental illness and does not apply to commitments of persons under chapter 812 or the rules of criminal procedure, Iowa court rules, or negate the provisions of section 232.51 relating to disposition of children with mental illness or ~~mental retardation~~ an intellectual disability.

Sec. 82. Section 230.33, Code 2011, is amended to read as follows:

**230.33 Reciprocal agreements.**

The administrator may enter into agreements with other states, through their duly constituted authorities, to effect the reciprocal return of persons with mental illness and persons with ~~mental retardation~~ an intellectual disability to the contracting states, and to effect the reciprocal supervision of persons on convalescent leave.

Provided that in the case of a proposed transfer of a person with mental illness or ~~mental retardation~~ an intellectual disability from this state that no final action be taken without the approval either of the commission of hospitalization, or of the district court, of the county of admission or commitment.

Sec. 83. Section 231.4, subsection 1, paragraph m, Code Supplement 2011, is amended to read as follows:

*m.* “Resident” means a resident or tenant of a long-term care facility, assisted living program, or elder group home, excluding facilities licensed primarily to serve persons with ~~mental retardation~~ an intellectual disability or mental illness.

Sec. 84. Section 231.42, subsection 2, paragraph a, Code 2011, is amended to read as follows:

*a.* Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with ~~mental retardation~~ an intellectual disability or mental illness.

Sec. 85. Section 232.51, subsection 2, Code Supplement 2011, is amended to read as follows:

2. If the evidence received at an adjudicatory or a dispositional hearing indicates that the child is ~~mentally retarded~~ has an intellectual disability, the court may direct the juvenile court officer or the department to initiate proceedings or to assist the child’s parent or guardian to initiate civil commitment proceedings in the juvenile court and such proceedings shall adhere to the requirements of chapter 222.

Sec. 86. Section 232.51, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

*a.* If prior to the adjudicatory or dispositional hearing on the pending delinquency petition, the child is committed as a child with a mental illness or ~~mental retardation~~ an intellectual disability and is ordered into a residential facility, institution, or hospital for inpatient treatment, the delinquency proceeding shall be suspended until such time as the juvenile court either terminates the civil commitment order or the child is released from the residential facility, institution, or hospital for purposes of receiving outpatient treatment.

Sec. 87. Section 232.175, Code 2011, is amended to read as follows:

**232.175 Placement oversight.**

Placement oversight shall be provided pursuant to this division when the parent, guardian, or custodian of a child with ~~mental retardation~~ an intellectual disability or other developmental disability requests placement of the child in foster family care for a period of more than thirty days. The oversight shall be provided through review of the placement every six months by the department’s foster care review committees or by a local citizen foster care review board. Court oversight shall be provided prior to the initial placement and at periodic intervals which shall not exceed twelve months. It is the purpose and policy of this division to ~~assure~~ ensure the existence of oversight safeguards as required by the federal Child Welfare Act of 1980, Pub. L. No. 96-272, as codified in 42 U.S.C. § 671(a)(16), 627(a)(2)(B), and 675(1),(5), while maintaining parental decision-making authority.

Sec. 88. Section 232.178, subsection 4, Code 2011, is amended to read as follows:

4. The petition shall describe the child’s emotional, physical, or intellectual disability which requires care and treatment; the reasonable efforts to maintain the child in the

child's home; the department's request to the family of a child with ~~mental retardation~~ an intellectual disability, other developmental disability, or organic mental illness to determine if any services or support provided to the family will enable the family to continue to care for the child in the child's home; and the reason the child's parent, guardian, or custodian has requested a foster family care placement. The petition shall also describe the commitment of the parent, guardian, or custodian in fulfilling the responsibilities defined in the case permanency plan and how the placement will serve the child's best interests.

Sec. 89. Section 232.182, subsection 5, paragraph a, subparagraph (4), Code 2011, is amended to read as follows:

(4) A determination that services or support provided to the family of a child with ~~mental retardation~~ an intellectual disability, other developmental disability, or organic mental illness will not enable the family to continue to care for the child in the child's home.

Sec. 90. Section 233A.14, Code 2011, is amended to read as follows:

**233A.14 Transfers to other institutions.**

The administrator may transfer to the schools minor wards of the state from any institution under the administrator's charge but no person shall be so transferred who is mentally ill or ~~mentally retarded~~ has an intellectual disability. Any child in the schools who is mentally ill or ~~mentally retarded~~ has an intellectual disability may be transferred by the administrator to the proper state institution.

Sec. 91. Section 233B.5, Code 2011, is amended to read as follows:

**233B.5 Transfers.**

The administrator may transfer to the home minor wards of the state from any institution under the administrator's charge or under the charge of any other administrator of the department of human services; but no person shall be so transferred who is a person with mental illness or ~~mental retardation~~ an intellectual disability, or who is incorrigible, or has any vicious habits, or whose presence in the home would be inimical to the moral or physical welfare of the other children within the home, and any such child in the home may be transferred to the proper state institution.

Sec. 92. Section 234.6, subsection 6, paragraph f, Code 2011, is amended to read as follows:

f. Services or support provided to a child with ~~mental retardation~~ an intellectual disability or other developmental disability or to the child's family.

Sec. 93. Section 235.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Child welfare services*" means social welfare services for the protection and care of children who are homeless, dependent or neglected, or in danger of becoming delinquent, or who have a mental illness or ~~mental retardation~~ an intellectual disability or other developmental disability, including, when necessary, care and maintenance in a foster care facility. Child welfare services are designed to serve a child in the child's home whenever possible. If not possible, and the child is placed outside the child's home, the placement should be in the least restrictive setting available and in close proximity to the child's home.

Sec. 94. Section 235A.15, subsection 2, paragraph c, subparagraph (9), Code Supplement 2011, is amended to read as follows:

(9) To the administrator of an agency providing mental health, ~~mental retardation~~ intellectual disability, or developmental disability services under a county management plan developed pursuant to section 331.439, if the data concerns a person employed by or being considered by the agency for employment.

Sec. 95. Section 235B.6, subsection 2, paragraph c, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) To the administrator of an agency providing mental health, ~~mental retardation~~ intellectual disability, or developmental disability services under a county management plan

developed pursuant to section 331.439, if the information concerns a person employed by or being considered by the agency for employment.

Sec. 96. Section 249A.2, subsection 4, Code 2011, is amended to read as follows:

4. "*Discretionary medical assistance*" means medical assistance or additional medical assistance provided to individuals whose income and resources are in excess of eligibility limitations but are insufficient to meet all of the costs of necessary medical care and services, provided that if the assistance includes services in institutions for mental diseases or intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, or both, for any group of such individuals, the assistance also includes for all covered groups of such individuals at least the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (5), and (17), as codified in 42 U.S.C. § 1396d(a), pars. (1) through (5), and (17), or any seven of the care and services enumerated in Tit. XIX of the federal Social Security Act, section 1905(a), paragraphs (1) through (7) and (9) through (18), as codified in 42 U.S.C. § 1396d(a), pars. (1) through (7), and (9) through (18).

Sec. 97. Section 249A.5, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.

Sec. 98. Section 249A.5, subsection 2, paragraph f, subparagraph (1), Code 2011, is amended to read as follows:

(1) If a debt is due under this subsection from the estate of a recipient, the administrator of the nursing facility, intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, or mental health institute in which the recipient resided at the time of the recipient's death, and the personal representative of the recipient, if applicable, shall report the death to the department within ten days of the death of the recipient.

Sec. 99. Section 249A.12, subsection 1, Code 2011, is amended to read as follows:

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 100. Section 249A.12, subsection 4, paragraphs a and c, Code 2011, are amended to read as follows:

a. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services provided under medical assistance to minors. Notwithstanding subsection 2 and contrary provisions of section 222.73, effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

c. Effective February 1, 2002, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services provided under medical assistance attributable to the assessment fee for intermediate care facilities for individuals with ~~mental retardation~~ an intellectual disability imposed pursuant to section 249A.21. Notwithstanding subsection 2, effective February 1, 2003, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment fee.

Sec. 101. Section 249A.12, subsection 5, Code 2011, is amended to read as follows:

5. a. The mental health and disability services commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an

intermediate care facility for persons with ~~mental retardation~~ an intellectual disability, who are appropriate for the transition, to services funded under a medical assistance home and community-based services waiver for persons with an intellectual disabilities disability in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with intellectual disabilities:<sup>2</sup>

(1) Allow for the transition of intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability licensed under chapter 135C, to services funded under the medical assistance home and community-based services waiver for persons with an intellectual disabilities disability. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability which does not meet size and other facility-related requirements under the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of this subsection, the mental health and disability services commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medical assistance program in formulating the department's actions under this subsection. The department shall consult with the mental health and disability services commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval.

Sec. 102. Section 249A.12, subsection 6, paragraphs a and d, Code 2011, are amended to read as follows:

a. The provisions of the home and community-based services waiver for persons with an intellectual disabilities disability shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability provided under the medical assistance program.

Sec. 103. Section 249A.12, subsections 7 and 8, Code 2011, are amended to read as follows:

7. When paying the necessary and legal expenses for intermediate care facility for persons with ~~mental retardation~~ an intellectual disability services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, and the state or a county of legal settlement shall not be obligated for any amount in excess of the rates.

8. If a person with ~~mental retardation~~ an intellectual disability has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and services associated with the ~~mental retardation~~ intellectual disability can be covered under a medical assistance home and community-based services waiver or other medical assistance program

<sup>2</sup> See chapter 1138, §57 herein

provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

Sec. 104. Section 249A.21, subsections 1 and 6, Code 2011, are amended to read as follows:

1. The department may assess intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability, as defined in section 135C.1, a fee in an amount not to exceed six percent of the total annual revenue of the facility for the preceding fiscal year.

6. The department may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement this section, and any fee assessed pursuant to this section against an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability that is operated by the state may be made retroactive to October 1, 2003.

Sec. 105. Section 249A.26, subsection 2, paragraph a, Code 2011, is amended to read as follows:

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

Sec. 106. Section 249A.26, subsections 3, 7, and 9, Code 2011, are amended to read as follows:

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

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

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



Sec. 107. Section 249A.30A, Code Supplement 2011, 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~~ an intellectual disability, 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. 108. Section 249A.31, subsection 1, Code 2011, is amended to read as follows:

1. Providers of individual case management services for persons with ~~mental retardation~~ an intellectual disability, a developmental disability, or chronic mental illness shall receive cost-based reimbursement for one hundred percent of the reasonable costs for the provision of the services in accordance with standards adopted by the mental health and disability services commission pursuant to section 225C.6.

Sec. 109. Section 252.16, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. A blind person who is an inpatient or resident of, is supported by, or is receiving treatment or support services from a state resource center created under chapter 222, a state mental health institute created under chapter 226, the Iowa braille and sight saving school administered by the state board of regents, or any community-based provider of treatment or services for ~~mental retardation~~ an intellectual disability, developmental disabilities, mental health, or substance abuse, does not acquire legal settlement in the county in which the institution, facility, or provider is located, unless the blind person has resided in the county in which the institution, facility, or provider is located for a period of six months prior to the date of commencement of receipt of assistance under the laws of this state or for a period of six months subsequent to the date of termination of assistance under the laws of this state.

Sec. 110. Section 252.16, subsection 8, Code 2011, is amended to read as follows:

8. A person receiving treatment or support services from any provider, whether organized for pecuniary profit or not or whether supported by charitable or public or private funds, that provides treatment or services for ~~mental retardation~~ intellectual disability, developmental disabilities, mental health, brain injury, or substance abuse does not acquire legal settlement in a county unless the person continuously resides in that county for one year from the date of the last treatment or support service received by the person.

Sec. 111. Section 262.70, Code 2011, is amended to read as follows:

**262.70 Education, prevention, and research programs in mental health and disability services.**

The division of mental health and disability services of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health, ~~mental retardation~~ intellectual disability, developmental disabilities, and brain injury. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 112. Section 263.11, subsection 2, Code 2011, is amended to read as follows:

2. Persons who are not eligible for admission to the schools already established for persons with ~~mental retardation~~ an intellectual disability or epilepsy or persons who are deaf or blind.

Sec. 113. Section 331.381, subsection 4, Code 2011, is amended to read as follows:

4. Comply with chapter 222, including but not limited to sections 222.13, 222.14, and 222.59 to 222.82, in regard to the care of persons with ~~mental retardation~~ an intellectual disability.

Sec. 114. Section 331.424A, subsections 1, 2, and 5, Code Supplement 2011, are amended to read as follows:

1. For the purposes of this chapter, unless the context otherwise requires, “*services fund*” means the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created in subsection 2. The county finance committee created in section 333A.2 shall consult with the state commission in adopting rules and prescribing forms for administering the services fund.

2. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, county revenues from taxes and other sources designated for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services shall be credited to the mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund of the county. The board shall make appropriations from the fund for payment of services provided under the county management plan approved pursuant to section 331.439. The county may pay for the services in cooperation with other counties by pooling appropriations from the fund with other counties or through county regional entities including but not limited to the county’s mental health and developmental disabilities regional planning council created pursuant to section 225C.18.

5. Appropriations specifically authorized to be made from the mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund shall not be made from any other fund of the county.

Sec. 115. Section 331.432, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Except as authorized in section 331.477, transfers of moneys between the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund and any other fund are prohibited.

Sec. 116. Section 331.438, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

a. “*Base year expenditures*” means the amount selected by a county and reported to the county finance committee pursuant to this paragraph. The amount selected shall be equal to the amount of net expenditures made by the county for qualified mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services provided in one of the following:

(1) The actual amount reported to the state on October 15, 1994, for the fiscal year beginning July 1, 1993.

(2) The net expenditure amount contained in the county’s final budget certified in accordance with chapter 24 for the fiscal year beginning July 1, 1995, and reported to the county finance committee.

b. “*Qualified mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services*” means the services specified in the rules adopted by the state commission for administering the services fund, pursuant to section 331.424A.

Sec. 117. Section 331.438, subsection 4, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The state commission shall make recommendations and take actions for joint state and county planning, implementing, and funding of mental health, ~~mental retardation~~ intellectual disability or other developmental disabilities, and brain injury services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

Sec. 118. Section 331.438, subsection 4, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) Consider recommendations for measuring and improving the quality of state and county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and other support.

Sec. 119. Section 331.439, subsection 1, paragraphs a, b, and f, Code Supplement 2011, are amended to read as follows:

a. The county accurately reported by December 1 the county's expenditures for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and the information required under section 225C.6A, subsection 3, paragraph "c", for the previous fiscal year in accordance with 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~~ intellectual disability, or developmental disabilities services or related revenues and expenditures.

b. The county developed and implemented a county management plan for the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services system in accordance with the provisions of this paragraph "b". The plan shall comply with the administrative rules adopted for this purpose by the state commission and is subject to the approval of the director of human services in consultation with the state commission. The plan shall include a description of the county's service management provision for mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services. For ~~mental retardation~~ intellectual disability and developmental disabilities service management, the plan shall describe the county's development and implementation of a system of cost-effective individualized services and shall comply with the provisions of paragraph "f". The goal of this part of the plan shall be to assist the individuals served to be as independent, productive, and integrated into the community as possible. The service management provisions for mental health shall comply with the provisions of paragraph "e". A county is subject to all of the following provisions in regard to the county's services system management plan and planning process:

(1) The county shall have in effect an approved policies and procedures manual for the county's services fund. The county management plan shall be defined in the manual. The manual submitted by the county as part of the county's management plan for the fiscal year beginning July 1, 2000, as approved by the director of human services, shall remain in effect, subject to amendment. An amendment to the manual shall be submitted to the department of human services at least forty-five days prior to the date of implementation. Prior to implementation of any amendment to the manual, the amendment must be approved by the director of human services in consultation with the state commission.

(2) For informational purposes, the county shall submit a management plan review to the department of human services by December 1 of each year. The annual review shall incorporate an analysis of the data associated with the services system managed during the preceding fiscal year by the county or by a private entity on behalf of the county. The annual review shall also identify measurable outcomes and results showing the county's progress in fulfilling the purposes listed in paragraph "c", and in achieving the disability services outcomes and indicators identified by the commission pursuant to section 225C.6.

(3) For informational purposes, every three years the county shall submit to the department of human services a three-year strategic plan. The strategic plan shall describe how the county will proceed to attain the plan's goals and objectives, and the measurable outcomes and results necessary for moving the county's services system toward an individualized, community-based focus in accordance with paragraph "c". The three-year strategic plan shall be submitted by April 1, 2000, and by April 1 of every third year thereafter.

f. For ~~mental retardation~~ intellectual disability and developmental disabilities services management, the county must either develop and implement a system of care which addresses a full array of appropriate services and cost-effective delivery of services by contracting directly with service providers or by contracting with a state-approved private entity to manage the county services system. The county services system shall incorporate a central point of coordination and clinical assessment process developed in accordance with the provisions of section 331.440. The elements of a county services system shall be specified in rules developed by the department of human services in consultation with and adopted by the state commission.

Sec. 120. Section 331.439, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities service expenditures for a fiscal year are limited to a fixed budget amount. The fixed budget amount shall be the amount identified in the county's management plan and budget for the fiscal year. The county shall be authorized an allowed growth factor adjustment as established by statute for services paid from the county's services fund under section 331.424A which is in accordance with the county's management plan and budget, implemented pursuant to this section. The statute establishing the allowed growth factor adjustment shall establish the adjustment for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the statute is enacted.

Sec. 121. Section 331.439, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The director's approval of a county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services management plan shall not be construed to constitute certification of the county's budget.

Sec. 122. Section 331.440, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

a. For the purposes of this section, unless the context otherwise requires, "*central point of coordination process*" means a central point of coordination process established by a county or consortium of counties for the delivery of mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services which are paid for in whole or in part by county funds. The central point of coordination process may include but is not limited to reviewing a person's eligibility for services, determining the appropriateness of the type, level, and duration of services, and performing periodic review of the person's continuing eligibility and need for services. Any recommendations developed concerning a person's plan of services shall be consistent with the person's unique strengths, circumstances, priorities, concerns, abilities, and capabilities. For those services funded under the medical assistance program, the central point of coordination process shall be used to assure ~~ensure~~ that the person is aware of the appropriate service options available to the person.

b. The central point of coordination process may include a clinical assessment process to identify a person's service needs and to make recommendations regarding the person's plan for services. The clinical assessment process shall utilize qualified mental health professionals and qualified ~~mental retardation~~ intellectual disability professionals.

Sec. 123. Section 331.440, subsection 2, paragraph d, Code Supplement 2011, is amended to read as follows:

d. "*State case services and other support*" means the mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services and other support paid for under the rules and requirements in effect prior to October 1, 2006, from the annual appropriation made to the department of human services for such services and other support provided to persons who have no established county of legal settlement or the legal settlement is unknown so that the person is deemed to be a state case. Such services and other support do not include medical assistance program services or services provided in a state institution.

Sec. 124. Section 331.502, subsection 11, Code 2011, is amended to read as follows:

11. Carry out duties relating to the determination of legal settlement, collection of funds due the county, and support of persons with ~~mental retardation~~ an intellectual disability as provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69, and 222.74.

Sec. 125. Section 331.756, subsections 42 and 43, Code Supplement 2011, are amended to read as follows:

42. Carry out duties relating to the commitment of a person with ~~mental retardation~~ an intellectual disability as provided in section 222.18.

43. Proceed to collect, as requested by the county, the reasonable costs for the care, treatment, training, instruction, and support of a person with ~~mental retardation~~ an intellectual disability from parents or other persons who are legally liable for the support of the person with ~~mental retardation~~ an intellectual disability as provided in section 222.82.

Sec. 126. Section 335.25, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Attributable to ~~mental retardation~~ an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to ~~mental retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~mental retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 127. Section 347.9A, subsection 3, Code 2011, is amended to read as follows:

3. This section does not prohibit a licensed health care practitioner from serving as a hospital trustee if the practitioner's sole use of the county hospital is to provide health care service to an individual with ~~mental retardation~~ an intellectual disability as defined in section ~~222.2~~ 4.1.

Sec. 128. Section 414.22, subsection 2, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Attributable to ~~mental retardation~~ an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to ~~mental retardation~~ an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with ~~mental retardation~~ an intellectual disability or requires treatment and services similar to those required for the persons.

Sec. 129. Section 422.7, subsection 12, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) "*Physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Sec. 130. Section 422.35, subsection 6, paragraph c, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) "*Physical or mental impairment*" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or any mental or psychological disorder, including ~~mental retardation~~ intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Sec. 131. Section 423.3, subsection 18, paragraphs a and c, Code Supplement 2011, are amended to read as follows:

a. Residential care facilities and intermediate care facilities for persons with ~~mental retardation~~ an intellectual disability and residential care facilities for persons with mental illness licensed by the department of inspections and appeals under chapter 135C.

c. Rehabilitation facilities that provide accredited rehabilitation services to persons with disabilities which are accredited by the commission on accreditation of rehabilitation facilities or the accreditation council for services for persons with ~~mental retardation~~ an intellectual disability and other persons with developmental disabilities and adult day care services approved for reimbursement by the state department of human services.

Sec. 132. Section 426B.2, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. Any replacement generation tax in the property tax relief fund as of 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~~ intellectual disability, 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. 133. Section 426B.3, subsection 1, Code 2011, is amended to read as follows:

1. The county auditor shall reduce the certified budget amount received from the board of supervisors for the succeeding fiscal year for the county mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created in section 331.424A by an amount equal to the amount the county will receive from the property tax relief fund pursuant to section 426B.2, for the succeeding fiscal year and the auditor shall determine the rate of taxation necessary to raise the reduced amount. On the tax list, the county auditor shall compute the amount of taxes due and payable on each parcel before and after the amount received from the property tax relief fund is used to reduce the county budget. The director of human services shall notify the county auditor of each county of the amount of moneys the county will receive from the property tax relief fund pursuant to section 426B.2, for the succeeding fiscal year.

Sec. 134. Section 426B.5, subsection 1, paragraph d, subparagraph (1), subparagraph divisions (a) and (b), Code Supplement 2011, are amended to read as follows:

(a) The county is levying the maximum amount allowed for the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund under section 331.424A for the fiscal year in which the funding is distributed.

(b) In the latest fiscal year reported in accordance with section 331.403, the county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund ending balance under generally accepted accounting principles was equal to or less than twenty-five percent of the county's actual gross expenditures for that fiscal year.

Sec. 135. Section 426B.5, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the purposes of this subsection, unless the context otherwise requires, "services fund" means a county's mental health, ~~mental retardation~~ intellectual disability, and developmental disabilities services fund created in section 331.424A.

Sec. 136. Section 514E.7, subsection 2, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) Incapable of self-sustaining employment by reason of ~~mental retardation~~ an intellectual disability or physical disability.

Sec. 137. Section 602.8102, subsections 36 and 37, Code 2011, are amended to read as follows:

36. Carry out duties relating to the commitment of a person with ~~mental retardation~~ an intellectual disability as provided in sections 222.37 through 222.40.

37. Keep a separate docket of proceedings of cases relating to persons with ~~mental retardation~~ an intellectual disability as provided in section 222.57.

Sec. 138. Section 633.556, subsection 1, Code 2011, is amended to read as follows:

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the court may appoint a guardian. If the court appoints a guardian based upon mental incapacity of the

proposed ward because the proposed ward is a person ~~described in section 222.2, subsection 5~~ with an intellectual disability, as defined in section 4.1, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

Sec. 139. Section 633C.1, subsection 4, Code 2011, is amended to read as follows:

4. "~~Maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with mental retardation~~ an intellectual disability" means the allowable rate established by the department of human services and as published in the Iowa administrative bulletin.

Sec. 140. Section 633C.3, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability and who either resides in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability or is eligible for services under the medical assistance home and community-based services waiver except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for persons with ~~mental retardation~~ an intellectual disability.

Sec. 141. Section 904.108, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. Establish and maintain acceptable standards of treatment, training, education, and rehabilitation in the various state penal and corrective institutions which shall include habilitative services and treatment for offenders with ~~mental retardation~~ an intellectual disability. For the purposes of this paragraph, "~~habilitative services and treatment~~" means medical, mental health, social, educational, counseling, and other services which will assist a person with ~~mental retardation~~ an intellectual disability to become self-reliant. However, the director may also provide rehabilitative treatment and services to other persons who require the services. The director shall identify all individuals entering the correctional system who are persons with ~~mental retardation~~ an intellectual disability, as defined in section ~~222.2, subsection 5~~ 4.1. Identification shall be made by a qualified professional in the area of ~~mental retardation~~ intellectual disability. In assigning an offender with ~~mental retardation~~ an intellectual disability, or an offender with an inadequately developed intelligence or with impaired mental abilities, to a correctional facility, the director shall consider both the program needs and the security needs of the offender. The director shall consult with the department of human services in providing habilitative services and treatment to offenders with mental illness or ~~mental retardation~~ an intellectual disability. The director may enter into agreements with the department of human services to utilize mental health institutions and share staff and resources for purposes of providing habilitative services and treatment, as well as providing other special needs programming. Any agreement to utilize mental health institutions and to share staff and resources shall provide that the costs of the habilitative services and treatment shall be paid from state funds. Not later than twenty days prior to entering into any agreement to utilize mental health institution staff and resources, other than the use of a building or facility, for purposes of providing habilitative services and treatment, as well as other special needs programming, the directors of the departments of corrections and human services shall each notify the chairpersons and ranking members of the joint appropriations subcommittees that last handled the appropriation for their respective departments of the pending agreement. Use of a building or facility shall require approval of the general assembly if the general assembly is in session or, if the general assembly is not in session, the legislative council may grant temporary authority, which shall be subject to final approval of the general assembly during the next succeeding legislative session.

Sec. 142. Section 904.205, Code 2011, is amended to read as follows:

**904.205 Clarinda correctional facility.**

The state correctional facility at Clarinda shall be utilized as a secure men's correctional facility primarily for offenders with chemical dependence, ~~mental retardation~~ an intellectual disability, or mental illness.

Sec. 143. Section 915.38, subsections 1 and 2, Code 2011, are amended to read as follows:

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed-circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, persons necessary to operate the equipment, and any person whose presence, in the opinion of the court, would contribute to the welfare and well-being of the minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed-circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

2. The court may, upon its own motion or upon motion of a party, order that the testimony of a minor, as defined in section 599.1, be taken by recorded deposition for use at trial, pursuant to rule of criminal procedure 2.13(2)(b). In addition to requiring that such testimony be recorded by stenographic means, the court may on motion and hearing, and upon a finding that the minor is unavailable as provided in rule of evidence 5.804(a), order the videotaping of the minor's testimony for viewing in the courtroom by the court. The videotaping shall comply with the provisions of rule of criminal procedure 2.13(2)(b), and shall be admissible as evidence in the trial. In addition, upon a finding of necessity, the court may allow the testimony of a victim or witness with a mental illness, ~~mental retardation~~ an intellectual disability, or other developmental disability to be taken as provided in this subsection, regardless of the age of the victim or witness.

Approved March 22, 2012



**CHAPTER 1020****REGULATION OF CREDIT UNIONS AND INDIVIDUAL DEVELOPMENT ACCOUNT  
STATE MATCH FUNDS***S.F. 2279*

**AN ACT** relating to credit unions, including methods of voting by credit union members and the board of directors, electronic communications to certain credit union members, the composition of the board of directors, assessment of fees for examination and supervision, limited negotiated disclosures of certain confidential information, treatment of ownership shares, superintendent management authority, individual development accounts held at credit unions and other financial institutions, and making penalties applicable.

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

Section 1. Section 533.108, subsection 1, Code 2011, is amended to read as follows:

1. *a.* Records of the credit union division are public records subject to the provisions of chapter 22, except as otherwise provided in this chapter.

*b.* Papers, documents, writings, reports, reports of examinations and other information relating specifically to the supervision and regulation of a specific state credit union or of other persons by the superintendent pursuant to the laws of this state are not public records and shall not be open for examination or copying by the public or for examination or publication by the news media.

*c.* The superintendent or an employee of the credit union division shall not disclose such information relating specifically to the supervision and regulation of a specific state credit union or of other persons in any manner to any person other than the person examined, except as otherwise authorized by this section or section 533.113 or 533.308.

*d.* Notwithstanding the prohibition on disclosure pursuant to paragraph "c", the superintendent or an employee of the credit union division may disclose information relating specifically to the supervision and regulation of a specific state credit union or of other persons if the credit union or other person consents in writing to the disclosure and the persons to whom the disclosures are made are subject to, or agree to comply with, standards of confidentiality comparable to those contained in this chapter.

Sec. 2. Section 533.112, Code 2011, is amended to read as follows:

**533.112 Annual and individual fees — examination fees — delinquencies.**

1. Each state credit union shall pay an annual fee for examination and supervision as determined by the superintendent based on the actual cost of operating the credit union division.

*a.* The cost of operating the credit union division shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of the duties imposed on the superintendent under this chapter.

*b.* (1) The cost of operating the credit union division shall also include but not be limited to the costs incurred due to additional time and other division resources required for any of the following:

(a) Performing services for the credit union that are customarily performed by the credit union.

(b) Performing services related to a particular examination that exceed estimates for an individual credit union's examination based on factors including but not limited to the asset size of the credit union, the complexity of transactions to be examined, and the examination history of the credit union.

(2) An individual fee assessment for such costs incurred under this paragraph "b" may be made in addition to a credit union's annual fee.

*c.* The In establishing the structure of the fee schedule, the superintendent shall consider recommendations from the review board and from state credit unions in determining the amount of the annual fee.

d. The annual fee may be paid in one or more installments, as provided by rule by the superintendent.

2. Each state credit union, corporation, credit union service organization, or other person subject to an examination pursuant to section 533.113 shall pay an examination fee as determined by the superintendent, which shall reflect but not be limited to the time required for the examination and the costs of the examination. The superintendent shall establish by rule an examination fee schedule.

a. The costs of the examination shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the discharge of duties imposed upon the superintendent under this chapter.

b. The examination fee shall be due within thirty days of presentation of the fee statement to the corporation, credit union service organization, or other person examined by the division.

3. In addition to the annual fee and examination fee assessed pursuant to this section, the division may also assess a credit union, credit union service organization, corporation, or other person subject to an examination pursuant to section 533.133 for the expense of accountants, investigators, and other experts reasonably necessary to assist in the conduct of the examination, pursuant to section 533.113, subsection 1.

4. a. Failure of a state credit union, corporation, credit union service organization, or other person to pay a fee pursuant to subsection 1, or 2, or 3 shall result in the fee being considered delinquent and a penalty equal to five percent of the original fee may be assessed for each day or part of a day the payment remains delinquent.

b. A fee delinquency under this subsection by a corporation, credit union service organization, or other person may result in the superintendent collecting the delinquent fee and penalty from the state credit union owning shares or investments or having business transactions or a relationship with such corporation, credit union service organization, or other person.

c. A fee delinquency under this subsection may also constitute grounds for revocation of the certificate of approval of the credit union to operate in this state.

Sec. 3. Section 533.113, subsection 6, paragraph e, Code 2011, is amended by striking the paragraph.

Sec. 4. Section 533.201, subsections 7 and 8, Code 2011, are amended to read as follows:

7. Articles of incorporation may be amended by a favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.

8. Bylaws Articles of incorporation or bylaws may be amended by any of the following methods, upon a favorable vote of a majority of the board of directors selecting the method of voting:

a. The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed amendment was contained in the notice of the meeting.

b. The favorable vote of a majority of the members of the board.

c. By a majority vote of members voting by mailed or electronic ballot, ensuring the confidentiality of voters votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once, according to procedures specified by rule of the superintendent, requiring at least twenty days' notice to all members or as specified in the bylaws. An announcement shall be made to members of the results of the vote. Ballots shall be preserved for a reasonable period of time following the vote.

d. A combination of procedures as specified in paragraphs "a" and "c", whereby members are allowed to vote either in person at a meeting or by mailed or electronic ballot, according to procedures specified by rule of the superintendent or as specified in the bylaws.

8. If the proposed amendment receives a favorable majority of the total votes cast in person and by mailed or electronic ballot under the method of voting selected under subsection 7, the articles of incorporation or bylaws shall be are amended as proposed. Notice shall be

given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to members, and until any challenge is resolved.

Sec. 5. Section 533.203, Code 2011, is amended to read as follows:

**533.203 Fiscal year — membership meetings — voting by membership — notice.**

1. The fiscal year of all state credit unions shall end December 31.  
2. Annual meetings shall be held, and special meetings may be held, in the manner indicated in the bylaws.

a. ~~At all meetings, a~~ A member shall have one vote regardless of the number of or class of shares held by the member.

b. There shall be no voting by proxy.

c. A member other than a natural person may cast a single vote through a delegated agent.

3. ~~a. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles, bylaws, or this chapter.~~

b. In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, or reversal to the members by mail or electronic ballot, pursuant to rules adopted by the superintendent. When a vote of the membership is required under the provisions of this chapter, the board of directors, by a favorable vote of the majority of the board, shall select one of the following methods for conducting that vote, unless a procedure for that vote is otherwise specified:

(1) The favorable vote of a majority of the members present at a meeting, if that number constitutes a quorum and if the proposed vote was contained in the notice of the meeting.

(2) By a majority vote of members voting by mailed or electronic ballot according to procedures specified by rule of the superintendent or as specified in the bylaws.

(3) A combination of procedures as specified in subparagraphs (1) and (2), according to procedures specified by rule of the superintendent or as specified in the bylaws.

b. Notice shall be given to members of the results of the vote. Ballots of members shall be preserved for at least sixty days after the results are tallied and notice given to members, and until any challenge is resolved.

4. Votes of the membership conducted in accordance with this chapter shall ensure that votes remain confidential and secret from all interested parties, and that each member is only allowed to vote once.

5. When notice to members is required under the provisions of this chapter, the board of directors may satisfy the notice requirement by sending the notice electronically to those members who have exercised an option to receive notices electronically.

6. Credit unions may send account statements and other communications electronically to those members who have exercised an option to receive communications electronically.

Sec. 6. NEW SECTION. **533.203A Vote to modify, amend, or reverse act of board of directors — instruction to take action.**

1. The majority of members present at any meeting may vote to modify, amend, or reverse any act of the board of directors or instruct the board to take action not inconsistent with the articles, bylaws, or this chapter.

2. In order to be binding upon the board of directors, any action taken by the membership to modify, amend, or reverse an act of the board, or to instruct the board to take action, requires an affirmative vote of a majority of all eligible members obtained by submitting the modification, amendment, reversal, or instruction to the members for a vote, pursuant to the provisions of section 533.203.

Sec. 7. Section 533.204, Code Supplement 2011, is amended to read as follows:

**533.204 Election of board.**

1. At the organizational meeting, and at each annual meeting after initial organization, a board of directors of ~~not less than nine members~~ shall be elected to hold office ~~for such.~~ The

board shall consist of at least seven members, but in every instance shall be composed of an odd number of directors. The directors shall serve staggered terms of three years, as the bylaws provide and, so that an approximately equal number of terms expire at each annual meeting. A director shall serve until successors are a successor is elected and qualified.

2. At each annual meeting, one member shall be elected to fill each position vacated by reason of an expiring term or other cause.

3. Pursuant to rules adopted by the superintendent, state credit unions may ~~The board of directors shall~~ allow members to vote on the election of directors via ~~electronic means including but not limited to the internet or telephone~~ according to the provisions of section 533.203.

4. A record of the names and addresses of the directors, officers, and committee persons shall be filed with the superintendent within ten days following each election or any other change in the directors, officers, or committee persons.

5. ~~a. A state credit union wishing to maintain a board of directors of less than nine members may apply to the superintendent for permission to reduce the required number of directors. An application to reduce the required number of directors under this subsection must demonstrate both of the following:~~

~~(1) The application is necessitated by a hardship or other special circumstance.~~

~~(2) A lesser number of directors is in the best interest of the state credit union and its members.~~

~~b. In no event shall the superintendent allow a state credit union to maintain fewer than seven directors on a state credit union board.~~

Sec. 8. Section 533.205, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The board may also appoint alternate members of the credit committee or the auditing committee.

Sec. 9. Section 533.208, subsection 3, Code 2011, is amended to read as follows:

3. Suspend by ~~unanimous majority~~ vote any officer, director, or member of the auditing committee ~~and call the members together to act on the suspension~~, if the auditing committee deems the action to be necessary to the proper conduct of the state credit union. The suspension shall be put to a vote of the membership, according to the provisions of section 533.203. The members at the meeting may vote to sustain the suspension and remove the officer, director, or member permanently or may vote to reinstate the officer, director, or member.

Sec. 10. Section 533.210, subsections 3, 4, and 6, Code 2011, are amended to read as follows:

3. Any member may withdraw from the state credit union at any time, but advance notice of withdrawal of shares or deposits may be required as provided in this section.

4. After deducting all amounts due from the member to the state credit union and the amount necessary to honor outstanding share drafts drawn against accounts of the member, all amounts paid on shares or as deposits of an expelled or ~~withdrawing~~ withdrawn member, along with accrued dividends and interest to the date of expulsion or withdrawal, shall be paid to that member.

6. ~~Withdrawing or expelled~~ Expelled or withdrawn members shall have no further rights in the state credit union. However, ~~withdrawing or expelled~~ or withdrawn members shall not be released from any remaining liability to the state credit union because of the expulsion or withdrawal.

Sec. 11. Section 533.213, subsection 3, paragraph f, Code 2011, is amended to read as follows:

f. Sell all or part of its assets to another corporate central credit union and assume the liabilities of a selling corporate central credit union if the action is pursuant to a plan agreed upon by a majority of the board of directors and, in the case of the sale of all of its assets, the affirmative vote of a majority of its members ~~either by mail or in person at a meeting called for that purpose~~ according to the provisions of section 533.203.

Sec. 12. Section 533.302, Code 2011, is amended to read as follows:

**533.302 Capital.**

1. The capital of a credit union shall consist of the payments that have been made to it by the several members thereof on shares. A credit union may charge an entrance fee as may be provided by the bylaws.

2. A credit union may establish an equity share having a par value not to exceed one hundred dollars which shall be a part of the capital of the credit union and shall not be withdrawn or transferred except upon ~~termination of~~ expulsion or withdrawal from membership in the credit union, as provided in section 533.210.

3. At the option of the credit union, the equity share may earn a dividend and may be insured.

Sec. 13. Section 533.307, Code 2011, is amended to read as follows:

**533.307 Account insurance.**

Except as provided in section 533.302, subsection 2 3, a credit union organized under this chapter, as a condition of maintaining its privilege of organization, shall acquire and maintain insurance to protect each shareholder and each depositor against loss of funds held on account by the credit union. The insurance shall be obtained from the national credit union administrator or from some other share guarantor or insurance plan approved by the Iowa commissioner of insurance and the superintendent, provided that each credit union shall acquire deposit insurance from the appropriate agency of the federal government.

Sec. 14. Section 533.308, subsection 2, Code 2011, is amended to read as follows:

2. The superintendent may furnish to any official of an insurance plan by which the accounts of a state credit union are insured or by which its employees and officials are bonded, any information relating to examinations, investigations, and reports of the status of that state credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or resolution of a claim. The superintendent and the insurance company shall, whenever possible, execute a confidentiality agreement regarding the information provided by the superintendent that imposes standards of confidentiality comparable to those required by this chapter.

Sec. 15. Section 533.308, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. A state credit union may furnish to any official of an insurance plan by which the accounts of the state credit union are insured or by which its employees and officials are bonded, any information regarding transactions of the state credit union, examinations, investigations, or reports of the status of the state credit union or its employees and officials for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or resolution of a claim. The state credit union and the insurance company shall, whenever possible, execute a confidentiality agreement regarding the information provided by the state credit union that imposes standards of confidentiality comparable to those required by this chapter.

Sec. 16. Section 533.309, subsection 1, Code 2011, is amended to read as follows:

1. *Ownership share account.* The ownership share account shall consist of an account balance held by the state credit union in accordance with the state credit union's bylaws. Each member may acquire only one ownership share. In the case of a joint account, the joint account owners may acquire only one ownership share unless each joint account owner applies for and is accepted as an individual member. ~~The state credit union shall not set off fees against a member's ownership share.~~

Sec. 17. Section 533.325, subsection 1, Code 2011, is amended to read as follows:

1. The directors, officers, committee members, and employees of a state credit union shall hold in confidence all information regarding transactions of the state credit union, including information regarding transactions with its members and their personal affairs, except to the extent necessary in connection with making any of the following:

a. Making, extending, or collecting a loan or line of credit, guaranteeing.

b. Guaranteeing of member share drafts by third parties, or complying.

c. Communicating with an insurance company for the purpose of facilitating the availability or continuation of the insurance or bond of the state credit union or the resolution of a claim, pursuant to section 533.308, subsection 3.

d. Pursuant to a confidentiality agreement that is executed pursuant to section 533.108, subsection 1.

e. Complying with the examination of credit union records by regulatory authorities or compliance.

f. Compliance with an order from a court having jurisdiction over the state credit union.

Sec. 18. Section 533.401, subsection 1, Code 2011, is amended to read as follows:

1. With the approval of the superintendent, a state credit union may merge with another credit union under the existing certificate of approval of the other credit union if the merger is pursuant to a plan agreed upon by a majority of the board of directors of each credit union joining in the merger and the merger is approved by the affirmative vote of a majority of the members of the merging credit union ~~either by mail or in person at a meeting called for the purpose of voting on the merger according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.~~

Sec. 19. Section 533.401, subsection 3, paragraph c, Code 2011, is amended to read as follows:

~~c. At the meeting called to consider the merger, a~~ A majority of the votes received, by ~~regular mail or in person, upon the question according to the method of voting selected by the board of directors pursuant to section 533.203,~~ were in favor of the merger.

Sec. 20. Section 533.403, subsection 1, Code 2011, is amended to read as follows:

1. A state credit union may convert into a federal credit union with the approval of the administrator of the national credit union administration and by the affirmative vote of a majority of the credit union's members who vote on the proposal, according to the provisions of section 533.203. ~~This vote, if taken, shall be at a meeting called for that purpose and shall be in the manner prescribed by the bylaws.~~

Sec. 21. Section 533.405, subsections 1, 2, and 6, Code 2011, are amended to read as follows:

1. ~~At a special meeting called for that purpose, a~~ A state credit union may dissolve upon the affirmative vote of a majority of its members eligible to vote at the special meeting according to the provisions of section 533.203. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

a. Notice of the meeting's purpose shall be contained in the meeting's notice.

~~b. Any member eligible to vote and not present at the meeting may, within twenty days after the date on which the meeting was held, vote in favor of dissolution by signing a statement in a form approved by the superintendent. This vote shall have the same force and effect as if cast at the meeting.~~

2. a. The state credit union shall cease to do business except for the purposes of liquidation immediately upon giving sending notice of the special meeting called for the members' vote on dissolution.

b. The board of directors shall immediately notify the superintendent of the intention of the state credit union to dissolve within three business days of a vote by a majority of the board of directors in favor of dissolution, and prior to sending notice of the members' vote.

c. The state credit union shall not resume its regular business unless the dissolution fails to receive the required vote of the members or unless the members have revoked prior affirmative action to dissolve as provided for in subsection 6.

6. a. At any time prior to any distribution of its assets, a state credit union may revoke the voluntary dissolution proceedings by the affirmative vote of a majority of its members eligible to vote, according to the provisions of section 533.203. This vote, if taken, shall be at a special meeting called for that purpose in the manner prescribed by the bylaws. At least twenty days' notice shall be provided between the sending of notice and the scheduled conclusion of the vote.

b. ~~The~~ Upon the conclusion of the vote, the board of directors shall immediately notify the superintendent of any such action to revoke voluntary dissolution proceedings.

Sec. 22. Section 533.502, subsection 2, Code 2011, is amended to read as follows:

2. a. The superintendent shall ~~thereafter~~ manage the property and business of the state credit union until such time as the superintendent may relinquish to the state credit union the management, upon such conditions as the superintendent may prescribe, or until the affairs of the state credit union are finally dissolved as provided in this chapter. The superintendent may operate and direct the affairs of the state credit union in its regular course of business. The superintendent may also collect amounts due the state credit union and do such other acts as are necessary or expedient to conduct the affairs of the state credit union and conserve or protect its assets, property, and business.

b. The superintendent may appoint one or more persons, with powers specified in the certificate of appointment, to assist the superintendent in the duty of management, conservation, or dissolution and distribution of the business and property of a state credit union.

c. During the period of the superintendent's management of the property and business of the state credit union, and prior to the time that the superintendent may apply to the district court for appointment as receiver, the superintendent may assess the state credit union for costs and expenses incurred by the division in the management of the state credit union. Costs and expenses shall include but not be limited to costs and expenses for salaries and benefits, expenses and travel for employees, office facilities, supplies, equipment, and administrative costs and expenses incurred in the management of the state credit union.

Sec. 23. 2009 Iowa Acts, chapter 169, section 4, subsection 2, as amended by 2011 Acts,<sup>1</sup> chapter 127, section 53, is amended to read as follows:

2. From the moneys appropriated in this section, there is transferred to the department of human rights two hundred fifty thousand dollars for deposit in the individual development account state match fund created in section 541A.7. Notwithstanding other provisions to the contrary in section 541A.3, subsection 1, moneys appropriated to the individual development account state match fund under this subsection ~~shall~~ may be used to provide the state match to account holders affected by a natural disaster for which the president of the United States declared a disaster area, and who have a household income that is equal to or less than 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.

Approved March 22, 2012

## CHAPTER 1021

### SUBSTANTIVE CODE CORRECTIONS

S.F. 2285

**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 date and retroactive applicability provisions.

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

<sup>1</sup> According to enrolled Act; the phrase "2011 Iowa Acts" probably intended

DIVISION I  
STATUTORY CORRECTIONS

Section 1. Section 8.55, subsection 2, Code Supplement 2011, is amended to read as follows:

2. ~~a.~~ The maximum balance of the fund is the amount equal to two and one-half percent of the adjusted revenue estimate for the fiscal year. If the amount of moneys in the Iowa economic emergency fund is equal to the maximum balance, moneys in excess of this amount shall be distributed as follows:

~~(1) a.~~ The first sixty million dollars of the difference between the actual net revenue for the general fund of the state for the fiscal year and the adjusted revenue estimate for the fiscal year shall be transferred to the taxpayers trust fund.

~~(2) b.~~ The remainder of the excess, if any, shall be transferred to the general fund of the state.

~~b.~~ Notwithstanding paragraph “a”, any moneys in excess of the maximum balance in the economic emergency fund after the distribution of the surplus in the general fund of the state at the conclusion of each fiscal year shall not be distributed as provided in paragraph “a” but shall be transferred to the senior living trust fund. The total amount appropriated, reverted, or transferred, in the aggregate, under this paragraph, section 8.57, subsection 2, and any other law providing for an appropriation or reversion or transfer of an appropriation to the credit of the senior living trust fund, for all fiscal years beginning on or after July 1, 2004, shall not exceed the amount specified in section 8.57, subsection 2, paragraph “c”.

Sec. 2. Section 8.57, Code Supplement 2011, is amended to read as follows:

**8.57 Annual appropriations — reduction of GAAP deficit — rebuild Iowa infrastructure fund.**

1. ~~a.~~ The “cash reserve goal percentage” for fiscal years beginning on or after July 1, 2004, is seven and one-half percent of the adjusted revenue estimate. For each fiscal year in which the appropriation of the surplus existing in the general fund of the state at the conclusion of the prior fiscal year pursuant to paragraph “b” was not sufficient for the cash reserve fund to reach the cash reserve goal percentage for the current fiscal year, there is appropriated from the general fund of the state an amount to be determined as follows:

(1) If the balance of the cash reserve fund in the current fiscal year is not more than six and one-half percent of the adjusted revenue estimate for the current fiscal year, the amount of the appropriation under this lettered paragraph is one percent of the adjusted revenue estimate for the current fiscal year.

(2) If the balance of the cash reserve fund in the current fiscal year is more than six and one-half percent but less than seven and one-half percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation under this lettered paragraph is the amount necessary for the cash reserve fund to reach seven and one-half percent of the adjusted revenue estimate for the current fiscal year.

(3) The moneys appropriated under this lettered paragraph shall be credited in equal and proportionate amounts in each quarter of the current fiscal year.

~~b.~~ The surplus existing in the general fund of the state at the conclusion of the fiscal year is appropriated for distribution in the succeeding fiscal year as provided in subsections ~~3 2~~ and ~~4 3~~. Moneys credited to the cash reserve fund from the appropriation made in this paragraph shall not exceed the amount necessary for the cash reserve fund to reach the cash reserve goal percentage for the succeeding fiscal year. As used in this paragraph, “surplus” means the excess of revenues and other financing sources over expenditures and other financing uses for the general fund of the state in a fiscal year.

~~c.~~ The amount appropriated in this section is not subject to the provisions of section 8.31, relating to requisitions and allotment, or to section 8.32, relating to conditional availability of appropriations.

~~2. a.~~ There is appropriated from the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2005, and ending June 30, 2006, and at the conclusion of each succeeding fiscal year for distribution to the senior living trust fund, an amount equal to one percent of the adjusted revenue estimate for the current fiscal year.



However, if the amount of the surplus existing in the general fund of the state at the conclusion of a fiscal year is less than two percent of the adjusted revenue estimate for that fiscal year, the amount of the appropriation made in this paragraph shall be equal to fifty percent of the surplus amount. The appropriation made in this paragraph shall be distributed to the senior living trust fund in the succeeding fiscal year. For the purposes of this subsection, "surplus" means the same as defined in subsection 1, paragraph "b".

b. The appropriation made in paragraph "a" shall be made before the appropriations are made pursuant to subsections 1, 3, and 4, of the surplus existing in the general fund of the state at the conclusion of the fiscal year beginning July 1, 2005, and ending June 30, 2006, and each succeeding fiscal year.

c. The appropriation made in paragraph "a" shall continue until the aggregate amount of the appropriations made, reverted, or transferred to the senior living trust fund for all fiscal years beginning on or after July 1, 2004, pursuant to paragraph "a" of this subsection, section 8.55, subsection 2, paragraph "b", and any other law providing for an appropriation or reversion or transfer of an appropriation to the senior living trust fund is equal to three hundred million dollars.

d. This subsection and section 8.55, subsection 2, paragraph "b", are repealed when the aggregate amount specified in paragraph "c" has been distributed, appropriated, reverted, or transferred to the senior living trust fund. The director of the department of management shall notify the Iowa Code editor when the aggregate amount has been distributed, appropriated, reverted, or transferred.

3. 2. Moneys appropriated under subsection 1 shall be first credited to the cash reserve fund. To the extent that moneys appropriated under subsection 1 would make the moneys in the cash reserve fund exceed the cash reserve goal percentage of the adjusted revenue estimate for the fiscal year, the moneys are appropriated to the department of management to be spent for the purpose of eliminating Iowa's GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year. These moneys shall be deposited into a GAAP deficit reduction account established within the department of management. The department of management shall annually file with both houses of the general assembly at the time of the submission of the governor's budget, a schedule of the items for which moneys appropriated under this subsection for the purpose of eliminating Iowa's GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, shall be spent. The schedule shall indicate the fiscal year in which the spending for an item is to take place and shall incorporate the items detailed in 1994 Iowa Acts, chapter 1181, section 17. The schedule shall list each item of expenditure and the estimated dollar amount of moneys to be spent on that item for the fiscal year. The department of management may submit during a regular legislative session an amended schedule for legislative consideration. If moneys appropriated under this subsection are not enough to pay for all listed expenditures, the department of management shall distribute the payments among the listed expenditure items. Moneys appropriated to the department of management under this subsection shall not be spent on items other than those included in the filed schedule. On September 1 following the close of a fiscal year, moneys in the GAAP deficit reduction account which remain unexpended for items on the filed schedule for the previous fiscal year shall be credited to the Iowa economic emergency fund.

4. 3. To the extent that moneys appropriated under subsection 1 exceed the amounts necessary for the cash reserve fund to reach its maximum balance and the amounts necessary to eliminate Iowa's GAAP deficit, including elimination of the making of any appropriation in an incorrect fiscal year, the moneys shall be appropriated to the Iowa economic emergency fund.

5. 4. As used in this section, "GAAP" means generally accepted accounting principles as established by the governmental accounting standards board.

6. 5. a. A rebuild Iowa 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 rebuild Iowa infrastructure fund shall be separate from the general fund of the state and the balance in the

rebuild Iowa infrastructure fund shall not be considered part of the balance of the general fund of the state. However, the rebuild Iowa infrastructure fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles.

b. Moneys in the rebuild Iowa infrastructure fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the rebuild Iowa infrastructure fund shall be credited to the infrastructure fund. Moneys in the rebuild Iowa infrastructure fund may be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the infrastructure fund by the end of that fiscal year.

c. Moneys in the rebuild Iowa infrastructure 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; recreational trails; and debt service payments on academic revenue bonds issued in accordance with chapter 262A for capital projects at board of regents institutions. “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.

d. The general assembly may provide that all or part of the moneys deposited in the GAAP deficit reduction account created in this section shall be transferred to the infrastructure fund in lieu of appropriation of the moneys to the Iowa economic emergency fund.

e. (1) (a) (i) Notwithstanding provisions to the contrary in sections 99D.17 and 99F.11, for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter, not more than a total of sixty-six million dollars shall be deposited in the general fund of the state in any fiscal year pursuant to sections 99D.17 and 99F.11.

(ii) However, in lieu of the deposit in subparagraph subdivision (i), for the fiscal year beginning July 1, 2010, and for each fiscal year thereafter until the principal and interest on all bonds issued by the treasurer of state pursuant to section 12.87 are paid, as determined by the treasurer of state, the first fifty-five million dollars of the moneys directed to be deposited in the general fund of the state under subparagraph subdivision (i) shall be deposited in the revenue bonds debt service fund created in section 12.89, and the next three million seven hundred fifty thousand dollars of the moneys directed to be deposited in the general fund of the state under subparagraph subdivision (i) shall be deposited in the revenue bonds federal subsidy holdback fund created in section 12.89A, and the next one million two hundred fifty thousand dollars of the moneys directed to be deposited in the general fund of the state under subparagraph subdivision (i) shall be deposited in the general fund of the state.

(b) The next fifteen million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections 99D.17 and 99F.11 shall be deposited in the vision Iowa fund created in section 12.72 for the fiscal year beginning July 1, 2000, and for each fiscal year through the fiscal year beginning July 1, 2019.

(c) The next five million dollars of the moneys directed to be deposited in the general fund of the state in a fiscal year pursuant to sections 99D.17 and 99F.11 shall be deposited in the school infrastructure fund created in section 12.82 for the fiscal year beginning July 1, 2000, and for each fiscal year thereafter until the principal and interest on all bonds issued by the treasurer of state pursuant to section 12.81 are paid, as determined by the treasurer of state.

(d) (i) The total moneys in excess of the moneys deposited in the revenue bonds debt service fund, the revenue bonds federal subsidy holdback fund, the vision Iowa fund, the school infrastructure fund, and the general fund of the state in a fiscal year shall be deposited in the rebuild Iowa infrastructure fund and shall be used as provided in this section, notwithstanding section 8.60.

(ii) However, in lieu of the deposit in subparagraph subdivision (i), for the fiscal year beginning July 1, 2010, and for each fiscal year thereafter until the principal and interest on all bonds issued by the treasurer of state pursuant to section 12.87 are paid, as determined by the treasurer of state, sixty-four million seven hundred fifty thousand dollars of the excess moneys directed to be deposited in the rebuild Iowa infrastructure fund under subparagraph subdivision (i) shall be deposited in the general fund of the state.

(2) If the total amount of moneys directed to be deposited in the general fund of the state under sections 99D.17 and 99F.11 in a fiscal year is less than the total amount of moneys directed to be deposited in the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund in the fiscal year pursuant to this paragraph “e”, the difference shall be paid from moneys deposited in the beer and liquor control fund created in section 123.53 in the manner provided in section 123.53, subsection 3.

(3) After the deposit of moneys directed to be deposited in the general fund of the state, the revenue bonds debt service fund, and the revenue bonds federal subsidy holdback fund, as provided in subparagraph (1), subparagraph division (a), if the total amount of moneys directed to be deposited in the general fund of the state under sections 99D.17 and 99F.11 in a fiscal year is less than the total amount of moneys directed to be deposited in the vision Iowa fund and the school infrastructure fund in the fiscal year pursuant to this paragraph “e”, the difference shall be paid from lottery revenues in the manner provided in section 99G.39, subsection 3.

f. There is appropriated from the rebuild Iowa infrastructure fund to the secure an advanced vision for education fund created in section 423F.2, for each fiscal year of the fiscal period beginning July 1, 2008, and ending June 30, 2010, 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.

g. Notwithstanding any other provision to the contrary, and prior to the appropriation of moneys from the rebuild Iowa infrastructure fund pursuant to paragraph “c”, and section 8.57A, subsection 4, moneys shall first be appropriated from the rebuild Iowa infrastructure fund to the vertical infrastructure fund as provided in section 8.57B, subsection 4.

h. Annually, on or before January 15 of each year, a state agency that received an appropriation from the rebuild Iowa 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.

i. Annually, on or before December 31 of each year, a recipient of moneys from the rebuild Iowa infrastructure fund for any purpose shall report to the state agency to which the moneys are appropriated 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.

Sec. 3. Section 8A.317, subsection 1, Code Supplement 2011, is amended to read as follows:

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

a. “*Biobased material*” means ~~the same as defined in section 469.31~~ a material in which carbon is derived in whole or in part from a renewable resource.

b. “*Biobased product*” means a product generated by blending or assembling of one or more biobased materials, either exclusively or in combination with nonbiobased materials, in which the biobased material is present as a quantifiable portion of the total mass of the product.

b. c. “*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.

Sec. 4. Section 11.2, subsection 3, paragraph d, Code Supplement 2011, is amended to read as follows:

d. The review of the most recent annual report to shareholders of an open-end management investment company or an unincorporated investment company or investment trust registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, pursuant to 17 C.F.R. § 270.30d-1 or the review, by the person performing the audit, of the most recent annual report to shareholders, call reports, or the findings pursuant to a regular examination under state or federal law, to the extent the findings are not confidential, of a bank, savings and loan association, or credit union shall satisfy the review requirements of this ~~paragraph~~ subsection.

Sec. 5. Section 11.5A, Code Supplement 2011, is amended to read as follows:

**11.5A Audit or examination — costs.**

When requested by the auditor of state, the department of management shall transfer from any unappropriated funds in the state treasury an amount not exceeding the expenses and prorated salary costs already paid to perform audits or examinations of state departments and agencies, the offices of the judicial branch, and federal financial assistance as defined in the federal Single Audit Act, 31 U.S.C. § 7501, et seq., received by all other departments, as listed in section 11.5B, for which payments by agencies have not been made. Upon payment by the departments, the auditor of state shall credit the payments to the state treasury.

Sec. 6. Section 15.107, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The authority shall establish the Iowa innovation corporation as a nonprofit corporation organized under chapter 504 and qualifying under section 501(c)(3) of the Internal Revenue Code as an organization exempt from taxation. Unless otherwise provided in this subchapter, the corporation is subject to the provisions of chapter 504. The corporation shall be established for the purpose of receiving and disbursing funds from public or private sources ~~to be used~~ to further the overall development and economic well-being of the state.

Sec. 7. Section 15.202, Code Supplement 2011, is amended to read as follows:

**15.202 Grants and gifts.**

The authority may, ~~with the approval of the director,~~ accept grants and allotments of funds from the federal government and enter into cooperative agreements with the secretary of agriculture of the United States for projects to effectuate any of the purposes of the agricultural marketing program; and may accept grants, gifts, or allotments of funds from any person for the purpose of carrying out the agricultural marketing program. The authority shall make an itemized accounting of such funds to the director at the end of each fiscal year.

Sec. 8. Section 15.272, Code Supplement 2011, is amended to read as follows:

**15.272 Statewide welcome center program — objectives and agency responsibilities — pilot projects.**

The state agencies, as indicated in this section, shall undertake certain specific functions to implement the goals of a statewide program, including the pilot projects, for welcome centers.

1. a. The department of economic development and the state department of transportation shall jointly establish a statewide long-range plan for developing and operating welcome centers throughout the state. The plan shall be submitted to the general assembly by January 15, 1988. The plan shall address, but not be limited to, the following:

(1) Integrating state, regional, and local tourism and recreation marketing and promotion plans.

(2) Recommending a wide range of centers, including state-developed and state-operated to privately managed facilities.

(3) Establishing design, service, and maintenance quality standards which all welcome centers will maintain. Included in the standards shall be a provision requiring that space or facilities be available for purposes of displaying and offering for sale Iowa-made products, crafts, and arts. The space or facilities may be operated by the department of economic development or leased to and operated by other persons.

(4) Making projections of increased tourist spending, indirect economic benefits, and direct revenue production which are estimated to occur as a result of implementing a statewide welcome center program.

(5) Projecting estimated acquisition, construction, exhibit, staffing, and maintenance costs.

(6) Integrating electronic data telecommunications systems.

(7) Identifying sites for maintaining existing centers as well as locations for new centers.

b. The departments may enter into contracts for the preparation of the long-range plan. The departments shall involve the department of natural resources and the department of cultural affairs in the preparation of the plan. The recommendations and comments of organizations representing hospitality and tourism services, including but not limited to, the regional tourism councils, convention and visitors bureaus, and the Iowa travel council, and others with interests in this program will be considered for incorporation in the plan. Prior to submission of the plan to the general assembly, the plan shall be submitted to the regional tourism councils, the convention and visitors bureaus, and the Iowa travel council for their comments and criticisms which shall be submitted by the department of economic development along with the plan to the general assembly.

2. The responsibilities of the authority include the following:

a. Seeing to the acquisition of property and the construction of all new welcome centers including the pilot projects selected by the department of economic development pursuant to paragraph "e". In carrying out this responsibility the authority may, but is not limited to, the following:

(1) Arrange for the state department of transportation to acquire title to land and buildings for use as and undertake construction of state-owned welcome centers. In acquiring property and constructing the welcome centers, including any pilot projects, the state department of transportation may use any funds available to it, including but not limited to, the RISE fund, matching funds from local units of government or organizations, the primary road fund, federal grants, and moneys specifically appropriated for these purposes.

(2) Contract with other state agencies, local units of government, or private groups, organizations, or entities for the use of land, buildings, or facilities as state welcome centers or in connection with state welcome centers, whether or not the property is actually owned by the state. If the local match required for pilot projects or which may be required for other welcome centers is met by providing land, buildings, or facilities, the entity providing the local match shall enter into an agreement with the authority to either transfer title of the property to the state or to dedicate the use of the property under the conditions and period of time set by the authority.

b. Providing for the operations, management, and maintenance of the state-owned and state-operated welcome centers, including the collection and distribution of tourism literature, telecommunication services, and other travel-related services, and the display and offering for sale of Iowa-made products, crafts, and arts.

c. Providing, at the discretion of the authority, financial assistance in the form of loans and grants to privately operated information centers to the extent the centers are consistent with the long-range plan.

d. Developing a common theme or graphic logo which will be identified with all welcome centers which meet the standards of operations established for those centers.

e. Selecting the sites for the pilot projects. In selecting the pilot project sites, the following apply:

(1) Up to three sites may be located in proximity to the interstates and up to three sites may be located in proximity to the other primary roads. The department of economic development shall select at least one site which is in proximity to a primary road which is not an interstate.

(2) Proposals for the sites must be submitted prior to September 1, 1987, and shall contain a commitment of at least a one-dollar-per-dollar match of state financial assistance. The local match may be in terms of land, buildings, or other noncash items which are acceptable by the department of economic development.

(3) Priority shall be given to proposals that have the best local match, that are to be located where there is a very high number of travelers passing, and for which the department of

economic development, after consultation with the departments of transportation, natural resources, and cultural affairs, considers the chances of success to be nearly perfect.

(4) The department of economic development shall select the sites by September 15, 1987.

Sec. 9. Section 15.292, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The board authority may approve, deny, or defer each application for financial assistance from the brownfield redevelopment fund created in section 15.293.

Sec. 10. Section 15.293A, subsection 2, paragraph a, subparagraphs (1) and (2), Code Supplement 2011, are amended to read as follows:

(1) The authority shall accept and, in conjunction with the council ~~and the board~~, review applications for tax credits pursuant to this section.

(2) Upon review of an application, the authority may register the project under the program. If the authority registers the project, the authority shall, in conjunction with the council ~~and the board~~, make a preliminary determination as to the amount of tax credit for which the investor qualifies.

Sec. 11. Section 15.293A, subsection 8, Code Supplement 2011, is amended to read as follows:

8. A registered project shall be completed within thirty months of the project's approval unless the authority, ~~with the approval of the board~~, provides additional time to complete the project. A project shall not be provided more than twelve months of additional time. If the registered project is not completed within the time required, the project is not eligible to claim a tax credit pursuant to this section.

Sec. 12. Section 15.294, subsection 4, Code Supplement 2011, is amended to read as follows:

4. The council, in conjunction with the authority, shall consider applications for redevelopment tax credits as described in sections 15.293A and 15.293B, and may recommend to the ~~board authority~~ which applications to approve and the amount of such tax credits that each project is eligible to receive.

Sec. 13. Section 15.301, subsection 2, paragraph b, subparagraphs (1) and (4), Code Supplement 2011, are amended to read as follows:

(1) The department of economic development or the authority may designate an organization to administer the provisions of this section on the authority's behalf.

(4) An organization designated pursuant to subparagraph (1) may accept, evaluate, and approve applications for financial assistance from eligible small businesses pursuant to the requirements of this section and may monitor the compliance of eligible businesses with the terms of an agreement entered into with the department or authority.

Sec. 14. Section 15.301, subsection 2, paragraph e, Code Supplement 2011, is amended to read as follows:

e. The department of economic development, under the terms of an agreement with the organization designated pursuant to paragraph "b", shall begin to provide financial assistance from the fund not later than August 1, 2010, and shall to the extent practicable obligate all available moneys in the fund prior to March 31, 2011.

Sec. 15. Section 15.301, subsection 4, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Upon approval of the application for financial assistance by the department of economic development, the authority, or an organization designated pursuant to subsection 2, paragraph "b", the eligible business shall enter into an agreement with the department or authority which shall include but not be limited to all of the following provisions:

Sec. 16. Section 15.331A, subsection 2, paragraphs a and b, Code 2011, are amended to read as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the department of revenue, 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.

b. The eligible business shall, not more than one year after project completion, make application to the department of revenue 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 of revenue, and the department of revenue 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.

Sec. 17. Section 15.411, subsection 9, Code Supplement 2011, is amended to read as follows:

9. In each fiscal year, the authority may transfer additional moneys that become available to the authority from sources such as loan repayments or recaptures of awards from federal economic stimulus funds to the innovation and commercialization development fund created in section 15.412, provided the authority 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 of economic development in calendar years 2004, 2005, and 2006.

Sec. 18. Section 15E.64, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

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

Sec. 19. Section 15E.120, subsection 6, Code Supplement 2011, is amended to read as follows:

6. On July 18 1, 2011, the economic development authority shall assume responsibility for the administration of this section.

Sec. 20. Section 15E.193, subsection 1, paragraph b, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) The authority, ~~upon the recommendation of the authority~~, shall adopt rules determining what constitutes a sufficient package of benefits.

Sec. 21. Section 15E.208, subsection 3, paragraph b, subparagraph (2), subparagraph divisions (c) through (e), Code Supplement 2011, are amended to read as follows:

(c) Notwithstanding any provision of this division to the contrary, payments on the principal balance of the loan granted by the corporation to an eligible person and assigned to the department of economic development pursuant to this subparagraph during calendar year 2003 shall be deferred until October 1, 2007. The eligible person shall make principal payments to the department of economic development in the amount of one million dollars for each year on October 1, 2007, October 1, 2008, and October 1, 2009. The eligible person shall pay the department of economic development four hundred eighty-two thousand seven hundred sixty-one dollars in interest, which shall be deemed to be the total amount of interest accruing on the principal amount of the loan. The eligible person shall pay the interest amount on October 1, 2010. Upon the payment of the principal balance of the loan and the accrued interest, the debt shall be retired.

(d) Notwithstanding any provision of this division to the contrary, the corporation shall repay the department of economic development, or its successor entity, the principal balance

of the Iowa agricultural industry finance loan beginning on October 1, 2007. The principal balance of the loan equals twenty-one million five hundred seventeen thousand two hundred thirty-nine dollars. The corporation shall repay the department of economic development, or its successor entity, five hundred seventeen thousand two hundred thirty-nine dollars by October 1, 2007, and for each subsequent year the corporation shall repay the department, or its successor entity, at least one million dollars by October 1 until the total principal balance of the loan is repaid. This subparagraph shall not be construed to limit the authority of the department of economic development, or its successor entity, to negotiate the payment of interest accruing on the principal balance which shall be paid as provided by an agreement executed by the department of economic development, or its successor entity, and the corporation.

(e) Notwithstanding any provision of this division to the contrary, payments of principal and interest of the loan granted by the corporation to an eligible person and assigned to the department of economic development pursuant to this subparagraph during calendar year 2003 which were deferred pursuant to subparagraph division (c) shall be forgiven and the total debt, including interest, shall be retired.

Sec. 22. Section 15E.351, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The ~~economic development~~ authority shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph “a”, subparagraph (1), or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance. The ~~economic development~~ authority may provide financial assistance under this section from moneys allocated for regional financial assistance pursuant to section 15G.111, subsection 9.

Sec. 23. Section 15E.351, subsection 2, paragraph h, Code Supplement 2011, is amended to read as follows:

~~h.~~ The business accelerator must possess the willingness to accept referrals from the ~~economic development~~ authority.

Sec. 24. Section 15G.111, subsection 2, paragraphs c and d, Code Supplement 2011, are amended to read as follows:

c. Of the moneys accruing to the fund pursuant to subsection 1, paragraph “c”, the authority, ~~with the approval of the authority~~, may allocate an amount necessary to fund administrative and operations costs. An allocation pursuant to this paragraph may be made in addition to any allocations made pursuant to subsection 4, paragraph “a”.

d. Of the moneys transferred to the fund pursuant to 2009 Iowa Acts, chapter 123, section 9, the authority, ~~with the approval of the authority~~, may allocate an amount necessary to fund administrative and operations costs. An allocation pursuant to this paragraph may be made in addition to any allocations made pursuant to subsection 4, paragraph “a”.

Sec. 25. Section 15G.112, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The program shall consist of the components described in subsections 4 through 9. Each fiscal year, the authority, ~~with the approval of the authority~~, shall allocate an amount of financial assistance from the fund that may be awarded under each component of the program to qualifying applicants.

Sec. 26. Section 15G.112, subsection 1, paragraph d, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

For each award of financial assistance under the program, the authority and the recipient of the financial assistance shall enter into an agreement describing the terms and obligations under which the financial assistance is being provided. The authority may negotiate, ~~subject~~



to approval by the authority, the terms and obligations of the agreement. An agreement shall contain but need not be limited to all of the following terms and obligations:

Sec. 27. Section 15G.112, subsection 4, paragraph a, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) The business shall provide a sufficient package of benefits to each employee holding a created or retained job. The authority, ~~at the recommendation of the authority,~~ shall adopt rules determining what constitutes a sufficient package of benefits.

Sec. 28. Section 15G.112, subsection 5, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The business shall provide a sufficient package of benefits to each employee holding a created or retained job. The authority, ~~at the recommendation of the authority,~~ shall adopt rules determining what constitutes a sufficient package of benefits.

Sec. 29. Section 15G.113, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The authority, ~~with the approval of the authority,~~ may award financial assistance from the fund to a business, an individual, a development corporation, a nonprofit organization, an organization established in section 28H.1, or a political subdivision of this state if, in the opinion of the authority, a project presents a unique opportunity for economic development in this state, or if the project addresses a situation constituting a threat to the continued economic prosperity of this state.

Sec. 30. Section 15G.114, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The authority, ~~upon the recommendation of the authority,~~ shall adopt rules for the administration of this chapter in accordance with chapter 17A.

Sec. 31. Section 15G.115, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The authority shall accept and process applications for financial assistance under the economic development financial assistance program. After processing the applications, the authority shall prepare them for review by advisory committees and for final action ~~by the authority~~ as described in this section.

Sec. 32. Section 15G.115, subsection 3, paragraphs b and d, Code Supplement 2011, are amended to read as follows:

b. Consider the recommendation of the ~~due diligence committee and the technology commercialization committee~~ on each application for financial assistance, as described in subsection 2, and take final action on each application.

d. Take final action on any rules ~~recommended by the authority~~ for the implementation of the provisions of this chapter.

Sec. 33. Section 15H.3, subsection 1, paragraph k, Code Supplement 2011, is amended to read as follows:

k. Additional ex officio, nonvoting members selected by the commission to the extent that they are not in conflict with the provisions of the National Community Service Trust Act of 1993 or any related state or federal legislation.

Sec. 34. Section 28N.2, subsection 2, paragraph e, Code Supplement 2011, is amended to read as follows:

e. Four voting members, each appointed by the heads of the following ~~departments~~ agencies:

- (1) The department of agriculture and land stewardship.
- (2) The department of natural resources.
- (3) The economic development authority.
- (4) The department of transportation.

Sec. 35. Section 29C.20B, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The homeland security and emergency management division shall work with the department of human services and nonprofit, voluntary, and faith-based organizations active in disaster recovery and response ~~in coordination with the department of human services~~ to establish a statewide system of disaster case management to be activated following the governor's proclamation of a disaster emergency or the declaration of a major disaster by the president of the United States for individual assistance purposes. Under the system, the homeland security and emergency management division shall coordinate case management services locally through local committees as established in each commission's emergency plan.

Sec. 36. Section 42.4, subsection 8, paragraph b, subparagraph (2), Code 2011, 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~~ third 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 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. 37. Section 46.2A, subsection 8, Code 2011, is amended by striking the subsection.

Sec. 38. Section 123.135, subsection 5, Code 2011, is amended to read as follows:

5. Notwithstanding any other penalties provided by this chapter, any holder of a certificate of compliance or any class "A" permit holder who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil ~~fine~~ penalty not to exceed one thousand dollars or suspension of the holder's certificate or permit for a period not to exceed one year, or both such civil ~~fine~~ penalty and suspension. Civil ~~fin~~ penalties imposed under this section shall be collected and retained by the division.

Sec. 39. Section 123.180, subsection 6, Code 2011, is amended to read as follows:

6. Regardless of any other penalties provided by this chapter, any holder of a certificate of compliance relating to wine or a class "A" permittee who violates this chapter or the rules adopted pursuant to this chapter is subject to a civil ~~fine~~ penalty not to exceed one thousand dollars or subject to suspension of the certificate of compliance or permit for a period not to exceed one year, or to both civil ~~fine~~ penalty and suspension. Civil ~~fin~~ penalties imposed under this section shall be collected and retained by the division.

Sec. 40. Section 125.2, subsection 14, Code Supplement 2011, is amended to read as follows:

14. "*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 mental health care and who is registered with the board of nursing as an advanced registered nurse practitioner.

Sec. 41. Section 125.10, subsections 3, 5, 9, and 17, Code 2011, as amended by 2011 Iowa Acts, chapter 121, section 30, are amended to read as follows:

3. Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance ~~abuse~~ misuse and the treatment of persons with substance-related disorders.

5. Cooperate with the department of education, boards of education, schools, police departments, courts, and other public and private agencies, organizations, and individuals in establishing programs for the prevention of substance ~~abuse~~ misuse and the treatment of

persons with substance-related disorders, and in preparing relevant curriculum materials for use at all levels of school education.

9. Sponsor and implement research in cooperation with local treatment programs into the causes and nature of substance misuse and treatment of persons with substance-related disorders, and serve as a clearing house for information relating to substance ~~abuse~~ misuse.

17. Review all state health, welfare, education and treatment proposals to be submitted for federal funding under federal legislation, and advise the governor on provisions to be included relating to substance ~~abuse~~ misuse, and persons with substance-related disorders.

Sec. 42. Section 125.43A, Code 2011, as amended by 2011 Iowa Acts, chapter 121, section 39, is amended to read as follows:

**125.43A Prescreening — exception.**

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

Sec. 43. Section 125.83, Code 2011, as amended by 2011 Iowa Acts, chapter 121, section 47, is amended to read as follows:

**125.83 Placement for evaluation.**

If upon completion of the commitment hearing, the court finds that the contention that the respondent is a person with a substance-related disorder has been sustained by clear and convincing evidence, the court shall order the respondent placed at a facility or under the care of a suitable facility on an outpatient basis as expeditiously as possible for a complete evaluation and appropriate treatment. The court shall furnish to the facility at the time of admission or outpatient placement, a written statement of facts setting forth the evidence on which the finding is based. The administrator of the facility shall report to the court no more than fifteen days after the individual is admitted to or placed under the care of the facility, which shall include the chief medical officer's recommendation concerning ~~substance-abuse~~ treatment of a substance-related disorder. An extension of time may be granted for a period not to exceed seven days upon a showing of good cause. A copy of the report shall be sent to the respondent's attorney who may contest the need for an extension of time if one is requested. If the request is contested, the court shall make an inquiry as it deems appropriate and may either order the respondent released from the facility or grant extension of time for further evaluation. If the administrator fails to report to the court within fifteen days after the individual is admitted to the facility, and no extension of time has been requested, the administrator is guilty of contempt and shall be punished under chapter 665. The court shall order a rehearing on the application to determine whether the respondent should continue to be held at the facility.

Sec. 44. Section 125.91, subsections 2 and 3, Code 2011, as amended by 2011 Iowa Acts, chapter 121, section 50, are amended to read as follows:

2. a. A peace officer who has reasonable grounds to believe that the circumstances described in subsection 1 are applicable may, without a warrant, take or cause that person to be taken to the nearest available facility referred to in section 125.81, subsection 2, paragraph "b" or "c". Such a person with a substance-related disorder due to intoxication or substance-induced incapacitation who also demonstrates a significant degree of distress or

dysfunction may also be delivered to a facility by someone other than a peace officer upon a showing of reasonable grounds. Upon delivery of the person to a facility under this section, the examining attending physician may order treatment of the person, but only to the extent necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue. The peace officer or other person who delivered the person to the facility shall describe the circumstances of the matter to the examining attending physician. If the person is a peace officer, the peace officer may do so either in person or by written report. If the examining attending physician has reasonable grounds to believe that the circumstances in subsection 1 are applicable, the examining attending physician shall at once communicate with the nearest available magistrate as defined in section 801.4, subsection 10. The magistrate shall, based upon the circumstances described by the examining attending physician, give the examining attending physician oral instructions either directing that the person be released forthwith, or authorizing the person's detention in an appropriate facility. The magistrate may also give oral instructions and order that the detained person be transported to an appropriate facility.

b. If the magistrate orders that the person be detained, the magistrate shall, by the close of business on the next working day, file a written order with the clerk in the county where it is anticipated that an application may be filed under section 125.75. The order may be filed by facsimile if necessary. The order shall state the circumstances under which the person was taken into custody or otherwise brought to a facility and the grounds supporting the finding of probable cause to believe that the person is a person with a substance-related disorder likely to result in physical injury to the person or others if not detained. The order shall confirm the oral order authorizing the person's detention including any order given to transport the person to an appropriate facility. The clerk shall provide a copy of that order to the attending physician, at the facility to which the person was originally taken, any subsequent facility to which the person was transported, and to any law enforcement department or ambulance service that transported the person pursuant to the magistrate's order.

3. The attending physician shall examine and may detain the person pursuant to the magistrate's order for a period not to exceed forty-eight hours from the time the order is dated, excluding Saturdays, Sundays, and holidays, unless the order is dismissed by a magistrate. The facility may provide treatment which is necessary to preserve the person's life or to appropriately control the person's behavior if the behavior is likely to result in physical injury to the person or others if allowed to continue or is otherwise deemed medically necessary by the attending physician, but shall not otherwise provide treatment to the person without the person's consent. The person shall be discharged from the facility and released from detention no later than the expiration of the forty-eight-hour period, unless an application for involuntary commitment is filed with the clerk pursuant to section 125.75. The detention of a person by the procedure in this section, and not in excess of the period of time prescribed by this section, shall not render the peace officer, attending physician, or facility detaining the person liable in a criminal or civil action for false arrest or false imprisonment if the peace officer, attending physician, or facility had reasonable grounds to believe that the circumstances described in subsection 1 were applicable.

Sec. 45. Section 135.141, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Coordinate with the homeland security and emergency management division of the department of public defense the administration of emergency planning matters which involve the public health, including development, administration, and execution of the public health components of the comprehensive emergency plan and emergency management program pursuant to section 29C.8.

Sec. 46. Section 142A.3, subsection 10, Code Supplement 2011, is amended to read as follows:

10. The commission may designate an advisory council. The commission shall determine the membership and representation of the advisory council and members of the council shall serve at the pleasure of the commission. The advisory council may include representatives

of health care provider groups, parent groups, antitobacco advocacy programs and organizations, ~~tobacco retailers~~, research and evaluation experts, and youth organizers.

Sec. 47. Section 152.12, Code 2011, is amended to read as follows:

**152.12 Examination information.**

Notwithstanding section 147.21, 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~~ country, and the board-approved education program, for purposes of verifying accuracy of national data and determining program approval.

Sec. 48. Section 173.11, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Administer the foundation fund under the control of the Iowa state fair foundation, ~~in its capacity as the board of the Iowa state fair foundation~~, as directed by the board in its capacity as the board of the Iowa state fair foundation. The treasurer shall administer the fund in accordance with procedures of the treasurer of state, and maintain a correct account of receipts and disbursements of assets of the foundation fund.

Sec. 49. Section 226.9C, subsection 2, paragraph c, subparagraph (1), as enacted by 2011 Iowa Acts, chapter 121, section 51, is amended to read as follows:

(1) Prior to an individual's admission for dual diagnosis treatment, the individual shall have been prescreened. The person performing the prescreening shall be either the mental health professional, as defined in section 228.1, who is contracting with the county central-point-of-coordination process to provide the prescreening or a mental health professional with the requisite qualifications. A mental health professional with the requisite qualifications shall meet all of the following qualifications: is a mental health professional as defined in section 228.1, is ~~a certified~~ an alcohol and drug counselor certified by the nongovernmental Iowa board of substance abuse certification, and is employed by or providing services for a facility, as defined in section 125.2.

Sec. 50. Section 230A.106, subsection 2, paragraph c, as enacted by 2011 Iowa Acts, chapter 121, section 16, is amended to read as follows:

c. *Day treatment, partial hospitalization, or psychosocial rehabilitation services.* ~~Such Day treatment, partial hospitalization, or psychosocial rehabilitation services~~ shall be provided as structured day programs in segments of less than twenty-four hours using a multidisciplinary team approach to develop treatment plans that vary in intensity of services and the frequency and duration of services based on the needs of the patient. These services may be provided directly by the center or in collaboration or affiliation with other appropriately accredited providers.

Sec. 51. Section 232.103, subsection 3, Code 2011, is amended to read as follows:

3. A change in the level of care for a child who is subject to a dispositional order for out-of-home placement requires modification of the dispositional order. A hearing shall be held on a motion to terminate or modify a dispositional order except that a hearing on a motion to terminate or modify an order may be waived upon agreement by all parties. Reasonable notice of the hearing shall be given to the parties. The hearing shall be conducted in accordance with the ~~provisions of~~ procedure established for dispositional hearings under section 232.50, subsection 3.

Sec. 52. Section 236.18, Code 2011, is amended to read as follows:

**236.18 Reference to certain criminal provisions.**

In addition to the ~~criminal penalties provisions~~ provisions contained in this chapter, certain criminal penalties and provisions pertaining to domestic abuse assaults are set forth in chapter 664A and sections 708.2A and 708.2B.

Sec. 53. Section 249H.3, subsection 10, Code 2011, is amended to read as follows:

10. ~~“Persons with disabilities” means individuals eighteen years of age or older with disabilities as disability is defined in section 225B.2~~ mental or physical impairments that result in significant functional limitation in one or more areas of major life activity and in the need for specialized care, treatment, or training services of extended duration.

Sec. 54. Section 252B.9, subsection 1, paragraph f, subparagraph (5), Code 2011, is amended to read as follows:

(5) If the person fails to comply with the request or subpoena, fails to request a conference, and fails to pay a ~~fine~~ penalty imposed under subparagraph (4), the unit may petition the district court to compel the person to comply with this paragraph. If the person objects to imposition of the ~~fine~~ penalty, the person may seek judicial review by the district court.

Sec. 55. Section 256.32, subsection 2, paragraph d, Code Supplement 2011, is amended by striking the paragraph.

Sec. 56. Section 256I.3, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The board shall consist of twenty-one voting members with fifteen citizen members and six state agency members. The six state agency members shall be the directors or their designees of the following ~~departments~~ agencies: economic development authority, education, human rights, human services, public health, and workforce development. The designees of state agency directors shall be selected on an annual basis. The citizen members shall be appointed by the governor, subject to confirmation by the senate. The governor’s appointments of citizen members shall be made in a manner so that each of the state’s congressional districts is represented by at least two citizen members and so that all the appointments as a whole reflect the ethnic, cultural, social, and economic diversity of the state. A member of the state board shall not be a provider of services or other entity receiving funding through the early childhood Iowa initiative or be employed by such a provider or other entity.

Sec. 57. Section 256I.5, subsection 4, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Enter into memoranda of agreement with the departments of education, human rights, human services, public health, and workforce development and the economic development authority to formalize the commitments of the respective departments’ commitments departments and the authority to collaborating with and integrating a comprehensive early care, education, health, and human services system. Items addressed in the memoranda shall include but are not limited to data sharing and providing staffing to the technical assistance team.

Sec. 58. Section 260C.18A, subsection 2, paragraph e, Code Supplement 2011, is amended by striking the paragraph.

Sec. 59. Section 261E.8, subsection 3, Code Supplement 2011, is amended to read as follows:

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 a community college~~ 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.

Sec. 60. Section 267A.2, Code Supplement 2011, is amended to read as follows:

**267A.2 Definitions.**

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

1. "Coordinator" means the local food and farm program coordinator created in section 267A.4.
2. "Council" means the local food and farm program council established in section 267A.3.
3. "Department" means the department of agriculture and land stewardship.
4. "Fund" means the local food and farm program fund created in section 267A.5.

Sec. 61. Section 282.1, subsection 1, Code 2011, is amended to read as follows:

1. Persons between five and twenty-one years of age are of school age. Nonresident children shall be charged the maximum tuition rate as determined in section 282.24, subsection 1, with the exception that those residing temporarily in a school corporation may attend school in the corporation upon terms prescribed by the board. A school district discontinuing grades under section 282.7, subsection 1 or ~~subsections 1 and 3~~, shall be charged tuition as provided in section 282.24, subsection 1.

Sec. 62. Section 282.10, subsection 1, Code 2011, is amended to read as follows:

1. Whole grade sharing is a procedure used by school districts whereby all or a substantial portion of the pupils in any grade in two or more school districts share an educational program for all or a substantial portion of a school day under a written agreement pursuant to section 256.13, 280.15, or 282.7, subsection 1 or ~~subsections 1 and 3~~. Whole grade sharing may either be one-way or two-way sharing.

Sec. 63. Section 282.18, subsection 15, Code 2011, is amended to read as follows:

15. *a.* If a request under this section is for transfer to ~~a laboratory~~ the research and development school, as described in chapter 256G, the student who is the subject of the request shall be included in the basic enrollment of the student's district of residence and the board of directors of the district of residence shall pay to ~~a laboratory~~ the research and development school 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.

*b.* Notwithstanding subsection 7, a district of residence shall not be required to pay the state cost per pupil for a student attending ~~a laboratory~~ the research and development school during the school year beginning July 1, 2010, if the student was not included in the district of residence's enrollment count for funding purposes in the school year beginning July 1, 2009.

Sec. 64. Section 306D.2, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

The state department of transportation shall prepare a statewide, long-range plan for the protection, enhancement, and identification of highways and secondary roads which pass through unusually scenic areas of the state as identified in section 306D.1. The department of natural resources, ~~department of economic development authority~~, and department of cultural affairs, private organizations, county conservation boards, city park and recreation departments, and the federal agencies having jurisdiction over land in the state shall be encouraged to assist in preparing the plan. The plan shall be coordinated with the state's open space plan if a state open space plan has been approved by the general assembly. The plan shall include, but is not limited to, the following elements:

Sec. 65. Section 321.18, subsection 9, Code 2011, is amended by striking the subsection.

Sec. 66. Section 321.180B, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Except as otherwise provided, a permittee who is less than eighteen years of age and who is operating a motor vehicle must be accompanied by a person issued a driver's license valid for the vehicle operated who is the parent, guardian, or custodian of the permittee, a member of the permittee's immediate family if the family member is at least twenty-one years of age, an approved driver education instructor, a prospective driver education instructor who is enrolled in a practitioner preparation program with a safety education program approved by the state board of education, or a person at least twenty-five years of age if written permission is granted by the parent, guardian, or custodian, and who is actually occupying a seat beside the driver. A permittee shall not operate a motor vehicle if the number of passengers in the motor vehicle exceeds the number of passenger safety belts in the motor vehicle. If the applicant for an instruction permit holds a driver's license issued in this state valid for the operation of a motorized bicycle or a motorcycle, the instruction permit shall be valid for such operation without the requirement of an accompanying person.

Sec. 67. Section 321.186, subsection 3, Code Supplement 2011, is amended to read as follows:

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.

Sec. 68. Section 331.427, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Expenses of a ~~joint~~ local emergency management commission under chapter 29C.

Sec. 69. Section 331.653, subsection 5, Code 2011, is amended to read as follows:

5. Serve as a member of the ~~joint~~ local emergency management commission as provided in section 29C.9.

Sec. 70. Section 331.756, subsection 4, Code Supplement 2011, is amended to read as follows:

4. Prosecute misdemeanors under chapter ~~236~~ 664A. The county attorney shall prosecute other misdemeanors when not otherwise engaged in the performance of other official duties.

Sec. 71. Section 419.4, subsection 2, Code 2011, is amended to read as follows:

2. a. The proceedings under which the bonds are authorized to be issued under the provisions of this chapter, and any mortgage given to secure the same, may contain any agreements and provisions customarily contained in instruments securing bonds, including, but not limited to:

~~a.~~ (1) Provisions respecting custody of the proceeds from the sale of the bonds including their investment and reinvestment until used to defray the cost of the project.

~~b.~~ (2) Provisions respecting the fixing and collection of rents or payment with respect to any project covered by such proceedings or mortgage.

~~c.~~ (3) The terms to be incorporated in the lease, sale contract, or loan agreement with respect to such project.

~~d.~~ (4) The maintenance and insurance of such project.

~~e.~~ (5) The creation, maintenance, custody, investment and reinvestment and use of special funds from the revenues of such project, and

~~f.~~ (6) The rights and remedies available in case of a default to the bond holders or to any trustee under the lease, sale contract, loan agreement or mortgage.



*b.* A municipality shall have the power to provide that proceeds from the sale of bonds and special funds from the revenues of the project shall be invested and reinvested in such securities and other investments as shall be provided in the proceedings under which the bonds are authorized to be issued including:

- (1) obligations issued or guaranteed by the United States;
- (2) obligations issued or guaranteed by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States;
- (3) obligations issued or guaranteed by any state of the United States, or the District of Columbia, or any political subdivision of any such state or district;
- (4) prime commercial paper;
- (5) prime finance company paper;
- (6) bankers' acceptances drawn on and accepted by banks organized under the laws of any state or of the United States;
- (7) repurchase agreements fully secured by obligations issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; and
- (8) certificates of deposit issued by banks organized under the laws of any state or of the United States; whether or not such investment or reinvestment is authorized under any other law of this state. The municipality shall also have the power to provide that such proceeds or funds or investments and the amounts payable under the lease, sale contract, or loan agreement shall be received, held and disbursed by one or more banks or trust companies located in or out of the state of Iowa. A municipality shall also have the power to provide that the project and improvements shall be constructed by the municipality, lessee, the lessee's designee, the contracting party, or the contracting party's designee, or any one or more of them on real estate owned by the municipality, the lessee, the lessee's designee, the contracting party, or the contracting party's designee, as the case may be, that the bond proceeds shall be disbursed by the trustee bank or banks, trust company or trust companies, during construction upon the estimate, order or certificate of the lessee, the lessee's designee, the contracting party, or the contracting party's designee.

*c.* In making such agreements or provisions as provided in this subsection, a municipality shall not have the power to obligate itself, except with respect to the project and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

Sec. 72. Section 422.5, subsection 3, paragraph b, Code Supplement 2011, is amended to read as follows:

*b.* In lieu of the computation in subsection 1, or 2, or 3 in paragraph "a" of this subsection, if the married persons', filing jointly or filing separately on a combined return, head of household's, or surviving spouse's net income exceeds thirteen thousand five hundred dollars, the regular tax imposed under this division shall be the lesser of the maximum state individual income tax rate times the portion of the net income in excess of thirteen thousand five hundred dollars or the regular tax liability computed without regard to this sentence. Taxpayers electing to file separately shall compute the alternate tax described in this paragraph using the total net income of the husband and wife. The alternate tax described in this paragraph does not apply if one spouse elects to carry back or carry forward the loss as provided in section 422.9, subsection 3.

Sec. 73. Section 422.7, subsection 51, Code Supplement 2011, 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. 74. Section 422.11S, subsection 7, paragraph a, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) "*Total approved tax credits*" means for the tax year beginning in the 2006 calendar year, two million five hundred thousand dollars, for the tax year beginning in the 2007 calendar

year, five million dollars, and for tax years beginning on or after January 1, 2008, seven million five hundred thousand dollars. However, for tax years beginning on or after January 1, 2012, ~~and only if legislation is enacted by the Eighty-fourth General Assembly, 2011 session, amending section 257.8, subsections 1 and 2, to establish both the state percent of growth and the categorical state percent of growth for the budget year beginning July 1, 2012, at two percent,~~ "total approved tax credits" means eight million seven hundred fifty thousand dollars.

Sec. 75. Section 422.11T, Code 2011, is amended to read as follows:

**422.11T Film qualified expenditure tax credit.**

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

Sec. 76. Section 422.11U, Code 2011, is amended to read as follows:

**422.11U Film investment tax credit.**

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

Sec. 77. Section 437A.14, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Unless otherwise expressly permitted by a section referencing this chapter, the kilowatt-hours of electricity or therms of natural gas delivered by a taxpayer in a competitive service area shall not be divulged to any person or entity, other than the taxpayer, the department of revenue, or the internal revenue service for use in a matter unrelated to tax administration. This prohibition precludes persons or entities other than the taxpayer, the department of revenue, or the internal revenue service from obtaining such information from the department of revenue. A subpoena, order, or process which requires the department of revenue to produce such information to a person or entity, other than the taxpayer, the department of revenue, or internal revenue service, for use in a nontax proceeding is void.

Sec. 78. Section 445.5, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The county treasurer shall deliver to the taxpayer a receipt stating the year of tax, date of payment, a description of the parcel, and the amount of taxes, interest, fees, and costs paid when payment is made by cash tender. A receipt for other payment tender types shall only be delivered upon request. The receipt shall be in full ~~of~~ for the first half, second half, or full year amounts unless a payment is made under section 445.36A or 435.24, subsection 6.

Sec. 79. Section 452A.3, subsection 5, Code 2011, is amended to read as follows:

5. a. The tax shall be paid by the following:

~~a.~~ (1) The supplier, upon the invoiced gross gallonage of all motor fuel or undyed special fuel withdrawn from a terminal for delivery in this state.

(2) Tax shall not be paid when the sale of alcohol occurs within a terminal from an alcohol manufacturer to an Iowa licensed supplier. The tax shall be paid by the Iowa licensed supplier when the invoiced gross gallonage of the alcohol or the alcohol part of ethanol blended gasoline is withdrawn from a terminal for delivery in this state.

~~b.~~ (3) The person who owns the fuel at the time it is brought into the state by a restrictive supplier or importer, upon the invoiced gross gallonage of motor fuel or undyed special fuel imported.

~~e.~~ (4) The blender on total invoiced gross gallonage of alcohol or other product sold to be blended with gasoline or special fuel.

~~d.~~ (5) Any other person who possesses taxable fuel upon which the tax has not been paid to a licensee.

~~b.~~ However, the The tax shall not be imposed or collected under this division with respect to motor fuel or special fuel sold for export or exported from this state to any other state, territory, or foreign country.

Sec. 80. Section 455B.487, Code 2011, is amended to read as follows:

**455B.487 Facility acquisition and operation.**

1. The commission shall adopt rules establishing criteria for the identification of land areas or sites which are suitable for the operation of facilities for the management of hazardous and low-level radioactive wastes. Upon request, the department shall assist in locating suitable sites for the location of a facility. The commission may purchase or condemn land to be leased or used for the operation of a facility subject to chapter 6A. Consideration for a contract for purchase of land shall not be in excess of funds appropriated by the general assembly for that purpose. The commission may lease land purchased under this section to any person including the state or a state agency. This section authorizes the state to own or operate hazardous waste facilities and low-level radioactive waste facilities, subject to the approval of the general assembly.

2. The purchase, condemnation, use, or lease of land for the management of wastes, shall be approved by the general assembly prior to the purchase, condemnation, use, or lease of the land.

3. a. The terms of the lease or contract shall establish responsibility for long-term monitoring and maintenance of the site. The commission shall require that the lessee or operator post bond or provide proof of sufficient insurance coverage, as determined by the commission to be reasonably necessary to protect the state against liabilities arising from the storage of wastes, abandonment of the facility, facility accidents, failure of the facility, or other liabilities which may arise.

b. The terms of the lease or contract shall also require that the lessee or operator of the facility pay an annual fee to the state, as established by the commission, to cover facility monitoring costs, and shall require that the lessee or operator establish a long-term monitoring and maintenance fund in which the lessee or operator shall deposit annually an amount specified by the commission. The fund shall be used to pay closure, long-term monitoring and maintenance, and contingency costs.

4. The lease agreement or contract shall provide for a local review and monitoring committee established by the county or municipal entity governing the jurisdiction in which the facility is located. Prior to the approval of a lease agreement or contract the local committee shall review the application of the prospective lessee or operator and shall determine the suitability of the proposed site for the facility. The local committee may inspect the facility during operation and may make recommendations regarding the operation and closure of the facility. The commission shall establish a surtax paid by the lessee or operator of a facility to the local governmental entity, and retained by the local governmental entity in which the facility is located. The lessee or operator of the facility shall provide funding for the implementation of the duties of the local committee.

5. The lessee or operator is subject to all applicable permit and licensing requirements. The leasehold interest, including improvements made to the property, shall be listed, assessed, and valued as any other real property as provided by law.

6. a. Facilities acquired or operated pursuant to this section shall comply with applicable federal and state statutes, local ordinances, and regulations adopted by regulatory agencies to the extent required by law.

~~The purchase, condemnation, use, or lease of land for the management of wastes, shall be approved by the general assembly prior to the purchase, condemnation, use, or lease of the land.~~

b. Facilities acquired or operated pursuant to this section may be used for regional, statewide or multistate management of wastes.

c. Facilities acquired or operated pursuant to this section shall not be used for the purpose of shallow land burial of wastes as a means of disposal.

7. An operator of a facility acquired or operated pursuant to this section shall require that a person, prior to the use of the facility, submit proof that reasonable and good faith measures have been taken to reduce the generation of waste.

8. A hazardous waste facility acquired or operated pursuant to this section shall be operated in accordance with the following schedule:

1. a. The initial fee paid by a person depositing hazardous waste at the facility shall be increased by ten percent per ton upon receipt of twenty-five percent of the waste capacity of the facility.

2. b. The initial fee paid by a person depositing hazardous waste at the facility shall be increased by twenty-five percent per ton upon receipt of fifty percent of the waste capacity of the facility.

3. c. Upon receipt of fifty percent of the waste capacity of the facility, the receipt of waste shall be limited to hazardous waste generated within the state of Iowa. If an agreement has been established between the owner or operator of the hazardous waste facility and an out-of-state generator of hazardous waste, this limitation is null and void.

Sec. 81. Section 459.501, subsection 5, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The department of natural resources shall credit an amount to the fund from which the expense authorized by the executive council as provided in paragraph "a" was appropriated which is equal to an amount ~~allocated~~ authorized for payment to support the livestock remediation fund by the executive council under paragraph "a". However, the department shall only be required to credit the moneys to such fund if the moneys in the livestock remediation fund which are not obligated or encumbered, and not counting the department's estimate of the cost to the livestock remediation fund for pending or unsettled claims, the amount to be allocated to the department of agriculture and land stewardship, and any amount required to be transferred to the fund from which appropriated as described in this paragraph, are in excess of two million five hundred thousand dollars. The department is not required to credit the total amount to the fund from which appropriated as described in this paragraph during any one fiscal year.

Sec. 82. Section 459.502, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The department shall deposit moneys collected from the fees into the livestock remediation fund according to procedures adopted by the department.

Sec. 83. Section 461A.80, Code Supplement 2011, is amended to read as follows:

**461A.80 Public outdoor recreation and resources advisory council.**

1. An advisory council for public outdoor recreation and resources appropriations made for the purposes of section 461A.79 is created. The council shall consist of a public member appointed by the governor from each congressional district, the chairperson of the commission, the director, and a designee of the economic development authority.

2. Each county conservation board of those counties which are located in a congressional district shall nominate one person from the congressional district for appointment to the advisory council. The commission shall compile a list of the nominations of the county conservation boards for each congressional district and shall provide this list to the governor. The governor shall appoint one member from each congressional district from the nominations as provided. Appointments shall be made for three-year terms beginning July 1 in the year of appointment. A person shall not serve more than two terms. A vacancy shall be filled for the unexpired term in the same manner as the original appointment was made.

3. No more than three public members shall belong to the same political party. The council shall elect a chairperson annually from among the council's members, and the director shall serve as council secretary. Persons already serving in an elected or appointed governmental capacity are not eligible to serve as council members.

2. 4. The advisory council shall meet annually, in July, and upon the call of the chairperson of the advisory council. The advisory council shall make policy recommendations to the commission regarding the projects and programs to be funded from funds available for public outdoor recreation and resources from appropriations made for the purposes of section 461A.79.

3. ~~Each county conservation board of those counties which are located in a congressional district shall nominate one person from the congressional district for appointment to the advisory council. The commission shall compile a list of the nominations of the county~~

~~conservation boards for each congressional district and shall provide this list to the governor. The governor shall appoint one member from each congressional district from the nominations as provided. Appointments shall be made for three-year terms beginning July 1 in the year of appointment. A person shall not serve more than two terms. A vacancy shall be filled for the unexpired term in the same manner as the original appointment was made.~~

5. The public members of the advisory council shall be reimbursed for actual and necessary expenses for each day employed in the official discharge of their duties. The expenses shall be paid from the administration fund of the commission. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

Sec. 84. Section 462A.2, subsection 24, Code Supplement 2011, is amended to read as follows:

24. “Operate” means to navigate or otherwise use a vessel or motorboat. For the purposes of section 462A.12, subsection 2, sections 462A.14, 462A.14A, 462A.14B, 462A.14C, 462A.14D, and 462A.14E, and section 462A.23, subsection 2, paragraph “b”, “operate”, when used in reference to a motorboat, means the motorboat is powered by a motor which is running, and when used in reference to a sailboat, means the sailboat is either powered by a motor which is running, or the sailboat is under way and has sails hoisted and is not propelled by a motor, ~~and is under way.~~

Sec. 85. Section 465A.2, subsection 1, paragraph b, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Prepare a statewide, long-range plan for the acquisition and protection of significant open space lands throughout the state as identified in section 465A.1. The department of transportation, department of economic development authority, and department of cultural affairs, private organizations, county conservation boards, city park and recreation departments, and the federal agencies with lands in the state shall be directly involved in preparing the plan. The plan shall include, but is not limited to, the following elements:

Sec. 86. Section 466B.3, subsection 4, paragraph m, Code Supplement 2011, is amended by striking the paragraph.

Sec. 87. Section 468.221, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. If the written communication is to be delivered to a local government, it may be delivered to the governing body of the local government. The written communication may also be delivered to a person designated by the governing body. As used in this ~~paragraph~~ section, “local government” includes a county, city, township, or any special purpose district or authority.

Sec. 88. Section 473.1, subsections 1 and 6, Code Supplement 2011, are amended to read as follows:

1. “Alternative and renewable energy” means ~~the same as in section 469.31~~ energy sources including but not limited to solar, wind turbine, waste management, resource recovery, recovered energy generation, refuse-derived fuel, hydroelectric, agricultural crops or residues, hydrogen produced using renewable fuel sources, and woodburning, or relating to renewable fuel development and distribution.

6. “Renewable fuel” means ~~the same as in section 469.31~~ a fuel that is all of the following:

a. A motor vehicle fuel that is any of the following:

(1) Produced from grain; starch; oilseed; vegetable; animal, or fish materials, including but not limited to fats, greases, and oil; sugar components, grasses, or potatoes; or other biomass.

(2) Natural gas produced from a biogas source including but not limited to a landfill, sewage waste treatment plant, animal feeding operation, or other place where decaying organic material is found.

b. Used to replace or reduce the quantity of fossil fuel present in a motor fuel mixture used to operate a motor vehicle.

Sec. 89. Section 473.7, subsection 2, Code Supplement 2011, is amended to read as follows:

2. ~~The authority shall collect~~ Collect and analyze data to use in forecasting future energy demand and supply for the state. 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 authority. The information 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. The authority, prior to requiring any supplier to furnish it with such information, shall make every reasonable effort to determine if such information is available from any other governmental source. If it finds such information is available, the authority shall not require submission of the 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 authority shall use this data to conduct energy forecasts.

Sec. 90. Section 473.10, subsection 4, Code Supplement 2011, is amended to read as follows:

4. ~~The director authority~~ shall adopt rules to implement this section.

Sec. 91. Section 476.1C, subsection 1, Code 2011, is amended to read as follows:

1. Gas public utilities having fewer than two thousand customers are:

a. ~~Are~~ not subject to the regulation authority of the utilities board under this chapter unless otherwise specifically provided. Sections 476.10, 476.20, 476.21, and 476.51 apply to such gas utilities.

b. ~~Gas public utilities having fewer than two thousand customers shall~~ Shall be subject to the assessment of fees for the support of the Iowa energy center created in section 266.39C and the center for global and regional environmental research created by the state board of regents and shall file energy efficiency plans and energy efficiency results with the board. The energy efficiency plans as a whole shall be cost-effective. The board may waive all or part of the energy efficiency filing requirements if the gas utility demonstrates superior results with existing energy efficiency efforts.

c. ~~Gas public utilities having fewer than two thousand customers shall~~ Shall keep books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the board. The board may inspect the accounts of the utility at any time.

d. ~~(1) A gas public utility having fewer than two thousand customers may~~ May make effective a new or changed rate, charge, schedule, or regulation after giving written notice of the proposed new or changed rate, charge, schedule, or regulation to all affected customers served by the public utility. The notice shall inform the customers of their right to petition for a review of the proposal to the utilities board within sixty days after notice is served if the petition contains the signatures of at least one hundred of the gas utility's customers. The notice shall state the address of the utilities board. The new or changed rate, charge, schedule, or regulation takes effect sixty days after such valid notice is served unless a petition for review of the new or changed rate, charge, schedule, or regulation signed by at least one hundred of the gas utility's customers is filed with the board prior to the expiration of the sixty-day period.

(2) If such a valid petition is filed with the board within the sixty-day period, any new or changed rate, charge, schedule, or regulation shall take effect, under bond or corporate undertaking, subject to refund of all amounts collected in excess of those amounts which would have been collected under the rates or charges finally approved by the board. The board shall within five months of the date of filing make a determination of just and reasonable rates based on a review of the proposal, applying established regulatory principles. The board may call upon the gas public utility and its customers to furnish factual evidence in support of or opposition to the new or changed rate, charge, schedule, or regulation. If the gas public utility disputes the finding, the utility may within twenty days file for further review, and the board shall docket the case as a formal proceeding under

section 476.6, subsection 4, and set the case for hearing. The gas public utility shall submit factual evidence and written argument in support of the filing.

~~e. A gas public utility having fewer than two thousand customers shall~~ Shall not make effective a new or changed rate, charge, schedule, or regulation which relates to services for which a rate change is pending within twelve months following the date the petition to review the prior proposed rate, charge, schedule, or regulation was filed with the board or until the board has made its determination of just and reasonable rates, whichever date is earlier, unless the utility applies to the board for authority and receives authority to make a subsequent rate change at an earlier date.

~~f. Gas public utilities having fewer than two thousand customers shall~~ Shall not make or grant any unreasonable preferences or advantages as to rates or services to any person or subject any person to any unreasonable prejudice or disadvantage. Rates charged by a gas public utility having less than two thousand customers for transportation of customer-owned gas shall not exceed the actual cost of such transportation services including a fair rate of return.

Sec. 92. Section 476C.4, subsection 4, paragraph b, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) The applicant shall, in the application made under this section, identify the equity holders or beneficiaries that are to receive the tax credit certificates and the percentage of the tax credit that is allocable to each equity holder or beneficiary.

Sec. 93. Section 483A.24, subsection 1, Code Supplement 2011, is amended to read as follows:

1. Owners or tenants of land, and their ~~juvenile~~ minor children, may hunt, fish or trap upon such lands and may shoot by lawful means ground squirrels, gophers, or woodchucks upon adjacent roads without securing a license so to do; except, special licenses to hunt deer and wild turkey shall be required of owners and tenants but they shall not be required to have a special wild turkey hunting license to hunt wild turkey on a hunting preserve licensed under chapter 484B.

Sec. 94. Section 483A.24, subsection 2, paragraph a, subparagraph (3), subparagraph division (b), Code Supplement 2011, is amended to read as follows:

(b) An "owner" does not mean a person who owns a farm unit and who employs a farm manager or third party to operate the farm unit, or a person who owns a farm unit and who rents the entire farm unit to a tenant who is responsible for all farm operations. However, this ~~paragraph subparagraph division~~ does not apply to an owner who is a parent of the tenant and who resides in this state.

Sec. 95. Section 496B.12, Code Supplement 2011, is amended to read as follows:

**496B.12 Articles amended.**

1. The articles of incorporation of any development corporation may be amended by the votes of the shareholders and the members thereof voting separately by classes.

2. Any amendment shall require approval by the affirmative vote of two-thirds of the votes to which the shareholders shall be entitled and two-thirds of the votes to which the members shall be entitled. No amendment, however, shall be made which: (1)

~~a. is~~ is inconsistent with this chapter; (2)

~~b. authorizes~~ Authorizes any additional class or classes of shares of capital stock; (3)

~~c. eliminates~~ Eliminates or curtails the authority of the authority with respect to the corporation.

3. Without the consent of each of the members affected, no amendment shall be made which ~~does any of the following~~: (1)

~~a. increases~~ Increases the obligation of a member to make loans to the corporation; (2)

~~b. makes~~ Makes any change in the principal amount, interest rate, maturity date, or in the security or credit position of any outstanding loan of a member to the corporation; (3)

~~c. affects~~ Affects a member's right to withdraw from membership, as provided herein; ~~or~~ (4)

~~d. affects~~ Affects a member's voting rights in the corporation.

4. Within thirty days after any meeting at which amendment of any such articles has been adopted, articles of amendment signed and sworn to by the president, secretary, and majority of the directors, setting forth such amendment and the due adoption thereof, shall be submitted to the director of the authority who shall examine them, and if the director finds that they conform to the requirements of this chapter, shall so certify and endorse the director's approval thereof. Thereupon, the articles of amendment shall be filed in the office of the secretary of state in the manner set forth and as provided in the Iowa business corporation Act, chapter 490, and no such amendment shall take effect until such articles of amendment shall have been approved and filed as aforesaid.

5. Within sixty days after the effective date of any legislative amendment affecting the rights and obligations of the members and shareholders or otherwise affecting the articles of incorporation, the approval of such legislative amendments shall be voted on by the shareholders and the members of the development corporation at a meeting duly called for that purpose. If such legislative amendment is not approved by the affirmative vote of two-thirds of the votes to which such shareholders shall be entitled and two-thirds of the votes to which such members shall be entitled, any such member voting against the approval of such legislative amendment shall have the right to withdraw from membership as provided in this chapter.

6. Within thirty days after any meeting at which a legislative amendment affecting the articles of incorporation of a development corporation has been voted on, a certificate filed and sworn to by the secretary or other recording officer of such corporation setting forth the action taken at such meeting with respect to such amendment shall be submitted to the director of the authority and upon receipt of such approval shall be filed in the office of the secretary of state.

Sec. 96. Section 501A.504, subsection 4, Code Supplement 2011, is amended to read as follows:

4. *Filing.* An amendment of the articles shall be filed with the secretary as required in section 501A.201. The amendment is effective as provided in subchapter II. After an amendment to the articles of organization has been adopted and approved in the manner required by this chapter and by the articles of organization, the cooperative shall deliver to the secretary of state for filing articles of amendment which shall set forth all of the following:

- a. The name of the cooperative.
- b. The text of each amendment adopted.
- c. The date of each amendment's adoption.

d. (1) If the amendment was adopted by the directors ~~or members~~, a statement that the amendment was duly adopted in the manner required by this chapter and by the articles of organization and that members' adoption was not required.

e. (2) If an amendment required adoption by the members, a statement that the amendment was duly adopted by the members in the manner required by this chapter and by the articles of organization.

Sec. 97. Section 507B.7, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Payment of a civil penalty of not more than one thousand dollars for each act or violation of this subtitle, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in which case the penalty shall be not more than five thousand dollars for each act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. If the commissioner finds that a violation of this subtitle was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a ~~fine~~ penalty to the employer or insurer.

Sec. 98. Section 509.3, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. A provision that if the insurance on a person or insurance on a person and the person's dependents covered by the policy ceases because of termination of employment



or of membership in the class, the person and the person's dependents may continue their accident or health insurance under the group policy and may subsequently apply for a converted policy without evidence of insurability, as provided in chapter 509B.

Sec. 99. Section 514J.108, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

c. A final adverse determination that concerns an admission, availability of care, continued stay, or health care service for which the covered person received emergency services, and the covered person has not been discharged from a facility.

Sec. 100. Section 515C.2, subsection 1, Code 2011, is amended to read as follows:

1. An insurer, in order to qualify for writing mortgage guaranty insurance, must have the same surplus to policyholders as that required of a multiple line company by section 515.49, ~~subsection 8~~ 515.8.

Sec. 101. Section 523C.13, subsection 1, Code Supplement 2011, is amended to read as follows:

1. Payment of a civil penalty of not more than one thousand dollars for each and every act or violation, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this section, in which case the penalty shall be not more than five thousand dollars for each and every act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. The commissioner shall, if it finds the violations of this section were directed, encouraged, condoned, ignored, or ratified by the employer of such person, assess such ~~fine~~ penalty to the employer and not such person. Any civil penalties collected under this subsection shall be deposited as provided in section 505.7.

Sec. 102. Section 524.904, subsection 3, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Shipping documents or instruments that secure title to or give a first lien on livestock. At inception, the current value of the livestock securing the loans must equal at least one hundred percent of the amount of the outstanding loans and extensions of credit. For purposes of this section, "livestock" includes dairy and beef cattle, hogs, sheep, and poultry, whether or not held for resale. For livestock held for resale, current value means the price listed for livestock in a regularly published listing or actual purchase price established by invoice. For livestock not held for resale, the value shall be determined by the local slaughter price. The state bank must maintain in its files evidence of purchase or an inspection and valuation for the livestock pledged that is reasonably current, taking into account the nature and frequency of turnover of the livestock to which the documents relate.

Sec. 103. Section 524.904, subsection 5, paragraph c, Code Supplement 2011, is amended to read as follows:

c. To demonstrate compliance with this subsection, a state bank shall maintain in its files, at a minimum, all of the following:

- (1) Documentation demonstrating the current ownership of the borrowing entity.
- (2) Documentation identifying the persons who have voting rights in the borrowing entity.
- (3) Documentation identifying the board of directors and senior management of the borrowing entity.
- (4) The state bank's assessment of the borrowing entity's means of servicing the loan or extension of credit, including specific reasons in support of that assessment. The assessment shall include an analysis of the borrowing entity's financial history, its present and projected economic and financial performance, and the significance of any financial support provided to the borrowing entity by members of the borrowing group and third parties.

Sec. 104. Section 524.904, subsection 7, paragraph m, Code Supplement 2011, is amended to read as follows:

m. A renewal or restructuring of a loan as a new loan or extension of credit following the exercise by a state bank of reasonable efforts, consistent with safe and sound banking

practices, to bring the loan into conformance with the lending limit, unless new funds are advanced by the state bank to the borrower or unless a new borrower replaces the original borrower or unless the superintendent determines that the renewal or restructuring was undertaken as a means to evade the state bank's lending limit.

Sec. 105. Section 568.16, Code Supplement 2011, is amended to read as follows:

**568.16 Purchase money refunded.**

If the grantee of the state, or the grantee's successors, administrators, or assigns, shall be deprived of the land conveyed by the state under this chapter by the final decree of a court of record for the reason that the conveyance by the state did not pass title to the land described, because title to the land had previously for any reason been vested in others, then the money paid ~~by~~ to the state for the land shall be refunded by the state to the person or persons entitled to the refund, provided the grantee, or the grantee's successors, administrators, or assigns, shall file a certified copy of the transcript of the final decree with the executive council within one year from the date of the issuance of such decree, and shall also file satisfactory proof with the executive council that the action over the title to the land was commenced within ten years from the date of the issuance of patent or deed by the state. The amount of money to be refunded under the provisions of this section shall be authorized and paid by the executive council as an expense from the appropriations addressed in section 7D.29.

Sec. 106. Section 602.9202, subsection 4, Code 2011, is amended to read as follows:

4. "*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~~ one-year term upon attaining seventy-eight years of age<sup>1</sup> pursuant to section 602.9203, eighty years of age.

Sec. 107. Section 631.17, subsection 4, Code Supplement 2011, is amended to read as follows:

4. The district court shall dismiss any case subsequently brought directly or indirectly by a person subject to a bar pursuant to subsection 1 in violation of that subsection and shall assess all costs to that person, and the court shall assess a further civil ~~fine~~ penalty of one hundred dollars against that person for each such case dismissed.

Sec. 108. Section 633.3, subsection 8, Code Supplement 2011, is amended to read as follows:

8. *Costs of administration* — includes court costs, fiduciary's fees, attorney fees, all appraisers' fees, premiums on corporate surety bonds, statutory allowance for support of surviving spouse and children, cost of continuation of abstracts of title, recording fees, transfer fees, transfer taxes, agents' fees allowed by order of court, interest expense, including, but not limited to, interest payable on extension of federal and state estate tax, and all other fees and expenses allowed by order of court in connection with the administration of the estate. Court costs shall include expenses of selling property.

Sec. 109. Section 633A.3106, subsection 2, Code Supplement 2011, is amended to read as follows:

2. For the purposes of this section, a child born after the death of the settlor who would have been entitled to a share of the settlor's probate estate pursuant to section 633.267 shall be treated as a child of the settlor ~~for purposes of this section~~.

Sec. 110. Section 655A.3, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE

<sup>1</sup> See chapter 1138, §75 herein

IN THE MANNER PROVIDED BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

Sec. 111. Section 692A.118, subsections 11 and 12, Code Supplement 2011, are amended to read as follows:

11. When the department has a reasonable basis to believe that a sex offender has changed residence to an unknown location, has become a fugitive from justice, or has otherwise taken flight, ~~the department shall~~ make a reasonable effort to ascertain the whereabouts of the offender, and if such effort fails to identify the location of the offender, an appropriate notice shall be made on the sex offender registry internet site of this state and shall be transmitted to the national sex offender registry. The department shall notify other law enforcement agencies as deemed appropriate.

12. ~~The department shall notify~~ Notify appropriate law enforcement agencies including the United States marshal service to investigate and verify possible violations. The department shall ensure any warrants for arrest are entered into the Iowa online warrant and articles system and the national crime information center and pursue prosecution of stated violations through state or federal court.

Sec. 112. Section 714.27, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. ~~The identity of~~ Identifying information for the person from whom the salvaged material was received or purchased, including name and address; date of birth; Iowa driver's license number, Iowa nonoperator's identification card number, or social security number in conjunction with photo identification; sex, age, height, and race.

Sec. 113. Section 717F.1, subsection 5, paragraph a, subparagraph (9), Code Supplement 2011, is amended by striking the subparagraph.

Sec. 114. Section 717F.1, subsection 5, paragraph a, subparagraph (10), subparagraph division (d), Code Supplement 2011, is amended to read as follows:

(d) A member of the family ~~elapidae, viperidae~~ viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

Sec. 115. Section 717F.8, subsection 2, paragraph j, Code 2011, is amended to read as follows:

j. Fifty dollars for a member of the family ~~elapidae, viperidae~~ viperidae, crotalidae, atractaspidae, or hydrophidae which are venomous, including but not limited to cobras, mambas, coral snakes, kraits, adders, vipers, rattlesnakes, copperheads, pit vipers, keelbacks, cottonmouths, and sea snakes.

Sec. 116. Section 805.8A, subsection 13, paragraph f, Code Supplement 2011, is amended to read as follows:

f. For violations of section 327B.1, subsection 1 or 2 ~~3~~, the scheduled fine is two hundred fifty dollars.

Sec. 117. Section 811.1, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of a class "A" felony;<sup>2</sup> forcible felony as defined in section 702.11;<sup>2</sup> any class "B" felony included in section 462A.14 or 707.6A; any felony included in section 124.401,

subsection 1, paragraph “a” or “b”; ~~or~~ a second or subsequent offense under section 124.401, subsection 1, paragraph “c”; any felony punishable under section 902.9, subsection 1; any public offense committed while detained pursuant to section 229A.5; or any public offense committed while subject to an order of commitment pursuant to chapter 229A.

Sec. 118. Section 907.5, Code Supplement 2011, is amended to read as follows:

**907.5 Standards for release on probation — written reasons.**

1. Before deferring judgment, deferring sentence, or suspending sentence, the court first shall determine which option, if available, will provide maximum opportunity for the rehabilitation of the defendant and protection of the community from further offenses by the defendant and others. In making this determination, the court shall consider all of the following:

- a. The age of the defendant; ~~the.~~
- b. The defendant’s prior record of convictions and prior record of deferments of judgment if any; ~~the.~~
- c. The defendant’s employment circumstances; ~~the.~~
- d. The defendant’s family circumstances; ~~the.~~
- e. The defendant’s mental health and substance abuse history and treatment options available in the community and the correctional system; ~~the.~~
- f. The nature of the offense committed; ~~and such.~~
- g. Such other factors as are appropriate.

2. The court shall file a specific written statement of its reasons for and the facts supporting its decision to defer judgment, to defer sentence, or to suspend sentence, and its decision on the length of probation.

Sec. 119. REPEAL. Section 15.103, Code Supplement 2011, is repealed.

Sec. 120. REPEAL. Section 135.160, Code 2011, is repealed.

Sec. 121. 2011 Iowa Acts, chapter 113, section 45, is amended by striking the section and inserting in lieu thereof the following:

SEC. 45. Section 159.20, subsection 1, paragraph j, Code 2011, is amended to read as follows:

j. Provide for the promotion and expansion of renewable fuels and coproducts, by doing all of the following:

~~j-~~ (1) Assist the office of renewable fuels and coproducts in administering the provisions of chapter 159A, subchapter II.

(2) Assist the renewable fuel infrastructure board, provide for the administration of the renewable fuel infrastructure programs, and provide for the management of the renewable fuel infrastructure fund, as provided in chapter 159A, subchapter III.

Sec. 122. 2011 Iowa Acts, chapter 131, section 134, is amended to read as follows:

SEC. 134. 2011 Iowa Acts, Senate File 510,<sup>2</sup> section ~~28~~ 27, if enacted, is amended to read as follows:

~~SEC. 28.~~ SEC. 27. EFFECTIVE DATE. The following provision of this division of this Act takes effect thirty days after enactment, ~~notwithstanding section 3.7 of this Act or thirty days after the enactment of 2011 Iowa Acts, Senate File 533,~~<sup>3</sup> if enacted, whichever is later:

The section of this division of this Act ~~amending~~ enacting section 124.204, subsection 4, paragraph “ai”, subparagraphs (1) through (4).

Sec. 123. 2011 Iowa Acts, chapter 131, section 135, is amended to read as follows:

SEC. 135. 2011 Iowa Acts, Senate File 510,<sup>4</sup> section ~~29~~ 28, if enacted, is amended to read as follows:

~~SEC. 29.~~ SEC. 28. EFFECTIVE UPON ENACTMENT. The following provision of this division of this Act, being deemed of immediate importance, ~~and notwithstanding section~~

<sup>2</sup> 2011 Iowa Acts, chapter 134

<sup>3</sup> 2011 Iowa Acts, chapter 131

<sup>4</sup> 2011 Iowa Acts, chapter 134

3-7 takes effect upon enactment of this Act or upon enactment of 2011 Iowa Acts, Senate File 533,<sup>5</sup> if enacted, whichever is later:

The section of this Act ~~amending~~ enacting section 124.204, subsection 4, paragraph “ai”, subparagraph (5).

## DIVISION II INTERNAL REFERENCES

Sec. 124. Section 7E.5A, subsection 4, Code 2011, is amended to read as follows:

4. As used in this section, “*vertical infrastructure*” means the same as defined in section 8.57, subsection 6 5, paragraph “c”.

Sec. 125. Section 8.22A, subsection 5, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The amount of revenue for the following fiscal year from gambling revenues and from interest earned on the cash reserve fund and the economic emergency fund to be deposited in the rebuild Iowa infrastructure fund under section 8.57, subsection 6 5, paragraph “e”.

Sec. 126. Section 8.57A, subsection 4, Code Supplement 2011, is amended to read as follows:

4. a. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2013, and for each fiscal year thereafter, the sum of forty-two million dollars to the environment first fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

b. There is appropriated from the rebuild Iowa infrastructure fund each fiscal year for the period beginning July 1, 2010, and ending June 30, 2012, the sum of thirty-three million dollars to the environment first fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

c. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the sum of thirty-five million dollars to the environment first fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

Sec. 127. Section 8.57C, subsection 3, paragraphs b through d, Code Supplement 2011, are amended to read as follows:

b. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2008, and ending June 30, 2009, the sum of seventeen million five hundred thousand dollars, and for the fiscal year beginning July 1, 2009, and ending June 30, 2010, the sum of fourteen million five hundred twenty-five thousand dollars to the technology reinvestment fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

c. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the sum of ten million dollars to the technology reinvestment fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

d. There is appropriated from the rebuild Iowa infrastructure fund for the fiscal year beginning July 1, 2011, and ending June 30, 2012, the sum of fifteen million, five hundred forty-one thousand dollars to the technology reinvestment fund, notwithstanding section 8.57, subsection 6 5, paragraph “c”.

Sec. 128. Section 8A.123, subsection 1, Code 2011, is amended to read as follows:

1. Activities of the department shall be accounted for within the general fund of the state, except that the director may establish and maintain internal service funds in accordance with generally accepted accounting principles, as defined in section 8.57, subsection 5 4, for activities of the department which are primarily funded from billings to governmental entities for services rendered by the department. The establishment of an internal service fund is subject to the approval of the director of the department of management and the concurrence of the auditor of state. At least ninety days prior to the establishment of an internal service fund pursuant to this section, the director shall notify in writing the general

<sup>5</sup> 2011 Iowa Acts, chapter 131

assembly, including the legislative council, legislative fiscal committee, and the legislative services agency.

Sec. 129. Section 12.87, subsection 1, paragraph b, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) On or after July 1, 2009, the treasurer of state may issue and sell bonds in amounts which provide aggregate net proceeds of not more than one hundred eighty-five million dollars for capital projects which qualify as vertical infrastructure projects as defined in section 8.57, subsection 6 5, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures.

Sec. 130. Section 12.89, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The revenues required to be deposited into the fund pursuant to section 8.57, subsection 6 5, paragraph "e", subparagraphs (1) and (2).

Sec. 131. Section 12.89A, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The revenues required to be deposited in the fund pursuant to section 8.57, subsection 6 5, paragraph "e", subparagraphs (1) and (2).

Sec. 132. Section 12E.12, subsection 1, paragraph b, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) The tax-exempt bond proceeds restricted capital funds account. The net proceeds of tax-exempt bonds issued to provide funds for capital projects, certain debt service, and attorney fees related to the master settlement agreement which the state treasurer is authorized and directed to deposit on behalf of the state shall be deposited in the account and shall be used to fund capital projects, certain debt service, and the payment of attorney fees related to the master settlement agreement. With respect to capital projects, it is the intent of the general assembly to fund capital projects that qualify as vertical infrastructure projects as defined in section 8.57, subsection 6 5, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

(2) The 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 5, paragraph "c", to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

Sec. 133. Section 15G.110, Code Supplement 2011, is amended to read as follows:

**15G.110 Appropriation.**

For the fiscal year beginning July 1, 2011, and ending June 30, 2012, there is appropriated to the economic development authority fifteen million dollars from the rebuild Iowa infrastructure fund for deposit in the economic development fund, notwithstanding section 8.57, subsection 6 5, paragraph "c".

Sec. 134. Section 16.193, subsection 2, Code Supplement 2011, is amended to read as follows:

2. For the period beginning July 1, 2009, and ending June 30, 2011, two hundred thousand dollars of the moneys deposited in the rebuild Iowa infrastructure fund shall be allocated each fiscal year to the Iowa finance authority for purposes of administering the Iowa jobs program and Iowa jobs II program, notwithstanding section 8.57, subsection 6 5, paragraph "c".

Sec. 135. Section 99G.39, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Notwithstanding subsection 1, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the vision Iowa fund and the school infrastructure fund during the fiscal year pursuant to section 8.57, subsection 6 5, paragraph “e”, the difference shall be paid from lottery revenues prior to deposit of the lottery revenues in the general fund. If lottery revenues are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from lottery revenues in subsequent fiscal years as such revenues become available.

Sec. 136. Section 123.53, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Notwithstanding subsection 2, if gaming revenues under sections 99D.17 and 99F.11 are insufficient in a fiscal year to meet the total amount of such revenues directed to be deposited in the revenue bonds debt service fund and the revenue bonds federal subsidy holdback fund during the fiscal year pursuant to section 8.57, subsection 6 5, paragraph “e”, the difference shall be paid from moneys deposited in the beer and liquor control fund prior to transfer of such moneys to the general fund pursuant to subsection 2 and prior to the transfer of such moneys pursuant to subsections 5 and 6. If moneys deposited in the beer and liquor control fund are insufficient during the fiscal year to pay the difference, the remaining difference shall be paid from moneys deposited in the beer and liquor control fund in subsequent fiscal years as such moneys become available.

Sec. 137. Section 260G.6, subsection 2, Code Supplement 2011, is amended to read as follows:

2. Projects funded pursuant to this section shall be for vertical infrastructure as defined in section 8.57, subsection 6 5, paragraph “c”.

Sec. 138. Section 324A.6A, Code 2011, is amended to read as follows:

**324A.6A Public transit infrastructure grant fund.**

A public transit infrastructure grant fund is established within the department. Moneys in the fund shall be awarded to public transit systems within the state for construction and infrastructure projects that meet the definition of “vertical infrastructure” in section 8.57, subsection 6 5, paragraph “c”. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. In awarding grant assistance, the office of public transit within the department shall, by rule, specify certain criteria that must be included in a grant application, which shall include but not be limited to information on the feasibility of completion of an individual infrastructure project. Notwithstanding section 8.33, moneys in the public transit infrastructure grant fund shall not revert to the fund from which they are appropriated but shall remain available indefinitely for expenditure under this section.

Sec. 139. Section 461A.3A, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The department shall establish a restore the outdoors program. The purpose of the program is to provide funding for projects involving existing vertical infrastructure as defined in section 8.57, subsection 6 5, paragraph “c”, or the construction of new vertical infrastructure if the new construction is required due to increased demand for facilities at the park or if it is not cost-effective to repair or renovate the existing vertical infrastructure. Projects shall be limited to existing state parks and other public facilities managed by the department.

Sec. 140. Section 473.19A, subsection 3, Code Supplement 2011, is amended to read as follows:

3. The building energy management 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 5.

DIVISION III  
EFFECTIVE DATE AND APPLICABILITY PROVISIONS

Sec. 141. **EFFECTIVE UPON ENACTMENT.** The provisions in division I of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 42.4, subsection 8.
2. The section of this Act amending section 15E.120.
3. The section of this Act amending 2011 Iowa Acts, chapter 113, section 45.
4. The section of this Act amending 2011 Iowa Acts, chapter 131, section 134.
5. The section of this Act amending 2011 Iowa Acts, chapter 131, section 135.

Sec. 142. **EFFECTIVE DATE — CONTINGENT REPEAL.** The section of this Act amending section 321.18, Code 2011, by striking subsection 9, takes effect on June 30, 2012, or on the date that chapter 322E is repealed, whichever date is the latest.

Sec. 143. **RETROACTIVE APPLICABILITY.** The section of this Act amending section 42.4, subsection 8, applies retroactively to January 1, 2011.

Sec. 144. **RETROACTIVE APPLICABILITY.** The following provision or provisions of this Act apply retroactively to July 1, 2011:

1. The section of this Act amending 15E.120.
2. The section of this Act amending 2011 Iowa Acts, chapter 113, section 45.

Sec. 145. **RETROACTIVE APPLICABILITY.** The provision in division I of this Act amending 2011 Iowa Acts, chapter 131, section 134, applies retroactively to the date which is 30 days after July 29, 2011.

Sec. 146. **RETROACTIVE APPLICABILITY.** The provision in division I of this Act amending 2011 Iowa Acts, chapter 131, section 135, applies retroactively to July 29, 2011.

Approved March 22, 2012

**CHAPTER 1022**  
CERTIFICATES OF BIRTH RESULTING IN STILLBIRTH  
*H.F. 2368*

**AN ACT** providing for the issuance of a certificate of birth resulting in stillbirth, providing for a fee, and including effective date provisions.

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

Section 1. **NEW SECTION. 144.31A Certificate of birth resulting in stillbirth.**

1. As used in this section:
  - a. “*Certificate of birth resulting in stillbirth*” means a document issued based upon a properly filed fetal death certificate to record the birth of a stillborn fetus.
  - b. “*Stillbirth*” means stillbirth as defined in section 136A.2.
2. After each fetal death that occurs in the state which is also a stillbirth, the person required to file the fetal death certificate pursuant to section 144.30 shall advise any parent named on the fetal death certificate that the parent may request the preparation of a certificate of birth resulting in stillbirth following registration of a fetal death certificate.
3. The department may prescribe by rules adopted pursuant to chapter 17A the form and content of a request and the process for requesting a certificate of birth resulting in stillbirth.
4. The department shall prescribe by rules adopted pursuant to chapter 17A the form and content of and the fee for the preparation of a certificate of birth resulting in stillbirth.



a. At a minimum, the rules shall require that the certificate of birth resulting in stillbirth contain all of the following:

- (1) The date of the stillbirth.
- (2) The county in which the stillbirth occurred.
- (3) A first name, middle name, last name, no name, or combination of these as requested by the parent.
- (4) The state file number of the corresponding fetal death certificate.
- (5) The statement: "This certificate is not proof of live birth."

b. The fees collected shall be remitted to the treasurer of state for deposit in the general fund of the state and the vital records fund in accordance with section 144.46.

5. Only a parent named on the fetal death certificate may request a certificate of birth resulting in stillbirth. A certificate of birth resulting in stillbirth may be requested and issued at any time regardless of the date on which the fetal death certificate was issued.

6. A certificate of birth resulting in stillbirth is not required to be filed or registered.

7. A certificate of birth resulting in stillbirth shall not be used to establish, bring, or support a civil cause of action seeking damages against any person for bodily injury, personal injury, or wrongful death for a stillbirth.

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

Approved March 26, 2012

## CHAPTER 1023

### NONSUBSTANTIVE CODE CORRECTIONS

S.F. 2203

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

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

#### DIVISION I

#### NONSUBSTANTIVE CHANGES

Section 1. Section 6B.14, subsection 2, Code 2011, is amended to read as follows:

2. Prior to the meeting of the commission, the commission or a commissioner shall not communicate with the applicant, property owner, or tenant, or their agents, regarding the condemnation proceedings. The commissioners shall meet in open session to view the property and to receive evidence, but may deliberate in closed session. When deliberating in closed session, the meeting is closed to all persons who are not commissioners except for personnel from the sheriff's office if such personnel is requested by the commission. After deliberations commence, the commission and each commissioner is prohibited from communicating with any party to the proceeding. However, if the commission is deliberating in closed session, and after deliberations commence the commission requires further information from a party or a witness, the commission shall notify the property owner and the acquiring agency that they are allowed to attend the meeting at which such additional information shall be provided but only for that period of time during which the additional information is being provided. The property owner and the acquiring agency shall be given a reasonable opportunity to attend the meeting. The commission shall keep minutes of all its meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member

present shall be made public at the open session. The minutes shall be public records open to public inspection.

Sec. 2. Section 8F.2, subsection 8, paragraph b, subparagraph (8), Code 2011, is amended to read as follows:

(8) A contract for services provided from resources made available under Title Tit. XVIII, XIX, or XXI of the federal Social Security Act.

Sec. 3. Section 10B.4, subsection 2, paragraph g, Code Supplement 2011, is amended to read as follows:

g. If the reporting entity is a life science enterprise, as provided in chapter 10C, Code 2011, as that chapter exists on or before June 30, 2005, the total amount of commercial sale of life science products and products other than life science products which are produced from the agricultural land held by the life science enterprise.

Sec. 4. Section 12.87, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. The treasurer of state is authorized to issue and sell bonds on behalf of the state to provide funds for certain infrastructure projects and for purposes of the Iowa jobs program established in section 16.194. The treasurer of state shall have all of the powers which are necessary or convenient to issue, sell, and secure bonds and carry out the treasurer of state's duties, and exercise the treasurer of state's authority under this section and sections 12.88 through 12.90. The treasurer of state may issue and sell bonds in such amounts as the treasurer of state determines to be necessary to provide sufficient funds for certain infrastructure projects and the revenue bonds capitals fund, the revenue bonds capitals II fund, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the payment of costs of issuance of the bonds, the payment of other expenditures of the treasurer of state incident to and necessary or convenient to carry out the issuance and sale of the bonds, and the payment of all other expenditures of the treasurer of state necessary or convenient to administer the funds and to carry out the purposes for which the bonds are issued and sold. The treasurer of state may issue and sell bonds as provided in paragraph "b" in one or more series on the terms and conditions the treasurer of state determines to be in the best interest of the state, in accordance with this section in such amounts as the treasurer of state determines to be necessary to fund the purposes for which such bonds are issued and sold ~~as follows:~~

Sec. 5. Section 15.104, subsection 3, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Review and approve or disapprove a life science enterprise plan or amendments to that plan as provided in chapter 10C, Code 2011, and according to rules adopted by the board. A life science plan shall make a reasonable effort to provide for participation by persons who are individuals or family farm entities actively engaged in farming as defined in section 10.1. The persons may participate in the life science enterprise by holding an equity position in the life science enterprise or providing goods or service to the enterprise under contract. The plan must be filed with the board not later than June 30, 2005. The life science enterprise may file an amendment to a plan at any time. A life science enterprise is not eligible to file a plan, unless the life science enterprise files a notice with the board. The notice shall be a simple statement indicating that the life science enterprise may file a plan as provided in this section. The notice must be filed with the board not later than June 1, 2005. The notice, plan, or amendments shall be submitted by a life science enterprise as provided by the board. The board shall consult with the department of agriculture and land stewardship during its review of a life science plan or amendments to that plan. The plan shall include information regarding the life science enterprise as required by rules adopted by the board, including but not limited to all of the following:

Sec. 6. Section 15.117A, subsection 6, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Review annually all of the economic development programs administered by the authority and the board that relate to the targeted industries and make recommendations for adjustments that enhance efficiency and effectiveness. In reviewing the programs, the council shall, to the greatest extent possible, utilize economic development data and research in order to make objective, fact-based recommendations.

Sec. 7. Section 15.247, subsection 8, paragraphs c and d, Code Supplement 2011, are amended to read as follows:

c. A person within the third degree of consanguinity of an employee of the authority, a person within the third degree of consanguinity of a member of the targeted small business financial assistance board or member's relative, or a business with any financial ties to a member shall not be eligible for financial assistance under the program during the employee's employment or the member's tenure on the board, as applicable.

d. Members shall serve ~~two year~~ two-year terms and may be reappointed. A member shall not serve more than two terms.

~~e.~~ e. The targeted small business financial assistance board shall consider all applications for financial assistance under the program submitted on or after July 1, 2007.

Sec. 8. Section 15A.9, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

b. (1) In order to assist a community or communities located within the state to secure new industrial manufacturing jobs, the state of Iowa makes economic development assistance available within the zone or zones, and the department of economic development shall designate a site or sites, which shall not be larger than two thousand five hundred acres, within thirty days of March 4, 1994, as a quality jobs enterprise zone or zones for the purpose of attracting a primary business and supporting businesses to locate facilities within the state.

(2) The primary business or a supporting business shall not be prohibited from participating in or receiving other economic development programs or services or electing to utilize other tax provisions to the extent authorized elsewhere by law.

Sec. 9. Section 34A.15, subsection 1, paragraphs c, e, and h, Code Supplement 2011, are amended to read as follows:

c. One person appointed by the Iowa ~~association of chiefs of police and peace officers association~~.

e. One person appointed by the Iowa ~~association of professional fire fighters~~.

h. One person appointed by the Iowa chapter of the association of ~~public safety public-safety communications officials-international, inc.~~

Sec. 10. Section 80B.11A, Code 2011, is amended to read as follows:

**80B.11A Jailer training standards.**

The director of the academy, subject to the approval of the council, and in consultation with the Iowa department of corrections, Iowa state sheriffs' and deputies' association, and the Iowa ~~association of chiefs of police and peace officers association~~, shall adopt rules in accordance with this chapter and chapter 17A establishing minimum standards for training of jailers.

Sec. 11. Section 80B.11C, Code 2011, is amended to read as follows:

**80B.11C Telecommunicator training standards.**

The director of the academy, subject to the approval of the council, in consultation with the Iowa state sheriffs' and deputies' association, the Iowa police executive forum, the Iowa ~~association of chiefs of police and peace officers association~~, the Iowa state police association, the Iowa ~~association of professional fire fighters~~, the Iowa emergency medical services association, the joint council of Iowa fire service organizations, the Iowa department of public safety, the Iowa chapter of the association of ~~public safety public-safety communications officials-international, inc.~~, the Iowa chapter of the national emergency number association, the homeland security and emergency management division of the Iowa

department of public defense, and the Iowa department of public health, shall adopt rules pursuant to chapter 17A establishing minimum standards for training of telecommunicators. For purposes of this section, “telecommunicator” means a person who receives requests for, or dispatches requests to, emergency response agencies which include, but are not limited to, law enforcement, fire, rescue, and emergency medical services agencies.

Sec. 12. Section 80E.2, subsection 1, paragraph m, Code 2011, is amended to read as follows:

*m.* A member representing the Iowa ~~association of chiefs of police and peace officers association~~.

Sec. 13. Section 80E.2, subsection 2, Code 2011, is amended to read as follows:

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 association~~, 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.

Sec. 14. Section 96.21, Code 2011, is amended to read as follows:

**96.21 Termination.**

If at any time ~~Title Tit.~~ IX of the Social Security Act, as amended, shall be amended or repealed by Congress or held unconstitutional by the supreme court of the United States, with the result that no portion of the contributions required under this chapter may be credited against the tax imposed by said ~~Title Tit.~~ IX, in any such event the operation of the provisions of this chapter requiring the payment of contributions and benefits shall immediately cease, the department shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit, and such moneys, together with any other moneys in the unemployment compensation fund shall be refunded, without interest and under regulations prescribed by the department, to each employer by whom contributions have been paid, proportionately to the employer’s pro rata share of the total contributions paid under this chapter. Any interest or earnings of the fund shall be available to the department to pay for the costs of making such refunds. When the department shall have executed the duties prescribed in this section and performed such other acts as are incidental to the termination of its duties under this chapter, the provisions of this chapter, in their entirety, shall cease to be operative.

Sec. 15. Section 96.27, Code 2011, is amended to read as follows:

**96.27 Approval of attorney general.**

An agreement made for the purchase or other acquisition of the premises mentioned in section 96.25 ~~of this section~~ with funds granted or credited to this state for such purpose under the Social Security Act or the Wagner-Peyser Act shall be subject to the approval of the attorney general of the state of Iowa as to form and as to title thereto.

Sec. 16. Section 97C.5, Code 2011, is amended to read as follows:

**97C.5 Tax on employees.**

Every employee whose services are covered by an agreement entered into under section 97C.3 shall be required to pay for the period of such coverage into the contribution fund established by section 97C.12, a tax which is hereby imposed with respect to wages received during the calendar year of 1953, equal to such percentum of the wages received by the employee as imposed by Social Security Act, ~~Title Tit.~~ II, as such Act has been and may from time to time be amended. Such payment shall be considered a condition of employment as a public employee. Taxes deducted from the wages of the employee by the employer and taxes imposed upon the employer shall be forwarded to the state agency for recording and shall be deposited with the treasurer of state to the credit of the contribution fund established by section 97C.12 of this chapter.

Sec. 17. Section 97C.10, Code 2011, is amended to read as follows:

**97C.10 Tax on employer.**

In addition to all other taxes there is hereby imposed upon each employer as defined in section 97C.2, subsection 2, a tax equal to such percentum of the wages paid by the employer to each employee as imposed by the Social Security Act, ~~Title~~ Tit. II, as such Act has been and may from time to time be amended. The employer shall pay its tax or contribution from funds available and is directed to pay same from tax money or from any other income available. The political subdivision is hereby authorized and directed to levy in addition to all other taxes a property tax sufficient to meet its obligations under the provisions of this chapter, if such tax levy is necessary because other funds are not available.

Sec. 18. Section 97C.15, Code 2011, is amended to read as follows:

**97C.15 Payments to secretary of treasury.**

From the contribution fund the custodian of the fund shall pay to the secretary of the treasury of the United States such amounts and at such time or times as may be directed by the state agency in accordance with any agreement entered into under section 97C.3 and the Social Security Act, ~~Title~~ Tit. II.

Sec. 19. Section 99D.11, subsections 2 and 3, Code Supplement 2011, are amended to read as follows:

2. Licensees shall only permit the pari-mutuel or certificate method of wagering, or the ~~advanced~~ advance deposit method of wagering, as defined in this section.

3. The licensee may receive wagers of money only from a person present in a licensed racetrack enclosure on a horse or dog in the race selected by the person making the wager to finish first in the race or from a person engaging in ~~advanced~~ advance deposit wagering as defined in this section. The person wagering shall acquire an interest in the total money wagered on all horses or dogs in the race as first winners in proportion to the amount of money wagered by the person.

Sec. 20. Section 99D.11, subsection 6, paragraph c, Code Supplement 2011, is amended to read as follows:

c. (1) The commission shall authorize the licensee of the horse racetrack located in Polk county to conduct ~~advanced~~ advance deposit wagering. An ~~advanced~~ advance deposit wager may be placed in person at a licensed racetrack enclosure, or from any other location via a telephone-type device or any other electronic means. The commission may also issue an ~~advanced~~ advance deposit wagering operator license to an entity who complies with subparagraph (3) and section 99D.8A.

(2) For the purposes of this section, ~~“advanced deposit wagering”~~ “advance deposit wagering” means a method of pari-mutuel wagering in which an individual may establish an account, deposit money into the account, and use the account balance to pay for pari-mutuel wagering. Of the net revenue, less all taxes paid and expenses directly related to account deposit wagering incurred by the licensee of the horse racetrack located in Polk county, received through ~~advanced~~ advance deposit wagering, fifty percent shall be designated for the horse purses created pursuant to section 99D.7, subsection 5, and fifty percent shall be designated for the licensee for the pari-mutuel horse racetrack located in Polk county.

(3) Before granting an ~~advanced~~ advance deposit wagering operator license to an entity other than the licensee of the horse racetrack located in Polk county, the commission shall enter into an agreement with the licensee of the horse racetrack located in Polk county, the Iowa horsemen's benevolent and protective association, and the prospective ~~advanced~~ advance deposit wagering operator for the purpose of determining the payment of statewide source market fees and the host fees to be paid on all races subject to ~~advanced~~ advance deposit wagering. The commission shall establish the term of such an ~~advanced~~ advance deposit wagering operator license. Such an ~~advanced~~ advance deposit wagering operator licensee shall accept wagers on live races conducted at the horse racetrack in Polk county from all of its account holders if it accepts wagers from any residents of this state.

(4) An unlicensed ~~advanced~~ advance deposit wagering operator or an individual taking or receiving wagers from residents of this state on races conducted at the horse racetrack located in Polk county is guilty of a class “D” felony.

(5) For the purposes of this paragraph “c”, “~~advanced deposit wagering operator~~” “advance deposit wagering operator” means an ~~advanced~~ advance deposit wagering operator licensed by the commission who has entered into an agreement with the licensee of the horse racetrack in Polk county and the Iowa horsemen’s benevolent and protective association to provide ~~advanced~~ advance deposit wagering.

Sec. 21. Section 100B.1, subsection 1, paragraph a, subparagraph (1), subparagraph division (c), Code Supplement 2011, is amended to read as follows:

(c) Two members from a list submitted by the Iowa ~~association~~ of professional fire fighters.

Sec. 22. Section 105.2, subsection 8, Code Supplement 2011, 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~~ refrigeration 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 heating or 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 and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system.

Sec. 23. Section 124.401, subsection 4, paragraph e, Code Supplement 2011, is amended to read as follows:

e. Red ~~phosphorous~~ phosphorus.

Sec. 24. Section 135.105, subsection 1, Code 2011, is amended to read as follows:

1. Coordinate the childhood lead poisoning prevention program with the department of natural resources, the university of Iowa poison control program, the mobile and regional child health ~~speciality~~ specialty clinics, and any agency or program known for a direct interest in lead levels in the environment.

Sec. 25. Section 135.159, subsection 2, paragraph a, subparagraph (9), Code Supplement 2011, is amended to read as follows:

(9) A representative of the ~~governor’s~~ Iowa developmental disabilities council.

Sec. 26. Section 161G.3, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Provide for conservation systems that manage and optimize nitrogen and ~~phosphorous~~ phosphorus within fields to minimize runoff and reduce downstream nutrient loading.

Sec. 27. Section 162.20, subsection 5, paragraph c, Code 2011, is amended to read as follows:

c. The transfer of a dog or cat to 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. ch. 1, subch. A, pt. 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 a research facility provided in this paragraph. The class B dealer shall not transfer a dog to 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. 28. Section 225B.3, subsection 1, paragraphs b, c, and d, Code 2011, are amended to read as follows:

b. Three providers of disability prevention services, recommended by the governor's Iowa developmental disabilities council, appointed by the governor, and confirmed by the senate.

c. Three persons with expertise in priority prevention areas, recommended by the governor's Iowa developmental disabilities council, appointed by the governor, and confirmed by the senate.

d. Three persons with disabilities or family members of a person with disabilities, recommended by the governor's Iowa developmental disabilities council, appointed by the governor and confirmed by the senate.

Sec. 29. Section 225C.6, subsection 1, paragraph k, Code Supplement 2011, is amended to read as follows:

k. Coordinate activities with the governor's Iowa developmental disabilities council and the mental health planning council, created pursuant to federal law. The commission shall work with other state agencies on coordinating, collaborating, and communicating concerning activities involving persons with disabilities.

Sec. 30. Section 231E.4, subsection 3, paragraph e, Code 2011, is amended to read as follows:

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

Sec. 31. Section 241.3, subsection 2, Code 2011, is amended to read as follows:

2. The department shall consult and cooperate with the department of workforce development, the United States commissioner of social security administration, the division of office on the status of women of the department of human rights, the department of education, and other persons in the executive branch of the state government as the department considers appropriate to facilitate the coordination of multipurpose service programs established under this chapter with existing programs of a similar nature.

Sec. 32. Section 249A.4B, subsection 2, paragraph a, subparagraph (39), Code Supplement 2011, is amended to read as follows:

(39) The governor's Iowa developmental disabilities council.

Sec. 33. Section 256.32, subsection 2, paragraph c, Code Supplement 2011, is amended to read as follows:

c. The current postsecondary agriculture students student organization of Iowa president.

Sec. 34. Section 256.35A, subsection 2, paragraph b, Code 2011, is amended to read as follows:

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 Iowa 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.

Sec. 35. Section 256C.5, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. For the initial school year for which a school district approved to participate in the preschool program receives that 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 for that school year in section 256C.6, Code 2011, or in another appropriation made for purposes of this chapter. For that school year, the preschool

foundation aid payable to the school district is the product of the regular program state cost per pupil for the school year multiplied by sixty percent of the school district's eligible student enrollment on the date in the school year determined by rule.

Sec. 36. Section 260H.2, Code Supplement 2011, is amended to read as follows:

**260H.2 Pathways for academic career and employment program.**

A pathways for academic career and employment program is established to provide funding to community colleges for the development of projects in coordination with the economic development authority, the department of education, Iowa the department of workforce development, regional advisory boards established pursuant to section 84A.4, and community partners to implement a simplified, streamlined, and comprehensive process, along with customized support services, to enable eligible participants to acquire effective academic and employment training to secure gainful, quality, in-state employment.

Sec. 37. Section 260H.8, Code Supplement 2011, is amended to read as follows:

**260H.8 Rules.**

The department of education, in consultation with the community colleges, the economic development authority, and Iowa the department of workforce development, shall adopt rules pursuant to chapter 17A and this chapter to implement the provisions of this chapter. Regional advisory boards established pursuant to section 84A.4 shall be consulted in the development and implementation of rules to be adopted pursuant to this chapter.

Sec. 38. Section 273.2, subsection 3, Code Supplement 2011, is amended to read as follows:

3. The area education agency board shall furnish educational services and programs as provided in sections <sup>1</sup> 273.1, this section, sections 273.3 to 273.9, and chapter 256B to the pupils enrolled in public or nonpublic schools located within its boundaries which are on the list of accredited schools pursuant to section 256.11. The programs and services provided shall be at least commensurate with programs and services existing on July 1, 1974. The programs and services provided to pupils enrolled in nonpublic schools shall be comparable to programs and services provided to pupils enrolled in public schools within constitutional guidelines.

Sec. 39. Section 273.3, subsections 2 and 12, Code Supplement 2011, are amended to read as follows:

2. Be authorized to receive and expend money for providing programs and services as provided in sections 273.1, 273.2, this section, sections 273.4 to 273.9, and chapters 256B and 257. All costs incurred in providing the programs and services, including administrative costs, shall be paid from funds received pursuant to sections 273.1 to 273.9 and chapters 256B and 257.

12. Prepare an annual budget estimating income and expenditures for programs and services as provided in sections 273.1, 273.2, this section, sections 273.4 to 273.9, and chapter 256B within the limits of funds provided under section 256B.9 and chapter 257. The board shall give notice of a public hearing on the proposed budget by publication in an official county newspaper in each county in the territory of the area education agency in which the principal place of business of a school district that is a part of the area education agency is located. The notice shall specify the date, which shall be not later than March 1 of each year, the time, and the location of the public hearing. The proposed budget as approved by the board shall then be submitted to the state board of education, on forms provided by the department, no later than March 15 preceding the next fiscal year for approval. The state board shall review the proposed budget of each area education agency and shall before April 1, either grant approval or return the budget without approval with comments of the state board included. An unapproved budget shall be resubmitted to the state board for final approval not later than April 15. For the fiscal year beginning July 1, 1999, and each succeeding fiscal year, the state board shall give final approval only to budgets submitted by

<sup>1</sup> See chapter 1138, §61 herein



area education agencies accredited by the state board or that have been given conditional accreditation by the state board.

Sec. 40. Section 280.13C, subsection 3, Code Supplement 2011, is amended to read as follows:

3. ~~a.~~ A student who has been removed from participation shall not recommence such participation until the student has been evaluated by a licensed health care provider trained in the evaluation and management of concussions and other brain injuries and the student has received written clearance to return to participation from the health care provider.

~~b.~~ ~~4.~~ For the purposes of this section, a ~~“licensed health care provider”~~:

~~a.~~ “Extracurricular interscholastic activity” means any extracurricular interscholastic activity, contest, or practice, including sports, dance, or cheerleading.

~~b.~~ “Licensed health care provider” means a physician, physician assistant, chiropractor, advanced registered nurse practitioner, nurse, physical therapist, or athletic trainer licensed by a board designated under section 147.13.

~~c.~~ For the purposes of this section, an ~~“extracurricular interscholastic activity” means any extracurricular interscholastic activity, contest, or practice, including sports, dance, or cheerleading.~~

Sec. 41. Section 313.3, subsection 1, paragraph d, Code 2011, is amended to read as follows:

d. All revenue accrued or accruing to the state of Iowa on or after January 26, 1949, from the sale of public lands within the state, under Acts of Congress approved March 3, 1845, supplemental to the Act for the admission Admission of the states ~~States~~ of Iowa and Florida into the Union, chapters 75 and 76 (~~Fifth Statutes, pages 788 and 790~~), 5 Stat. 788, 790, shall be placed in the primary road fund.

Sec. 42. Section 331.512, subsection 1, paragraph e, Code 2011, is amended to read as follows:

e. The levy for taxes for the ~~county~~ brucellosis and tuberculosis eradication fund as provided in section 165.18.

Sec. 43. Section 331.559, subsection 2, Code 2011, is amended to read as follows:

2. Collect the tax levied for the ~~county~~ brucellosis and tuberculosis eradication fund as provided in section 165.18.

Sec. 44. Section 356.36, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The Iowa department of corrections, in consultation with the Iowa state sheriff’s association, the Iowa ~~association of chiefs of police and peace officers association~~, the Iowa league of cities, and the Iowa board of supervisors association, shall draw up minimum standards for the regulation of jails, alternative jails, facilities established pursuant to chapter 356A and municipal holding facilities. When completed by the department, the standards shall be adopted as rules pursuant to chapter 17A.

Sec. 45. Section 356.37, Code 2011, is amended to read as follows:

**356.37 Confinement and detention report — design proposals.**

The division of criminal and juvenile justice planning of the department of human rights, in consultation with the department of corrections, the Iowa county attorneys association, the Iowa state sheriff’s association, the Iowa ~~association of chiefs of police and peace officers association~~, a statewide organization representing rural property taxpayers, the Iowa league of cities, and the Iowa board of supervisors association, shall prepare a report analyzing the confinement and detention needs of jails and facilities established pursuant to this chapter and chapter 356A. The report for each type of jail or facility shall include but is not limited to an inventory of prisoner space, daily prisoner counts, options for detention of prisoners with mental illness or substance abuse service needs, and the compliance status under section 356.36 for each jail or facility. The report shall contain an inventory of recent jail or facility construction projects in which voters have approved the issuance of general

obligation bonds, essential county purpose bonds, revenue bonds, or bonds issued pursuant to chapter 423B. The report shall be revised periodically as directed by the administrator of the division of criminal and juvenile justice planning. The first submission of the report shall include recommendations on offender data needed to estimate jail space needs in the next two, three, and five years, on a county, geographic region, and statewide basis, which may be based upon information submitted pursuant to section 356.49.

Sec. 46. Section 403.21, subsection 3, Code Supplement 2011, is amended to read as follows:

3. The community college shall send a copy of the final agreement prepared pursuant to section 260F.3 to the economic development authority. For each year in which incremental property taxes are used to retire debt service on a jobs training advance issued for a project creating new jobs, the community college shall provide to the economic development authority a report of the incremental property taxes and new jobs credits from withholding generated for that year; a specific description of the training conducted, the number of employees provided program services under the project, and the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

Sec. 47. Section 410.1, unnumbered paragraph 5, Code 2011, is amended to read as follows:

The provisions of this chapter shall not apply to police officers and fire fighters who entered employment after March 2, 1934, except that any police officer or fire fighter who had been making payments of membership fees and assessments as provided in section 410.5 prior to July 1, 1971, shall on July 1, 1973, be fully restored and entitled to all pension rights and benefits, vested or not vested, under this chapter if the city has not returned to such police officer or fire fighter the membership fees and assessments paid by the police officer or fire fighter prior to July 1, 1971, and if such police officer or fire fighter pays to the city within six months after July 1, 1973, the amount of the fees and assessments that the police officer or fire fighter would have paid to the police officers' or fire fighters' pension fund from July 1, 1971, to July 1, 1973, if ~~1971 Iowa Acts of the 1971 Session, Sixty-fourth General Assembly, ch. 108, had not been adopted.~~ If the membership fees and assessments paid by such police officer or fire fighter prior to July 1, 1971, have been returned to the police officer or fire fighter, all pension rights and benefits, vested or not vested, under this chapter shall be fully restored to the police officer or fire fighter on July 1, 1973, if, within six months after July 1, 1973, such police officer or fire fighter repays the fees and assessments so returned and pays the amount of the fees and assessments to the city that the police officer or fire fighter would have paid to the appropriate pension fund from July 1, 1971, to July 1, 1973, if ~~1971 Iowa Acts of the Sixty-fourth General Assembly, 1971 Session, ch. 108 had not been adopted.~~

Sec. 48. Section 411.36, subsection 1, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) Two fire fighters from different participating cities, one of whom is an active member of the retirement system and one of whom is a retired member. The fire fighters shall be appointed by the governing body of the Iowa ~~association of professional fire fighters.~~

Sec. 49. Section 437A.3, subsection 14, Code Supplement 2011, is amended to read as follows:

14. a. "Local amount" means the first forty-four million four hundred forty-four thousand four hundred forty-five dollars of the acquisition cost of any major addition which is an electric power generating plant and the total acquisition cost of any other major addition.

b. "Local amount" for the purposes of determining the local taxable value for a new electric power generating plant shall annually be determined to be equal up to the first forty-four million four hundred forty-four thousand four hundred forty-five dollars of the taxable value of the new electric power generating plant. "Local amount" for the purposes of determining the local assessed value for a new electric power generating plant shall be annually determined to be the percentage share of the taxable value of the new electric power generating plant allocated as the local amount multiplied by the total assessed value of the new electric power generating plant.

Sec. 50. Section 437A.3, subsection 18, paragraph b, Code Supplement 2011, is amended to read as follows:

b. (1) Any acquisition on or after January 1, 2004, by a taxpayer, by transfer of ownership, self-construction, or capital lease of any interest in electric transmission operating property within a local taxing district where the acquisition cost of all interests acquired exceeds one million dollars.

(2) For purposes of this chapter, the acquisition cost of an asset acquired by capital lease is its capitalized value determined under generally accepted accounting principles.

Sec. 51. Section 451.1, subsection 3, Code 2011, is amended to read as follows:

3. “*Federal Estate Tax Act*” and all such similar terms, means ~~Title~~ Tit. III of chapter 27 of the Acts of the Sixty-ninth Congress of the United States, first session, appearing in 44 ~~Statutes at Large~~ Stat., ~~chapter~~ ch. 27, as of January 1, 2000, as amended.

Sec. 52. Section 452A.5, Code 2011, is amended to read as follows:

**452A.5 Distribution allowance.**

1. A supplier shall retain a distribution allowance of not more than one and six-tenths percent of all gallons of motor fuel and a distribution allowance of not more than seven-tenths percent of all gallons of undyed special fuel removed from the terminal during the reporting period for purposes of tax computation under section 452A.8.

2. The distribution allowance shall be prorated between the supplier and the distributor or dealer as follows:

1. a. Motor fuel: four-tenths percent retained by the supplier, one and two-tenths percent to the distributor.

2. b. Undyed special fuel: thirty-five hundredths percent retained by the supplier, thirty-five hundredths percent to the distributor or dealer purchasing directly from a supplier.

3. Gallons exported outside of the state shall not be included in the calculation of the distribution.

Sec. 53. Section 452A.8, subsection 2, paragraph e, Code 2011, is amended to read as follows:

e. (1) The tax for compressed natural gas and liquefied petroleum gas delivered by a licensed compressed natural gas or liquefied petroleum gas dealer for use in this state shall attach at the time of the delivery and shall be collected by the dealer from the consumer and paid to the department as provided in this chapter. The tax, with respect to compressed natural gas and liquefied petroleum gas acquired by a consumer in any manner other than by delivery by a licensed compressed natural gas or liquefied petroleum gas dealer into a fuel supply tank of a motor vehicle, attaches at the time of the use of the fuel and shall be paid over to the department by the consumer as provided in this chapter.

(2) The department shall adopt rules governing the dispensing of compressed natural gas and liquefied petroleum gas by licensed dealers and licensed users. The director may require by rule that reports and returns be filed by electronic transmission. For purposes of this paragraph “*e*”, “*dealer*” and “*user*” mean a licensed compressed natural gas or liquefied petroleum gas dealer or user and “*fuel*” means compressed natural gas or liquefied petroleum gas. The department shall require that all pumps located at dealer locations and user locations through which liquefied petroleum gas can be dispensed shall be metered, inspected, tested for accuracy, and sealed and licensed by the state department of agriculture and land stewardship, and that fuel delivered into the fuel supply tank of any motor vehicle shall be dispensed only through tested metered pumps and may be sold without temperature correction or corrected to a temperature of sixty degrees. If the metered gallonage is to be temperature-corrected, only a temperature-compensated meter shall be used. Natural gas used as fuel shall be delivered into compressing equipment through sealed meters certified for accuracy by the department of agriculture and land stewardship.

(3) (a) All gallonage which is not for highway use, dispensed through metered pumps as licensed under this section on which fuel tax is not collected, must be substantiated by exemption certificates as provided by the department or by valid exemption certificates provided by the dealers, signed by the purchaser, and retained by the dealer. A “*valid*

*exemption certificate provided by a dealer*” is an exemption certificate which is in the form prescribed by the director to assist a dealer to properly account for fuel dispensed for which tax is not collected and which is complete and correct according to the requirements of the director.

(b) For the privilege of purchasing liquefied petroleum gas, dispensed through licensed metered pumps, on a basis exempt from the tax, the purchaser shall sign exemption certificates for the gallonage claimed which is not for highway use.

(c) The department shall disallow all sales of gallonage which is not for highway use unless proof is established by the certificate. Exemption certificates shall be retained by the dealer for a period of three years.

(4) (a) For the purpose of determining the amount of liability for fuel tax, each dealer and each user shall file with the department not later than the last day of the month following the month in which this division becomes effective and not later than the last day of each calendar month thereafter a monthly tax return certified under penalties for false certification. The return shall show, with reference to each location at which fuel is delivered or placed by the dealer or user into a fuel supply tank of any motor vehicle during the next preceding calendar month, information as required by the department.

(2) (b) The amount of tax due shall be computed by multiplying the appropriate tax rate per gallon by the number of gallons of fuel delivered or placed by the dealer or user into supply tanks of motor vehicles.

(3) (c) The return shall be accompanied by remittance in the amount of the tax due for the month in which the fuel was placed into the supply tanks of motor vehicles.

Sec. 54. Section 453A.13, subsection 4, paragraph a, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

An unrevoked permit for which the holder has paid the full annual fee may be surrendered during the first nine months of said year to the officer issuing it, and the department, or the city or county granting the permit shall make refunds to the said holder as follows:

Sec. 55. Section 453A.13, subsection 4, paragraphs b and c, Code Supplement 2011, are amended to read as follows:

b. An unrevoked permit for which the holder has paid three-fourths of a full annual fee may be so surrendered during the first six months of the period covered by said payment and the said department, city, or county shall make refunds to the holder as follows:

(1) A sum equal to one-half of an annual fee if the surrender is made during October, November, or December.

(2) A sum equal to one-fourth of an annual fee if the surrender is made during January, February, or March.

c. An unrevoked permit for which the holder has paid one-half of a full annual fee may be surrendered during the first three months of the period covered by that payment, and the department, city, or county, shall refund to the holder a sum equal to one-fourth of an annual fee.

Sec. 56. Section 455B.171, subsection 32, Code Supplement 2011, is amended to read as follows:

32. “*Sewage sludge*” means any solid, semisolid, or liquid residue removed during the treatment of municipal waste water or domestic sewage. “*Sewage sludge*” includes but is not limited to solids removed during primary, secondary, or advanced waste water treatment, scum septage, portable toilet pumpings, type III marine device pumpings as defined in 33 C.F.R. ~~part ch. 1, subch. O, pt. 159~~, and sewage sludge products. “*Sewage sludge*” does not include grit, screenings, or ash generated during the incineration of sewage sludge.

Sec. 57. Section 455B.261, subsection 7, Code 2011, is amended to read as follows:

7. “*Established average minimum flow*” means the average minimum flow for a given watercourse at a given point determined and established by the commission.

a. The “average minimum flow” for a given watercourse shall be determined by the following factors:

~~a.~~ (1) Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.

~~b.~~ (2) Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.

~~e.~~ (3) The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.

~~b.~~ The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.

Sec. 58. Section 455B.423, subsection 2, paragraph a, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) Through agreements or contracts with other state agencies, to work with private industry to develop alternatives to land disposal of hazardous waste or hazardous substances including but not limited to resource recovery, recycling, neutralization, and reduction.

Sec. 59. Section 455B.471, subsection 11, Code Supplement 2011, is amended to read as follows:

11. *a.* “*Underground storage tank*” means one or a combination of tanks, including underground pipes connected to the tanks which are used to contain an accumulation of regulated substances and the volume of which, including the volume of the underground pipes, is ten percent or more beneath the surface of the ground.

*b.* (1) “*Underground storage tank*” does not include:

~~(4)~~ (a) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes.

~~(2)~~ (b) Tanks used for storing heating oil for consumptive use on the premises where stored.

~~(3)~~ (c) Residential septic tanks.

~~(4)~~ (d) Pipeline facilities regulated under the Natural Gas Pipeline Safety Act of 1968, as amended to January 1, 1985, codified at 49 U.S.C. § 1671 et seq., the Hazardous Liquid Pipeline Safety Act of 1979, as amended to January 1, 1985, codified at 49 U.S.C. § 2001 et seq., or an intrastate pipeline facility regulated under chapter 479.

~~(5)~~ (e) A surface impoundment, pit, pond, or lagoon.

~~(6)~~ (f) A storm water or wastewater collection system.

~~(7)~~ (g) A flow-through process tank.

~~(8)~~ (h) A liquid trap or associated gathering lines directly related to oil or gas production and gathering operations.

~~(9)~~ (i) A storage tank situated in an underground area including but not limited to a basement, cellar, mineworking, drift, shaft, or tunnel if the storage tank is situated upon or above the surface of the floor.

*b.* (2) “*Underground storage tank*” does not include pipes connected to a tank described in paragraph “*a*” “*b*”, ~~subparagraphs subparagraph~~ (1) through ~~(9)~~.

Sec. 60. Section 455B.474, subsection 1, paragraph a, subparagraph (6), subparagraph division (g), Code Supplement 2011, is amended to read as follows:

(g) An owner or operator may elect to proceed with additional corrective action on the site. However, any action taken in addition to that required pursuant to this ~~paragraph “a”~~, subparagraph (6), shall be solely at the expense of the owner or operator and shall not be considered corrective action for purposes of section 455G.9, unless otherwise previously agreed to by the board and the owner or operator pursuant to section 455G.9, subsection 7. Corrective action taken by an owner or operator due to the department’s failure to meet the time requirements provided in subparagraph division (e) shall be considered corrective action for purposes of section 455G.9.

Sec. 61. Section 455B.474, subsection 1, paragraph a, subparagraph (8), subparagraph division (c), Code Supplement 2011, is amended to read as follows:

(c) A certificate shall be recorded with the county recorder. The owner or operator of a site who has been issued a certificate under this ~~paragraph “a”~~, subparagraph (8), or a subsequent

purchaser of the site shall not be required to perform further corrective action because action standards are changed at a later date. A certificate shall not prevent the department from ordering corrective action of a new release.

Sec. 62. Section 455B.474, subsection 2, paragraph a, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) A person who establishes financial responsibility by self-insurance shall not require or shall not enforce an indemnification agreement with an operator or owner of the tank covered by the self-insurance obligation, unless the owner or operator has committed a substantial breach of a contract between the self-insurer and the owner or operator, and that substantial breach relates directly to the operation of the tank in an environmentally sound manner. This ~~paragraph~~ subparagraph applies to all contracts between a self-insurer and an owner or operator entered into on or after May 5, 1989.

Sec. 63. Section 456A.33B, subsection 2, paragraph c, subparagraph (4), unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Delivery of ~~phosphorous~~ phosphorus and sediment from the watershed will be controlled and in place before lake restoration begins. Loads of ~~phosphorous~~ phosphorus and sediment, in conjunction with in-lake management, will meet or exceed the following water quality targets:

Sec. 64. Section 462A.52, subsection 3, Code 2011, is amended to read as follows:

3. The commission shall submit a written report to the general assembly by December 31, 2007, and by December 31 of each year thereafter through December 31, 2013, summarizing the activities of the department in administering and enforcing programs to control aquatic invasive species and administering and enforcing navigation laws and water safety upon the inland waters of the state. The report shall include information concerning the amount of revenues collected pursuant to this section as a result of fee increases pursuant to 2005 Iowa Acts, ch. 137, and how the revenues were expended. The report shall also include information concerning the amount and source of all other funds expended by the commission during the year for the purposes of administering and enforcing programs to control aquatic invasive species and administering and enforcing navigation laws and water safety upon the inland waters of the state and how the funds were expended.

Sec. 65. Section 466B.3, subsection 4, paragraph k, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

The secretary of agriculture, who shall be the chairperson, or the secretary's designee. As the chairperson, and in order to further the coordination efforts of the council, the secretary 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, flood mitigation, or water quality. The secretary shall also invite and solicit advice from the following:

Sec. 66. Section 468.174, Code 2011, is amended to read as follows:

**468.174 Membership in the national drainage association.**

1. Any drainage district may join and become a member of the national drainage association. A drainage district may pay a membership fee and annual dues upon the approval of the drainage board of such district, but not in excess of the following:

a. One hundred dollars for drainage districts having indebtedness in excess of one million dollars.

b. Fifty dollars for drainage districts having an indebtedness of five hundred thousand dollars and less than one million dollars.

c. Twenty-five dollars for drainage districts having an indebtedness of two hundred fifty thousand dollars and less than five hundred thousand dollars.

d. Ten dollars for drainage districts having an indebtedness less than two hundred fifty thousand dollars.

2. The annual dues for any district shall not exceed one-twentieth of one percent of the outstanding indebtedness of the district.

Sec. 67. Section 476.1, Code 2011, is amended to read as follows:

**476.1 Applicability of authority.**

1. The utilities board within the utilities division of the department of commerce shall regulate the rates and services of public utilities to the extent and in the manner hereinafter provided.

2. As used in this chapter, “board” or “utilities board” means the utilities board within the utilities division of the department of commerce.

3. As used in this chapter, “public utility” shall include any person, partnership, business association, or corporation, domestic or foreign, owning or operating any facilities for:

1. a. Furnishing gas by piped distribution system or electricity to the public for compensation.

2. b. Furnishing communications services to the public for compensation.

3. c. Furnishing water by piped distribution system to the public for compensation.

4. Mutual telephone companies in which at least fifty percent of the users are owners, cooperative telephone corporations or associations, telephone companies having less than fifteen thousand customers and less than fifteen thousand access lines, municipally owned utilities, and unincorporated villages which own their own distribution systems are not subject to the rate regulation provided for in this chapter.

5. This chapter does not apply to waterworks having less than two thousand customers, municipally owned waterworks, joint water utilities established pursuant to chapter 389, rural water districts incorporated and organized pursuant to chapters 357A and 504, cooperative water associations incorporated and organized pursuant to chapter 499, or to a person furnishing electricity to five or fewer customers either by secondary line or from an alternate energy production facility or small hydro facility, from electricity that is produced primarily for the person’s own use.

6. A telephone company otherwise exempt from rate regulation and having telephone exchange facilities which cross state lines may elect, in a writing filed with the board, to have its rates regulated by the board. When a written election has been filed with the board, the board shall assume rate regulation jurisdiction over the company.

7. The jurisdiction of the board under this chapter shall include efforts designed to promote the use of energy efficiency strategies by rate or service-regulated gas and electric utilities.

Sec. 68. Section 476.1D, subsection 1, paragraph c, subparagraph (3), Code Supplement 2011, is amended to read as follows:

(3) Effective July 1, 2008, the retail rate jurisdiction of the board shall not be applicable to single line flat-rated residential and business service rates unless the board during the first six calendar months of 2008 extends its retail rate jurisdiction over single line flat-rated residential and business service rates provided by a previously rate-regulated telephone utility. The board may extend its jurisdiction pursuant to this ~~paragraph~~ subparagraph for not more than two years and may do so only after the board finds that such action is necessary for the public interest. The board shall provide the general assembly with a copy of any order to extend its jurisdiction and shall permit any telephone utility subject to the extension to increase single line flat-rated residential and business monthly service rates by an amount up to two dollars during each twelve-month period of the extension. If a telephone utility fails to impose such a rate increase during any twelve-month period, the utility may not impose the unused increase in any subsequent year.

Sec. 69. Section 499.47B, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Except as provided in paragraph “b”, the sale, lease, exchange, or other disposition must be approved by a two-thirds vote of the members in which vote a majority of all voting members participate.

Sec. 70. Section 499.47B, subsection 3, paragraph b, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members in which vote 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.

Sec. 71. Section 499.64, subsection 2, paragraph a, Code Supplement 2011, is amended to read 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 in which vote a majority of all voting members participate.

Sec. 72. Section 499.64, subsection 2, paragraph b, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members in which vote 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.

Sec. 73. Section 501.203, subsection 4, Code Supplement 2011, is amended to read as follows:

4. If the board does not recommend the amendment or restatement to the members, then the amendment or restatement must be adopted by the members by a vote of two-thirds of the votes cast in which vote a majority of all votes are cast.

Sec. 74. Section 501.204, Code Supplement 2011, is amended to read as follows:

**501.204 Bylaws.**

The board may adopt or amend the cooperative's bylaws by a vote of three-fourths of the board. The members may adopt or amend the cooperative's bylaws by a vote of three-fourths of the votes cast in which vote a majority of all votes are cast. A bylaw provision adopted by the members shall not be amended or repealed by the directors.

Sec. 75. Section 501.601, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The members must approve the plan of conversion by ~~the~~ a vote of two-thirds of the votes cast in which vote a majority of all votes are cast.

Sec. 76. Section 501.603, subsection 2, Code Supplement 2011, is amended to read as follows:

2. A cooperative may sell, lease, exchange, or otherwise dispose of all, or substantially all, of its property, with or without the goodwill, on the terms and conditions and for the consideration determined by the board, which consideration may include the interests of another cooperative, if the board recommends the proposed transaction to the members, and the members approve it by ~~the~~ a vote of two-thirds of the votes cast in which vote a majority of all votes are cast. The board may condition its submission of the proposed transaction on any basis.

Sec. 77. Section 501.614, subsection 2, Code Supplement 2011, is amended to read as follows:

2. At the meeting, a vote 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 two-thirds of the members vote affirmatively ~~in~~ in which and a majority of all voting members participate in the voting.

Sec. 78. Section 509B.1, subsection 6, Code 2011, is amended to read as follows:

6. "Medicare" means ~~Title~~ Tit. XVIII of the United States Social Security Act.



Sec. 79. Section 513C.3, subsection 14, paragraph a, Code 2011, is amended to read as follows:

a. Loss of eligibility for medical assistance provided pursuant to chapter 249A or Medicare coverage provided pursuant to ~~Title~~ Tit. XVIII of the federal Social Security Act.

Sec. 80. Section 514G.103, subsection 16, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The contract does not pay or reimburse expenses incurred for services or items to the extent that the expenses are reimbursable under ~~Title~~ Tit. 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~~ Tit. 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.

Sec. 81. Section 524.221, subsection 3, Code Supplement 2011, is amended to read as follows:

3. The provisions of this section, insofar as applicable, shall apply to the records of a national bank or a federally chartered savings bank or a federally ~~chartered~~ chartered savings and loan association.

Sec. 82. Section 558.66, subsection 3, paragraph b, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) The name of the surviving joint tenant or owner of the remainder interest, as applicable, in whose name the county records should reflect ownership of title.

Sec. 83. Section 602.4201, subsection 3, paragraph h, Code 2011, as amended by 2011 Iowa Acts, chapter 121, section 60, is amended to read as follows:

h. Involuntary commitment or treatment of persons with a substance-related disorders.

Sec. 84. Section 634A.1, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. Is considered to be a person with a disability under the disability criteria specified in ~~Title~~ Tit. II or ~~Title~~ Tit. XVI of the federal Social Security Act.

Sec. 85. Section 714G.8, subsection 4, Code 2011, is amended to read as follows:

4. Child support enforcement officials when investigating a child support case pursuant to ~~Title~~ Tit. IV-D or ~~Title~~ Tit. XIX of the federal Social Security Act.

Sec. 86. Section 717.5, subsection 3, paragraph a, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) For livestock neglected under section 717.2, the amount shall not be more than for expenses incurred by the local authority in maintaining and disposing of the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to subsection 1 shall be used to reimburse the local authority.

## DIVISION II VOLUME V RENUMBERING

Sec. 87. Section 490.202, subsection 2, paragraph d, Code 2011, is amended to read as follows:

d. (1) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following:

(+) (a) The amount of a financial benefit received by a director to which the director is not entitled.

~~(2)~~ (b) An intentional infliction of harm on the corporation or the shareholders.

~~(3)~~ (c) A violation of section 490.833.

~~(4)~~ (d) An intentional violation of criminal law.

(2) A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 88. Section 490.1110, subsection 2, Code 2011, is amended to read as follows:

2. a. This section does not apply in any of the following circumstances:

~~a.~~ (1) The corporation does not have a class of voting stock that is listed on a national securities exchange, authorized for quotation on the national association of securities dealers automated quotations – national market system, or held of record by more than two thousand shareholders, unless any of the foregoing results from action taken, directly or indirectly, by an interested shareholder or from a transaction in which a person becomes an interested shareholder.

~~b.~~ (2) The corporation's original articles of incorporation contain a provision expressly electing not to be governed by this section.

~~c.~~ (3) The corporation, by action of its board of directors, adopts an amendment to its bylaws by no later than September 29, 1997, expressly electing not to be governed by this section, which amendment shall not be further amended by the board of directors.

~~d.~~ (4) (a) The corporation, by action of its shareholders, adopts an amendment to its articles of incorporation or bylaws expressly electing not to be governed by this section, provided that, in addition to any other vote required by law, such amendment to the articles of incorporation or bylaws must be approved by the affirmative vote of a majority of the shares entitled to vote. An amendment adopted pursuant to this ~~paragraph~~ subparagraph is effective immediately in the case of a corporation that has never had a class of voting stock that falls within any of the three categories set out in ~~paragraph "a"~~ subparagraph (1) and has not elected by a provision in its original articles of incorporation or any amendment to such articles to be governed by this section. In all other cases, an amendment adopted pursuant to this ~~paragraph~~ subparagraph is not effective until twelve months after the adoption of the amendment and does not apply to any business combination between the corporation and any person who became an interested shareholder of the corporation on or prior to such adoption.

(b) An amendment to the bylaws adopted pursuant to this ~~paragraph~~ subparagraph shall not be further amended by the board of directors.

~~e.~~ (5) A shareholder becomes an interested shareholder inadvertently and both of the following apply:

(1) (a) As soon as practicable the shareholder divests itself of ownership of sufficient shares so that the shareholder ceases to be an interested shareholder.

(2) (b) The shareholder would not, at any time within the three-year period immediately prior to a business combination between the corporation and such shareholder, have been an interested shareholder but for the inadvertent acquisition of ownership.

~~f.~~ (1) (6) (a) The business combination is proposed prior to the consummation or abandonment of and subsequent to the earlier of the public announcement or the notice required in this ~~paragraph~~ subparagraph of a proposed transaction which satisfies all of the following:

(a) (i) Constitutes a transaction described in ~~subparagraph (2)~~ subparagraph division (b).

(b) (ii) Is with or by a person who either was not an interested shareholder during the previous three years or who became an interested shareholder with the approval of the corporation's board of directors or who became an interested shareholder during the time period described in ~~paragraph "g"~~ subparagraph (7).

(c) (iii) Is approved or not opposed by a majority of the members of the board of directors then in office who were directors prior to any person becoming an interested shareholder during the previous three years, or who were recommended for election or elected to succeed such directors by a majority of such directors.

(2) (b) A proposed transaction under ~~subparagraph (1)~~ division (a) is limited to the following:

(a) (i) A merger of the corporation, other than a merger pursuant to section 490.1105.

(b) (ii) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition, in one or more transactions and whether as part of a dissolution or otherwise, of assets of the corporation or of any direct or indirect majority-owned subsidiary of the corporation, other than to a direct or indirect wholly owned subsidiary of the corporation or to the corporation itself, which has an aggregate market value equal to fifty percent or more of either the aggregate market value of all of the assets of the corporation determined on a consolidated basis, or the aggregate market value of all the outstanding stock of the corporation.

(e) (iii) A proposed tender or exchange offer for fifty percent or more of the outstanding voting stock of the corporation.

(3) (c) The corporation shall give no less than twenty days' notice to all interested shareholders prior to the consummation of any of the transactions described in subparagraph (2) division (b), subparagraph division (a) or (b) subdivision (i) or (ii).

g. (7) The business combination is with an interested shareholder who becomes an interested shareholder of the corporation at a time when the corporation is not subject to this section pursuant to paragraph "a", "b", "c", or "d" subparagraph (1), (2), (3), or (4).

b. Notwithstanding paragraphs "a" through "d" paragraph "a", subparagraphs (1) through (4), a corporation may elect under its original articles of incorporation or any amendment to such articles to be subject to this section. However, such amendment shall not apply to restrict a business combination between the corporation and an interested shareholder of the corporation if the interested shareholder became such prior to the effective date of the amendment.

Sec. 89. Section 490.1110, subsection 3, paragraph e, Code 2011, is amended to read as follows:

e. "*Interested shareholder*" means any person, other than the corporation and any direct or indirect majority-owned subsidiary of the corporation, that is the owner of ten percent or more of the outstanding voting stock of the corporation, or is an affiliate or associate of the corporation and was the owner of ten percent or more of the outstanding voting stock of the corporation at any time within the three-year period immediately prior to the date on which it is sought to be determined whether such person is an interested shareholder, and the affiliates and associates of such person. "*Interested shareholder*" does not include a person whose ownership of shares in excess of the ten percent limitation is the result of action taken solely by the corporation, provided that such person is an interested shareholder if, after such action by the corporation, the person acquires additional shares of voting stock of the corporation, other than as a result of further corporate action not caused, directly or indirectly, by such person. For purposes of determining whether a person is an interested shareholder, the outstanding voting stock of the corporation does not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise.

For purposes of determining whether a person is an interested shareholder, the outstanding voting stock of the corporation does not include any other unissued stock of the corporation which may be issuable pursuant to any agreement, arrangement, or understanding, or upon exercise of conversion rights, warrants, or options, or otherwise.

Sec. 90. Section 491.102, Code 2011, is amended to read as follows:

**491.102 Procedure for merger.**

1. Any two or more corporations whether heretofore or hereafter organized may merge into one of such corporations in the following manner: provided in this section.

2. The board of directors of each corporation shall, by resolution adopted by a majority vote of the members of each such board, approve a plan of mergers setting forth:

1. a. The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

2. b. The terms and conditions of the proposed merger.

3. c. The manner and basis of converting the shares of each merging corporation into shares or other securities or obligations of the surviving corporation.

4. d. A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

5. e. Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

Sec. 91. Section 491.103, Code 2011, is amended to read as follows:

**491.103 Procedure for consolidation.**

1. Any two or more corporations whether heretofore or hereafter organized may consolidate into a new corporation in the following manner: provided in this section.

2. The board of directors of each corporation, shall, by a resolution adopted by a majority vote of the members of each such board, approve a plan of consolidation setting forth:

1. a. The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

2. b. The terms and conditions of the proposed consolidation.

3. c. The manner and basis of converting the shares of each corporation into shares, or other securities, or obligations of the new corporation.

4. d. With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

5. e. Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable.

Sec. 92. Section 499.48, Code 2011, is amended to read as follows:

**499.48 Distribution in liquidation.**

1. On dissolution or liquidation, the assets of the association shall be used to pay liquidation expenses first, next the association's obligations other than patronage dividends or patronage dividend certificates which it has issued, and the remainder shall be distributed in the following priority:

1. a. To pay to each person the full amount originally paid by that person in cash for stock or other equity interest in the association.

2. b. To pay to each person in proportion to the total of each person's revolving fund, stock, or other equity interest in the association remaining after the payment under ~~subsection 1~~ paragraph "a".

2. In applying ~~subsections subsection 1 and 2, paragraphs "a" and "b",~~ all classes of stock, all revolving funds, and all other equity interests in the association shall be treated equally based on their stated values. However, an association may establish its own method of distributing the assets remaining, after paying liquidation expenses and obligations other than patronage dividends or patronage dividend certificates which it has issued, in articles of incorporation adopted, amended, or restated after July 1, 1986.

Sec. 93. Section 499.62, Code 2011, is amended to read as follows:

**499.62 Merger.**

1. Any two or more cooperative associations may merge into one cooperative association in the following manner: provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of merger which shall set forth:

1. a. The names of the cooperative associations proposing to merge and the name of the surviving association.

2. b. The terms and conditions of the proposed merger.

3. c. A statement of any changes in the articles of incorporation of the surviving association.

4. d. Other provisions deemed necessary or desirable.

Sec. 94. Section 499.63, Code 2011, is amended to read as follows:

**499.63 Consolidation.**

1. Any two or more cooperative associations may be consolidated into a new cooperative association in the following manner: provided in this section.

2. The board of directors of each cooperative association shall, by resolution adopted by a majority vote of all members of each board, approve a plan of consolidation setting forth:

1. a. The names of the cooperative associations proposing to consolidate and the name of the new association.

2. b. The terms and conditions of the proposed consolidation.

3. c. With respect to the new association, all of the statements required to be set forth in articles of incorporation for cooperative associations.

4. d. Other provisions deemed necessary or desirable.

Sec. 95. Section 499.68, unnumbered paragraphs 1 and 2, Code 2011, are amended to read as follows:

A merger or consolidation shall become effective upon the date that the certificate of merger or the certificate of consolidation is issued by the secretary of state, or the effective date specified in the articles of merger or articles of consolidation, whichever is later. When a merger or consolidation has become effective:

~~When a merger or consolidation has become effective:~~

Sec. 96. Section 499.69, Code 2011, is amended to read as follows:

**499.69 Foreign and domestic mergers or consolidations.**

1. One or more foreign cooperative associations and one or more domestic cooperative associations may be merged or consolidated in the following manner, if such merger or consolidation is permitted by the laws of the state under which each foreign cooperative association is organized:

1. a. Each domestic cooperative association shall comply with the provisions of this division with respect to the merger or consolidation of domestic cooperative associations, and each foreign cooperative association shall comply with the applicable provisions of the laws of the state under which it is organized.

2. b. If the surviving or new association is to be governed by the laws of any state other than this state, it shall comply with the provisions of the laws of this state with respect to the qualifications of foreign cooperative associations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

a. (1) An agreement that it may be served with process in this state in any proceeding for the enforcement of any obligation of any domestic cooperative association which is a party to the merger or consolidation, and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic cooperative association, against the surviving or new association.

b. (2) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any proceeding.

e. (3) An agreement that it will promptly pay to the dissenting shareholders of any domestic cooperative association the amount to which they are entitled under the provisions of this division with respect to the rights of dissenters.

2. The effect of such merger or consolidation shall be the same as the effect of the merger or consolidation of domestic cooperative associations, if the surviving or new association is to be governed by the laws of this state. If the surviving or new association is to be governed by the laws of any other state, the effect of merger or consolidation shall be the same as in the case of the merger or consolidation of domestic cooperative associations, except as the laws of the other state otherwise provide.

Sec. 97. Section 499A.22, subsections 1, 2, and 3, Code 2011, are amended to read as follows:

1. a. The cooperative has a lien on a member's interest in the cooperative for all operating charges or other assessments payable by the member pursuant to the member's proprietary lease from the time the operating charge or other assessment becomes due. If carrying charges and assessments are payable in installments, the full amount of the charge or assessment is a lien from the first time the first installment becomes due. Upon nonpayment of a carrying charge or assessment, the member may be evicted from the member's apartment unit in the same manner as provided by law in the case of an unlawful holdover

by a tenant and the lien may be foreclosed by judicial sale in like manner as a mortgage on real estate, or may be foreclosed by the power of sale provided in this section.

*b.* A lien under this section is prior to all other liens and encumbrances on a member's cooperative interest except liens and encumbrances on the cooperative's real property which the cooperative creates, assumes, or takes subject to, and liens for real estate taxes and other governmental assessments or charges against the cooperative or the member's cooperative interest.

2. The cooperative, upon a member's nonpayment of carrying charges and assessments and the cooperative's compliance with this section, may sell the defaulting member's cooperative interest. Sale may be at a public sale or by private negotiation, and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The cooperative shall give to the member and any sublessees of the member reasonable written notice of the time and place of a public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice shall also be sent to any other person who has a recorded interest in the defaulting member's cooperative interest which would be extinguished by the sale. The notices required by this paragraph subsection may be sent to any address reasonable under the circumstances. Sale may not be held until five weeks after the sending of the notice. The cooperative may buy at a public sale, and, if the sale is conducted by a fiduciary or other person not related to the cooperative, at a private sale.

3. *a.* The proceeds of a sale under the preceding paragraph subsection shall be applied in the following order:

*a.* (1) The reasonable expenses of sale.

*b.* (2) The reasonable expenses of securing possession before sale, and the reasonable expenses of holding, maintaining, and preparing the cooperative interest for sale. These expenses include, but are not limited to, the payment of taxes and other governmental charges, premiums on liability insurance, and to the extent provided for by agreement between the cooperative and the member, reasonable attorney fees and other legal expenses incurred by the cooperative.

*e.* (3) Satisfaction of the cooperative's lien.

*d.* (4) Satisfaction in the order of priority of any subordinate claim of record.

*e.* (5) Remittance of any excess to the member.

*b.* Unless otherwise agreed, the member is liable for any deficiency.

Sec. 98. Section 501.618, unnumbered paragraphs 1 and 2, Code 2011, are amended to read as follows:

A merger or consolidation shall become effective upon the date that the certificate of merger or the certificate of consolidation is issued by the secretary of state, or the effective date specified in the articles of merger or articles of consolidation, whichever is later. When a merger or consolidation has become effective:

~~When a merger or consolidation has become effective:~~

Sec. 99. Section 501A.715, subsection 2, paragraph a, subparagraph (2), subparagraph division (b), Code 2011, is amended to read as follows:

(b) In the case of an act or omission occurring in the official capacity described in subsection 1, paragraph "a", subparagraph (3), the person reasonably believed that the conduct was not opposed to the best interests of the cooperative. If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the cooperative if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.

~~If the person's acts or omissions complained of in the proceeding relate to conduct as a director, officer, trustee, employee, or agent of an employee benefit plan, the conduct is not considered to be opposed to the best interests of the cooperative if the person reasonably believed that the conduct was in the best interests of the participants or beneficiaries of the employee benefit plan.~~

Sec. 100. Section 502A.3, Code 2011, is amended to read as follows:

**502A.3 Exempt person transactions.**

1. The prohibitions in section 502A.2 do not apply to a transaction in which any of the following persons, or any employee, officer, or director of a listed person acting solely in that capacity, is the purchaser or seller:

1. a. A person registered with the commodity futures trading commission as a futures commission merchant or as a leverage transaction merchant whose activities require such registration.

2. b. A person registered with the securities and exchange commission as a broker-dealer whose activities require such registration.

3. c. A person affiliated with, and whose obligations and liabilities under the transaction are guaranteed by, a person referred to in ~~subsection 1 or 2~~ paragraph "a" or "b".

4. d. A person who is a member of a contract market designated by the commodity futures trading commission, or any CFTC clearinghouse.

5. e. A financial institution.

6. f. A person registered under the laws of this state as a securities broker-dealer whose activities require such registration.

2. This exemption provided by this section does not apply to any transaction or activity which is prohibited by the Commodity Exchange Act or CFTC rule.

Sec. 101. Section 507B.4, Code 2011, is amended to read as follows:

**507B.4 Unfair methods of competition and unfair or deceptive acts or practices defined.**

1. For purposes of subsection 3, paragraph "p", "*insurer*" means an entity providing a plan of health insurance, health care benefits, or health care services, or an entity subject to the jurisdiction of the commissioner performing utilization review, including an insurance company offering sickness and accident plans, a health maintenance organization, an organized delivery system authorized under 1993 Iowa Acts, ch. 158, and licensed by the department of public health, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. However, "insurer" does not include an entity that sells disability income or long-term care insurance.

2. For purposes of subsection 3, paragraphs "k", "l", and "m", "*personal lines property and casualty insurance*" means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.

3. The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

1. a. *Misrepresentations and false advertising of insurance policies.* Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison which does any of the following:

a. (1) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy.

b. (2) Misrepresents the dividends or share of the surplus to be received on any insurance policy.

e. (3) Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy.

d. (4) Is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates.

e. (5) Uses any name or title of any insurance policy or class of insurance policies misrepresenting the true nature thereof.

f. (6) Is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of any insurance policy.

g. (7) Is a misrepresentation for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy.

h. (8) Misrepresents any insurance policy as being shares of stock.

i. (9) Misrepresents any insurance policy to consumers by using the terms "burial insurance", "funeral insurance", "burial plan", or "funeral plan" in its names or titles, unless the policy is made with a funeral provider as beneficiary who specifies and fixes a price under contract with an insurance company. This ~~paragraph~~ subparagraph does not prevent

insurers from stating or advertising that insurance benefits may provide cash for funeral or burial expenses.

*j.* (10) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase of an insurance policy.

*2. b. False information and advertising.*

*a.* (1) *Generally.* Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

*b.* (2) *False statement of assets.* In the case of a company transacting the business of fire insurance within the state, stating or representing by advertisement in any newspaper, magazine, or periodical, or by any sign, circular, card, policy of insurance, or renewal certificate thereof or otherwise, that any funds or assets are in its possession and held available for the protection of holders of its policies unless so held, except the policy of insurance or certificate of renewal thereof may state, as a single item, the amount of capital set forth in the charter, or articles of incorporation, or association, or deed of settlement under which it is authorized to transact business.

*e.* (3) *Statement of capital and surplus.* In the case of a foreign company transacting 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.

*3. c. Defamation.* Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

*4. d. Boycott, coercion and intimidation.* Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

*5. e. False statements and entries.*

*a.* (1) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or knowingly causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person.

*b.* (2) Knowingly making any false entry of a material fact in any book, report or statement of any person or knowingly omitting to make a true entry of any material fact pertaining to the business of such person in any book, report or statement of such person.

*6. f. Stock operations and advisory board contracts.* Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

*7. g. Unfair discrimination.*



~~α.~~ (1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

~~β.~~ (2) Making or permitting any unfair discrimination between insureds of the same class for essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of insurance other than life or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

~~ε.~~ (3) Making or permitting any discrimination in the sale of insurance solely on the basis of domestic abuse as defined in section 236.2.

~~δ.~~ *h. Release or use of genetic information.* Failure of a person to comply with section 729.6, subsection 4.

~~θ.~~ *i. Rebates.*

~~α.~~ (1) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or any thing of value whatsoever not specified in the contract.

~~β.~~ (2) Nothing in ~~subsection 7~~ paragraph "g" or paragraph "α" ~~subparagraph (1)~~ of this ~~subsection~~ paragraph "i" shall be construed as including within the definition of discrimination or rebates any of the following practices:

~~(1)~~ (a) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise rebating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or rebatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders.

~~(2)~~ (b) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses.

~~(3)~~ (c) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experienced thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

~~ε.~~ (3) (a) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as an inducement to purchase or acquire insurance other than life insurance, life annuity, or accident and health insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing. An insured named in a policy, or an employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(b) This paragraph "ε" subparagraph (3) shall not be construed to prohibit the payment of commissions or other compensation to duly licensed producers, or to prohibit any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this paragraph "ε" subparagraph (3), "insurance" includes suretyship and "policy" includes bond.

~~10.~~ *j. Unfair claim settlement practices.* Committing or performing with such frequency as to indicate a general business practice any of the following:

~~a.~~ (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages of issue.

~~b.~~ (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

~~e.~~ (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

~~d.~~ (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information.

~~e.~~ (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

~~f.~~ (6) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear, or failing to include interest on the payment of claims when required under ~~subsection 16~~ paragraph "p" or section 511.38.

~~g.~~ (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds.

~~h.~~ (8) Attempting to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application.

~~i.~~ (9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured.

~~j.~~ (10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made.

~~k.~~ (11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

~~l.~~ (12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

~~m.~~ (13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

~~n.~~ (14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

~~o.~~ (15) Failing to comply with the procedures for auditing claims submitted by health care providers as set forth by rule of the commissioner. However, this ~~paragraph~~ subparagraph shall have no applicability to liability insurance, workers' compensation or similar insurance, automobile or homeowners' medical payment insurance, disability income, or long-term care insurance.

~~11.~~ k. *Use of inquiries.* Considering either of the following events for purposes of surcharging, declining, nonrenewing, or canceling personal lines property and casualty insurance coverage or a binder for personal lines property and casualty insurance coverage:

~~a.~~ (1) An applicant's or insured's inquiry into the type or level of coverage of a policy, or an inquiry into whether a policy will cover a loss.

~~b.~~ (2) An insured's inquiry regarding coverage of a policy for a loss if the insured does not file a claim.

~~12.~~ l. *History of a property.* Declining to insure a property not previously owned by an applicant for personal lines property and casualty insurance, based solely on the loss history of a previous owner of the property, unless the insurer can provide evidence that the previous owner did not repair damage to the property.

~~13.~~ m. *Disclosure of use of claims history.* Failing to inform an applicant at the time that an application for personal lines property and casualty insurance is made, in writing or in the same medium as the application is made, that the insurer will consider the applicant's or insured's claims history in determining whether to decline, cancel, nonrenew, or surcharge

such a policy, and that a claim made by an insured will be reported to an insurance support organization.

14. n. *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual.

15. o. *Omission from insurance application.* Failing to designate on an insurance policy application the licensee who has solicited and written the policy.

16. p. *Payment of interest.* Failure of an insurer to pay interest at the rate of ten percent per annum on all health insurance claims that the insurer fails to timely accept and pay pursuant to section 507B.4A, subsection 2, paragraph “d”. Interest shall accrue commencing on the thirty-first day after receipt of all properly completed proof of loss forms.

~~For purposes of this subsection, “insurer” means an entity providing a plan of health insurance, health care benefits, or health care services, or an entity subject to the jurisdiction of the commissioner performing utilization review, including an insurance company offering sickness and accident plans, a health maintenance organization, an organized delivery system authorized under 1993 Iowa Acts, ch. 158, and licensed by the department of public health, a nonprofit health service corporation, a plan established pursuant to chapter 509A for public employees, or any other entity providing a plan of health insurance, health care benefits, or health care services. However, “insurer” does not include an entity that sells disability income or long term care insurance.~~

17. q. *Rating organizations.* Any violation of section 515F.16.

18. r. *Minor traffic violations.* Failure of a person to comply with section 516B.3.

19. s. *Information.* Failing or refusing to furnish any policyholder or applicant, upon reasonable request, information to which that individual is entitled.

~~For purposes of subsections 11, 12, and 13, “personal lines property and casualty insurance” means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.~~

Sec. 102. Section 507C.2, subsection 15, Code 2011, is amended to read as follows:

15. a. “Insolvency” or “insolvent” means any of the following:

~~⌚~~ (1) For an insurer issuing only assessable fire insurance policies, either of the following:

(+) (a) The inability to pay any obligation within thirty days after it becomes payable.

(2) (b) If an assessment is made, the inability to pay the assessment within thirty days following the date specified in the first assessment notice issued after the date of loss.

~~⌚~~ (2) For any other insurer that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of:

(+) (a) Any capital and surplus required by law for its organization.

(2) (b) The total par or stated value of its authorized and issued capital stock.

~~⌚~~ (3) As to an insurer licensed to do business in this state as of July 1, 1984, which does not meet the standard established under ~~paragraph “b”~~ subparagraph (2), the term “insolvency” or “insolvent” shall mean, for a period not to exceed three years from July 1, 1984, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the commissioner under provisions of the insurance law.

b. For purposes of this subsection “liabilities” includes but is not limited to reserves required by statute or by the division’s rules or specific requirements imposed by the commissioner upon a company at the time of or subsequent to admission.

Sec. 103. Section 508.8, Code 2011, is amended to read as follows:

**508.8 Insurance company officers — conflicts of interest — exceptions.**

1. As used in this section, “employee” includes but is not limited to the officers of a life insurance company.

2. A director or officer of a life insurance company shall not receive, in addition to fixed salary or compensation, money or other valuable thing, either directly or indirectly, or through a substantial interest in another corporation or business unit, for negotiating, procuring, recommending or aiding in the purchase or sale of property, or loan, made by

the insurer or an affiliate or subsidiary of the insurer; nor shall a director or officer be pecuniarily interested, either as principal, coprincipal, agent or beneficiary, either directly or indirectly, or through a substantial interest in another corporation or business unit, in the purchase, sale or loan. However, a life insurance company, in connection with the relocation of the place of employment of an employee including relocation upon the initial employment of the employee, may do either of the following:

1. a. Make a mortgage loan on real property owned by the employee which is to serve as the employee's dwelling.
2. b. Acquire at not more than fair market value the dwelling which the employee vacates upon relocation.

~~As used in this section, "employee" includes but is not limited to the officers of a life insurance company.~~

Sec. 104. Section 508.36, subsection 3, paragraphs e and f, Code 2011, are amended to read as follows:

e. (1) For total and permanent disability benefits in or supplementary to ordinary policies or contracts, the following:

(1) (a) For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) (b) For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph (1) division (a), or at the option of the company, the class (3) disability table (1926).

(3) (c) For policies issued prior to January 1, 1961, the class (3) disability table (1926).

(2) A table used under this paragraph "e" shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

f. (1) For accidental death benefits in or supplementary to policies, the following:

(1) (a) For policies issued on or after January 1, 1966, the 1959 accidental death benefits table, or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) (b) For policies issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph (1) division (a), or at the option of the company, the intercompany double indemnity mortality table.

(3) (c) For policies issued prior to January 1, 1961, the intercompany double indemnity mortality table.

(2) A table used under this paragraph "f" shall be combined with a mortality table for calculating the reserves for life insurance policies.

Sec. 105. Section 508.37, subsection 5, paragraphs a and c, Code 2011, are amended to read as follows:

a. (1) This subsection does not apply to policies issued on or after the operative date of subsection 6 as defined in paragraph "k" of that subsection. Except as provided in paragraph "c", the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums is equal to the sum of the following:

(1) (a) The then present value of the future guaranteed benefits provided for by the policy.

(2) (b) Two percent of the amount of the insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as defined in paragraph "b", if the amount of insurance varies with duration of the policy.

(3) (c) Forty percent of the adjusted premium for the first policy year.

(4) (d) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) However, in applying the percentages specified in ~~subparagraphs (3) and (4)~~ subparagraph divisions (c) and (d), no adjusted premium shall be deemed to exceed four percent of the amount of insurance or an equivalent uniform amount. The date of issue of a policy for the purpose of this subsection is the date as of which the rated age of the insured is determined.

c. The adjusted premiums for a policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, the foregoing items (1) and (2) being calculated separately and as specified in paragraphs "a" and "b" of this subsection except that, for the purposes of ~~subparagraphs (2), (3), and (4)~~<sup>2</sup> paragraph "a", subparagraph (1), subparagraph divisions (b), (c), and (d), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in item (2) in this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in item (1) in this paragraph.

Sec. 106. Section 508.38, subsection 3, paragraphs a and b, Code 2011, are amended to read as follows:

a. (1) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in paragraph "b" of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of all of the following:

(4) (a) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in paragraph "b".

(2) (b) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in paragraph "b".

(3) (c) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(2) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during the contract year.

b. (1) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and all of the following, which shall be specified in the contract if the interest rate will be reset:

(4) (a) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under ~~subparagraph (4)~~ division (d).

(2) (b) The result of ~~subparagraph (1)~~ division (a) shall be reduced by one hundred twenty-five basis points.

(3) (c) The resulting interest guarantee shall not be less than one percent.

(4) (d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

(2) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in ~~subparagraph (2)~~ (1), subparagraph division (b), by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date and at each

<sup>2</sup> See chapter 1138, §72 herein

redetermination date thereafter of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(3) The commissioner may adopt rules to implement the provisions of subparagraph (4) (1), subparagraph division (d), and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

Sec. 107. Section 508C.12, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. (1) Notify the commissioners or insurance departments of other states or territories of the United States and the District of Columbia when any of the following actions against a member insurer is taken:

(1) (a) A license is revoked.

(2) (b) A license is suspended.

(3) (c) A formal order is made that a company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.

(2) Notice shall be mailed to the commissioners or departments within thirty days following the earlier of when the action was taken or the date on which the action occurs. This subparagraph does not supersede section 507C.9, subsection 5.

Sec. 108. Section 509.1, subsection 2, Code 2011, is amended to read as follows:

2. a. A policy issued to any one of the following to be considered the policyholder:

a. (1) An advisory, supervisory, or governing body or bodies of a regularly organized religious denomination to insure its clergy, priests, or ministers of the gospel.

b. (2) A teachers' association, to insure its members.

c. (3) A lawyers' association, to insure its members.

d. (4) A volunteer fire company, to insure all of its members.

e. (5) A fraternal society or association, or any subordinate lodge or branch thereof, to insure its members.

f. (6) A common principal of any group of persons similarly engaged between whom there exists a contractual relationship, to insure the members of such group.

g. (7) An association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, to insure the members thereof. For the purpose of this paragraph subparagraph, the students, teachers, administrators or officials of or for any such school or college shall constitute an association.

b. ~~Provided that the~~ The provisions and requirements of subsection 1 of this section shall apply to such the policy and the policyholder and insured in like the same manner as said subsection 1 of this section applies to employers and employees, except that if a policy is issued to a volunteer fire company or an association, the members of which are students, teachers, administrators or officials of any elementary or secondary school or of any college, the requirement for twenty-five members shall not apply, and, if issued to a teachers' association or lawyers' association, not less than sixty-five percent of the members thereof may be insured.

Sec. 109. Section 509A.15, subsections 1 and 4, Code 2011, are amended to read as follows:

1. a. Within ninety days following the end of a fiscal year, the governing body of a self-insurance plan of a political subdivision or a school corporation shall file with the commissioner of insurance a certificate of compliance, actuarial opinion, and an annual financial report. The filing shall be accompanied by a fee of one hundred dollars. A penalty of fifteen dollars per day shall be assessed for failure to comply with the ninety-day filing

requirement, except that the commissioner may waive the penalty upon a showing that special circumstances exist which justify the waiver. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

α. (1) That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

b. (2) That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. ~~The actuarial opinion must include, but is not limited to, a brief commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries. If necessary, the actuary should assist the public body in preparing the annual financial report. The annual financial report shall be in a format as prescribed by the commissioner.~~

e. (3) That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints, in the prior fiscal year.

d. (4) That the governing body has contracted or otherwise arranged with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as a third-party administrator as defined in section 510.11, subsection 2.

b. The actuarial opinion must include but is not limited to a brief commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries.

c. If necessary, the actuary should assist the public body in preparing the annual financial report. The annual financial report shall be in a format as prescribed by the commissioner.

4. a. One or more political subdivisions of the state or one or more school corporations maintaining self-insured plans with yearly claims that do not exceed two percent of each entity's general fund budget shall be exempt from the requirements of this section where the plan insures employees for all or part of a deductible, coinsurance payments, drug costs, short-term disability benefits, vision benefits, or dental benefits.

b. The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or political subdivision or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed two percent of the political subdivision's or school corporation's general fund budget.

Sec. 110. Section 511.8, unnumbered paragraphs 1 and 2, Code Supplement 2011, are amended to read as follows:

A company organized under chapter 508 shall, at all times, have invested in the securities provided in this section, funds equivalent to its legal reserve. Legal reserve is the net present value of all outstanding policies and contracts involving life contingencies. This section does not prohibit a company or association from holding a portion of its legal reserve in cash. The investment programs developed by companies shall take into account the safety of the company's principal, investment yield and return, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs and investment diversification.

~~The investment programs developed by companies shall take into account the safety of the company's principal, investment yield and return, stability in the value of the investment, and liquidity necessary to meet the company's expected business needs and investment diversification.~~

Sec. 111. Section 511.8, subsections 6, 8, 13, 15, 17, 19, and 20, Code Supplement 2011, are amended to read as follows:

6. *Preferred and guaranteed stocks.*

a. Subject to the restrictions contained in subsection 8 hereof, preferred stocks of, or stocks guaranteed by, a corporation incorporated under the laws of the United States of America, or of any state, district, insular or territorial possession thereof; or of the Dominion of Canada, or any province thereof; and which meet the following qualifications:

a. (1) Preferred stocks.

(1) (a) All of the obligations and preferred stocks of the issuing corporation, if any, prior to the preferred stock acquired must be eligible as investments under this section as of the date of acquisition; and

(2) (b) 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.

(i) The term "*preferred dividend requirements*" shall mean cumulative or noncumulative dividends whether paid or not.

(ii) The term "*fixed charges*" shall be construed in accordance with subsection 5 ~~above~~.

(iii) The term "*net earnings available for fixed charges and preferred dividends*" as used herein shall mean the net income after deducting all operating and maintenance expenses, taxes, including any income taxes, depreciation and depletion, but nonrecurring items may be excluded.

b. (2) Guaranteed stocks.

(1) (a) All of the fixed interest-bearing obligations of the guaranteeing corporation, if any, must be eligible under this section as of the date of acquisition; and

(2) (b) The net earnings available for fixed charges of the guaranteeing corporation shall meet the requirements outlined in paragraph "a" of subsection 5 ~~above~~, except that all guaranteed dividends shall be included in "*fixed charges*".

b. Any investments in preferred stocks or guaranteed stocks made under the provisions of this subsection shall be considered as moneys and credits for purposes of taxation and their assessment shall be subject to deductions for indebtedness as provided by law in the case of assessment of moneys and credits in general. This provision shall be effective as to assessments made during the year 1947 and thereafter.

8. *Further restrictions.* Securities included under subsections 5, 6, and 7 shall not be eligible:

a. If the corporation is in default on fixed obligations as of the date of acquisition. Securities provided in ~~paragraph "a" of subsection 6, paragraph "a", subparagraph (1),~~ shall not be eligible if the issuing corporation is in arrears with respect to the payment of any preferred dividends as of the date of acquisition.

b. The investments of any company or association in such securities shall not be eligible in excess of the following percentages of the legal reserve of such company or association:

(1) With the exception of public securities, two percent of the legal reserve in the securities of any one corporation. Five percent of the legal reserve in the securities of any one public utility corporation.

(2) Seventy-five percent of the legal reserve in the securities described in subsection 5 issued by other than public utility corporations. Fifty percent of the legal reserve in the securities described in subsection 5 issued by public utility corporations.

(3) Ten percent of the legal reserve in the securities described in subsection 6.

(4) Ten percent of the legal reserve in the securities described in subsection 7.

c. Statements adjusted to show the actual condition at the time of acquisition or the effect of new financing, known commercially as pro forma statements, may be used in determining whether investments under subsections 5 and 6 are in compliance with requirements. Statements so adjusted or consolidated statements may be used in order to include the earnings of all predecessor, merged, consolidated, or purchased companies.



d. In addition to the restrictions contained in paragraphs “a” and “b”, the investments of any company or association in securities included under subsection 5, paragraph “c”, are not eligible in excess of two percent of the legal reserve, but not more than one-eighth of one percent of the legal reserve shall be invested in the securities of any one corporation.

13. *Collateral loans.* Loans secured by collateral consisting of any securities qualified in this section, provided the amount of the loan is not in excess of ninety percent of the value of the securities. Provided further that subsection 8 shall apply to the collateral securities pledged to the payment of loans authorized in this subsection.

~~Provided further that subsection 8 of this section shall apply to the collateral securities pledged to the payment of loans authorized in this subsection.~~

15. *Railroad obligations.*

a. Bonds or other evidences of indebtedness which carry a fixed rate of interest and are issued, assumed or guaranteed by any railroad company incorporated under the laws of the United States of America, or of any state, district, insular or territorial possessions thereof, not in reorganization or receivership at the time of such investment, provided that the railroad company:

~~1.~~ (1) Shall have had for the three-year period immediately preceding investment, for which the necessary data for the railroad company shall have been published, a balance of income available for fixed charges which shall have averaged per year not less than one and one-quarter times the fixed charges for the latest year of the period; and

~~2.~~ (2) Shall have had for the three-year period immediately preceding investment, for which the necessary data for both the railroad company and all class I railroads shall have been published:

~~(1)~~ (a) A balance of income available for the payment of fixed charges at least as many times greater than the fixed charges for the latest year of the period as the balance of income available for the payment of fixed charges of all class I railroads for the same three-year period is times greater than the amount of all fixed charges for such class I railroads for the latest year of the period; and

~~(2)~~ (b) An amount of railway operating revenues remaining after deduction of three times the fixed charges for the latest year of the period from the balance of income available for the payment of fixed charges for the three-year period, which amount is as great a proportion of its railway operating revenues for the same three-year period as is the proportion of railway operating revenues remaining for all class I railroads, determined in the same manner and for the same period as for the railroad.

b. The terms “class I railroads”, “balance of income available for the payment of fixed charges”, “fixed charges” and “railway operating revenues” when used in this subsection, are to be given the same meaning as in the accounting reports filed by a railroad company in accordance with the regulations for common carriers by rail of the Interstate Commerce Act, 24 Stat. 379, codified at 49 U.S.C. § 1 – 40, 1001 – 1100, provided that the “balance of income available for the payment of fixed charges” and “railway operating revenues remaining”, as the terms are used in this subsection, shall be computed before deduction of federal income or excess profits taxes; and that in computing “fixed charges” there shall be excluded interest and amortization charges applicable to debt called for redemption or which will otherwise mature within six months from the time of investment and for the payment of which funds have been or currently are being specifically set aside.

c. The eligibility of railroad obligations described in ~~the first sentence of this subsection paragraph “a”, unnumbered paragraph 1,~~ shall be determined exclusively as provided herein, without regard to the provisions for qualification contained in subsections 5 and 8 of this section. Provisions for qualification contained in this section shall not be construed as applying to equipment trust obligations, guaranteed stocks, or contingent interest bonds of railroad companies. Investments made in accordance with the provisions of this subsection shall not be eligible in excess of ten percent of the legal reserve.

17. *Rules of valuation.*

a. (1) All bonds or other evidences of debt having a fixed term and rate of interest, if amply secured and not in default as to principal or interest, may be valued as follows:

(1) (a) If purchased at par, at the par value.

~~(2)~~ (b) If purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made.

(2) In applying the ~~above rule contained in subparagraph (1)~~, the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase.

b. Certificates of sale obtained by foreclosure of liens on real estate shall be valued in an amount not greater than the unpaid principal of the defaulted indebtedness plus any amounts actually expended for taxes and acquisition costs.

c. (1) All investments, except those for which a specific rule is provided in this subsection, shall be valued at their market value, or at their appraised value, or at prices determined by the commissioner of insurance as representing their fair market value, or at a value as determined under rules adopted by the national association of insurance commissioners.

(2) The commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rules, but no company or association shall be prevented from valuing any asset at an amount less than that provided by this subsection.

19. *Other foreign government or corporate obligations.* Bonds or other evidences of indebtedness, not to include currency, issued, assumed, or guaranteed by a foreign government other than Canada, or by a corporation incorporated under the laws of a foreign government other than Canada. Such governmental obligations must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Such corporate obligations must meet the qualifications established in subsection 5 for bonds and other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada. Foreign investments authorized by this subsection are not eligible in excess of twenty percent of the legal reserve of the life insurance company or association. Investments in obligations of a foreign government, other than Canada and the United Kingdom, are not eligible in excess of two percent of the legal reserve in the securities of foreign governments of any one foreign nation. Investments in obligations of the United Kingdom are not eligible in excess of four percent of the legal reserve. Investments in a corporation incorporated under the laws of a foreign government other than Canada are not eligible in excess of two percent of the legal reserve in the securities of any one foreign corporation.

a. Eligible investments in foreign obligations under this subsection are limited to the types of obligations specifically referred to in this subsection. This subsection in no way limits or restricts investments in Canadian obligations and securities specifically authorized in other subsections of this section.

b. This subsection shall not authorize investment in evidences of indebtedness issued, assumed, or guaranteed by a foreign government which engages in a consistent pattern of gross violations of human rights.

20. *Venture capital funds.*

a. Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the funds in small businesses having their principal offices within this state and having either more than one half of their assets within this state or more than one half of their employees employed within this state. A company shall not invest more than five percent of its legal reserve under this subsection.

b. For purposes of this subsection, “*venture capital fund*” means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. “*Equity interests*” means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability. “*Venture capital fund*” includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

“*Venture capital fund*” includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

Sec. 112. Section 512B.6, subsection 1, Code 2011, is amended to read as follows:

1. a. A society shall operate for the benefit of members and their beneficiaries by fulfilling both of the following purposes:

α. (1) Providing benefits as specified in section 512B.16.

β. (2) Operating for one or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic, or religious purposes for the benefit of its members, which may also be extended to others.

b. The purposes listed in this subsection may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

Sec. 113. Section 512B.19, subsection 4, Code 2011, is amended to read as follows:

4. a. A society shall provide in its laws that if its reserves as to all or any class of certificates become impaired, its supreme governing body or board of directors may require that there be paid by the owners to the society the amount of the owners' equitable proportion of the deficiency as ascertained by its governing body or board, and that if the payment is not made either of the following will apply:

α. (1) The required payment or assessment shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates.

β. (2) In lieu of or in combination with ~~paragraph "α"~~ subparagraph (1), the owner may accept a proportionate reduction in benefits under the certificate.

b. The society may specify the manner of the election and which alternative is to be presumed if no election is made.

Sec. 114. Section 512B.23, subsection 2, Code 2011, is amended to read as follows:

2. a. The minimum standards of valuation for certificates issued on or after January 1, 1991, shall be based on the following tables:

α. (1) For certificates of life insurance, the commissioner's 1980 standard ordinary mortality table or any more recent table made applicable to life insurers.

β. (2) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for noncancelable accident and health benefits, the tables authorized for use by life insurers in this state.

b. ~~Paragraphs "α" and "β"~~ Paragraph "α", subparagraphs (1) and (2) are under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

Sec. 115. Section 514A.1, Code 2011, is amended to read as follows:

**514A.1 Definition of accident and sickness insurance policy.**

1. ~~"Policy of accident and sickness insurance" as used in this chapter~~ As used in this chapter, "policy of accident and sickness insurance" includes a policy or contract covering insurance against loss resulting from sickness, or from bodily injury or death by accident, or both. For the purposes of this chapter the words "policy of accident and sickness insurance" are interchangeable without deviation of meaning with the words "policy of accident and health insurance" or the words "policy of accident or health insurance." "policy of accident or health insurance".

2. This chapter applies to all individual policies of such accident and sickness insurance written by Iowa or non-Iowa companies or associations duly licensed under chapter 508, 515, or 520 and, societies, orders, or associations licensed under chapter 512B writing sickness and accident policies providing benefits for loss of time.

3. Orders, societies or associations which admit to membership only persons engaged in one or more crafts or hazardous occupations in the same or similar lines of business and the societies or auxiliaries to such orders shall not be subject to the provisions of this chapter nor shall any religious order be subject to the provisions of this chapter.

Sec. 116. Section 514B.3, Code 2011, is amended to read as follows:

**514B.3 Application for a certificate of authority.**

1. An application for a certificate of authority shall be verified by an officer or authorized representative of the health maintenance organization, shall be in a form prescribed by the commissioner, and shall set forth or be accompanied by the following:

1. a. A copy of the basic organizational document, if any, of the applicant such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all of its amendments.

2. b. A copy of the bylaws, rules or similar document, if any, regulating the conduct of the internal affairs of the applicant.

3. c. A list of the names, addresses and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers if a corporation and the partners or members if a partnership or association.

4. d. A copy of any contract made or to be made between any providers or persons listed in subsection 3 paragraph "c" and the applicant.

5. e. A statement generally describing the health maintenance organization including, but not limited to, a description of its facilities and personnel.

6. f. A copy of the form of evidence of coverage.

7. g. A copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees or other organizations.

8. h. Financial statements showing the applicant's assets, liabilities and sources of financial support. If the applicant's financial affairs are audited by an independent certified public accountant, a copy of the applicant's most recent regular certified financial statement shall satisfy this requirement unless the commissioner directs that additional financial information is required for the proper administration of this chapter.

9. i. A description of the proposed method of marketing the plan, a financial plan which includes a three-year projection of operating results anticipated, and a statement as to the sources of funding.

10. j. A power of attorney executed by any applicant appointing the commissioner, the commissioner's successors in office, and deputies to receive process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state.

11. k. A statement reasonably describing the geographic area to be served.

12. l. A description of the complaint procedures to be utilized as required under section 514B.14.

13. m. A description of the procedures and programs to be implemented to meet the requirements for quality of health care as determined by the director of public health under section 514B.4.

14. n. A description of the mechanism by which enrollees shall be allowed to participate in matters of policy and operation as required by section 514B.7.

15. o. Other information the commissioner finds reasonably necessary to make the determinations required in section 514B.5.

2. A health maintenance organization shall, unless otherwise provided for in this chapter, file notice with the commissioner and receive approval from the commissioner before modifying the operations described in the information required by this section.

3. Upon receipt of an application for a certificate of authority, the commissioner shall immediately transmit copies of the application and accompanying documents to the director of public health and the affected regional health planning council, as authorized by Pub. L. No. 89-749, 42 U.S.C. § 246(b)2b, for their nonbinding consultation and advice.

Sec. 117. Section 514B.5, Code 2011, is amended to read as follows:

**514B.5 Issuance and denial of a certificate of authority.**

1. The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 514B.3 within a reasonable period of time. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 514B.22 if the commissioner is satisfied that the following conditions are met:

1. a. The persons responsible for the conduct of the affairs of the applicant are competent and trustworthy.
2. b. The commissioner finds that the health maintenance organization's proposed plan of operation meets the requirements of section 514B.4.
3. c. The health maintenance organization provides or arranges for the provision of basic health care services on a prepaid basis, except that the health maintenance organization may impose deductible and coinsurance charges subject to approval by the commissioner. The commissioner has the authority to promulgate rules pursuant to chapter 17A establishing reasonable maximum deductible and coinsurance charges which may be imposed by health maintenance organizations.
4. d. The health maintenance organization is fiscally sound and may reasonably be expected to meet its obligations to enrollees. In making this determination, the commissioner may consider:
  - a. (1) The financial soundness of the health maintenance organization's arrangements for health care services in relation to its schedule of charges.
  - b. (2) The adequacy of the health maintenance organization's working capital.
  - c. (3) Any agreement made by the health maintenance organization with an insurer, a corporation authorized under chapter 514 or any other organization for insuring the payment of the cost of health care services or for providing immediate alternative coverage in the event of discontinuance of the health maintenance organization.
  - d. (4) Any agreement made with providers for the provision of health care services.
  - e. (5) Any surety bond or deposit of cash or securities submitted in accordance with section 514B.16.
5. e. The enrollees may participate in matters of policy and operation pursuant to section 514B.7.
6. f. Nothing in the proposed method of operation as shown by the information submitted pursuant to section 514B.3 or by independent investigation is contrary to the public interest.
2. A certificate of authority shall be denied only after compliance with the requirements of section 514B.26.

Sec. 118. Section 514B.6, Code 2011, is amended to read as follows:

**514B.6 Powers of health maintenance organizations.**

1. The powers of a health maintenance organization include, but are not limited to, the following:
  1. a. The purchase, lease, construction, renovation, operation or maintenance of hospitals, medical facilities, or both, and their ancillary equipment, and such property as may reasonably be required for transacting the business of the organization.
  2. b. The making of loans to a medical group under contract with it or to a corporation under its control for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees.
  3. c. The furnishing of health care services to the public through providers which are under contract with or employed by the health maintenance organization.
  4. d. The contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment and administration.
  5. e. The contracting with an insurance company authorized to insure groups or individuals in this state for the cost of health care or with a corporation authorized under chapter 514 for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.
  6. f. The offering, in addition to basic health care services, of health care services and indemnity benefits to enrollees or groups of enrollees.
  7. g. The acceptance from any person of payments covering all or part of the charges made to enrollees of the health maintenance organization.
2. A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in ~~subsections 1 and 2~~ subsection 1, paragraphs "a" and "b". The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may adopt

rules exempting from the filing requirement of this section those activities having a minimum effect.

Sec. 119. Section 514B.9, Code 2011, is amended to read as follows:

**514B.9 Evidence of coverage.**

1. Every enrollee shall receive an evidence of coverage and any amendments. If the enrollee obtains coverage through an insurance policy or a contract issued by a corporation authorized under chapter 514, the insurer or the corporation shall issue the evidence of coverage. No evidence of coverage or amendment shall be issued or delivered to any person in this state until a copy of the form of the evidence of coverage or amendment has been filed with and approved by the commissioner.

2. An evidence of coverage shall contain a clear and complete statement of:

1. *a.* The health care services and the insurance or other benefits, if any, to which the enrollee is entitled in the total context of the organizational structure of the health maintenance organization.

2. *b.* Any limitations on the services or benefits to be provided, including any deductible or coinsurance charges permitted under section 514B.5, subsection 3 1, paragraph "c".

3. *c.* The manner in which information is available on the method of obtaining health care services.

4. *d.* The total amount of payment for health care services and indemnity or service benefits, if any, which the enrollee is obligated to pay with respect to individual contracts, or an indication whether the plan offered through the health maintenance organization is contributory or noncontributory with respect to group contracts.

5. *e.* The health maintenance organization's method for resolving enrollee complaints.

6. *f.* The mechanism by which enrollees shall be allowed to participate in matters of policy and operation.

3. A copy of the form of the evidence of coverage to be used in this state and any amendment shall be subject to the filing and approval requirements of this section unless it is subject to the jurisdiction of the commissioner under the laws governing health insurance or corporations authorized under chapter 514 in which event the filing and approval provisions of such laws apply. To the extent, however, that those provisions are less strict than those provided under this section, then the requirements of this section shall apply.

4. Enrollees shall be entitled to receive the most recent annual statement of the financial condition of the health maintenance organization in which they are enrolled, which statement shall include a balance sheet and summary of receipts and disbursements.

Sec. 120. Section 515.35, subsection 4, paragraphs a and e, Code 2011, are amended to read as follows:

*a. United States government obligations.* Obligations issued or guaranteed by the United States or an agency or instrumentality of the United States. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include 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. § 80a, and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in this paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation – full faith and credit list.

~~Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include 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. § 80a, and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in this paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation – full faith and credit list.~~

*e. Corporate and business trust obligations.* Obligations issued, assumed, or guaranteed by a corporation or business trust organized under the laws of the United States or a state of the United States, or the laws of Canada or a province of Canada, provided that a company shall not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust. Aggregate investments in below investment grade bonds shall not exceed five percent of assets.

~~Aggregate investments in below investment grade bonds shall not exceed five percent of assets.~~

Sec. 121. Section 515.35, subsection 4, paragraph h, subparagraph (1), Code 2011, is amended to read as follows:

(1) (a) Except as provided in subparagraphs (2), (3), and (4) of this paragraph, a company may acquire, hold, and convey real estate only as follows:

(a) (i) Real estate mortgaged to it in good faith as security for loans previously contracted, or for moneys due.

(b) (ii) Real estate conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

(c) (iii) Real estate purchased at sales on judgments, decrees, or mortgages obtained or made for debts previously contracted in the course of its dealings.

(d) (iv) Real estate subject to a contract for deed under which the company holds the vendor's interest to secure the payments the vendee is required to make under the contract.

(b) All real estate specified in subparagraph ~~divisions (a), (b), and (c)~~ division (a), subparagraph subdivisions (i), (ii), and (iii) shall be sold and disposed of within three years after the company acquires title to it, or within three years after the real estate ceases to be necessary for the accommodation of the company's business, and the company shall not hold any of those properties for a longer period unless the company elects to hold the property under another paragraph of this section, or unless the company procures a certificate from the commissioner of insurance that its interest will suffer materially by the forced sale of those properties and that the time for the sale is extended to the time the commissioner directs in the certificate.

Sec. 122. Section 515.35, subsection 4, paragraph m, Code 2011, is amended to read as follows:

*m. Venture capital funds.* Shares or equity interests in venture capital funds which agree to invest an amount equal to at least fifty percent of the investments by a company in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. A company shall not invest more than five percent of its capital and surplus under this paragraph. For purposes of this paragraph, "venture capital fund" means a corporation, partnership, proprietorship, or other entity formed under the laws of the United States, or a state, district, or territory of the United States, whose principal business is or will be the making of investments in, and the provision of significant managerial assistance to, small businesses which meet the small business administration definition of small business. "Equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

~~"Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.~~

Sec. 123. Section 515B.9, subsection 1, Code 2011, is amended to read as follows:

1. a. Any person having a claim under an insurance policy, and the claim under such other policy alleges the same damages or arises from the same facts, injury, or loss that gives rise to a covered claim against the association, shall be required to first exhaust all coverage provided by that policy, whether such coverage is on a primary, excess, or pro rata basis and any obligation of the association shall not be considered other insurance.

(1) Any amount payable on a covered claim shall be reduced by the full applicable limits of such other insurance policy and the association shall receive full credit for such limits or where there are no applicable limits, the claim shall be reduced by the total recovery.

α. (2) A policy providing liability coverage to a person who may be jointly and severally liable with, or a joint tortfeasor with, the person covered under the policy of the insolvent insurer shall be first exhausted before any claim is made against the association and the association shall receive credit for the same as provided above.

b. For purposes of this section, an insurance policy means a policy issued by an insurance company, whether or not a member insurer, which policy insures any of the types of risks insured by an insurance company authorized to write insurance under chapter 515, 516A, or 520, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

Sec. 124. Section 515E.2, subsections 2, 6, and 7, Code 2011, are amended to read as follows:

2. a. “*Completed operations liability*” means liability arising out of the installation, maintenance, or repair of any product at a site which is not owned or controlled by either of the following:

α. (1) A person who performs that work.

b. (2) A person who hires an independent contractor to perform that work.

b. However, liability for activities which are completed or abandoned before the date of the occurrence giving rise to the liability is included.

6. a. “*Liability*” means legal liability for damages, including costs of defense, legal costs and fees, and other claims expenses, because of injuries to other persons, damage to their property, or other damage or loss to other persons resulting from or arising out of either of the following:

α. (1) A business, whether profit or nonprofit, trade, product, services, including professional services, premises, or operations.

b. (2) An activity of a state or local government, or an agency or political subdivision of state or local government.

b. “*Liability*” does not include personal risk liability and an employer’s liability with respect to its employees other than an employer’s legal liability under the federal Employers’ Liability Act, 45 U.S.C. § 51 et seq.

7. “*Personal risk liability*” means liability for damages because of injury to a person, damage to property, or other loss or damage resulting from personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in subsection 6, paragraphs “a” and “b” paragraph “a”, subparagraphs (1) and (2).

Sec. 125. Section 515E.4, unnumbered paragraphs 1 and 2, Code Supplement 2011, are amended to read as follows:

Risk retention groups chartered in other states and seeking to do business as a risk retention group in this state must observe and abide by the laws of this state as provided in this section. However, a risk retention group failing to qualify under the definitional requirement of the federal Act, will not benefit from this exemption from state law. The commissioner, therefore, may apply any of the laws that otherwise may be preempted by the federal Act because the nonexempt group will not qualify for the preemption.

~~However, a risk retention group failing to qualify under the definitional requirement of the federal Act, will not benefit from this exemption from state law. The commissioner, therefore, may apply any of the laws that otherwise may be preempted by the federal Act because the nonexempt group will not qualify for the preemption.~~

Sec. 126. Section 515F.6, subsection 3, unnumbered paragraph 2, Code 2011, is amended to read as follows:

4. If, after 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 filing fails to meet the requirements of this chapter, and stating when, within a reasonable period after the order is issued, the filing shall no longer be in effect. Copies of the order shall be



sent to the applicant and to every insurer and advisory organization which made that filing. The order shall not affect a contract or policy made or issued prior to the expiration of the period set forth in the order.

Sec. 127. Section 516D.4, Code 2011, is amended to read as follows:

**516D.4 Collision damage and loss.**

1. a. A rental company shall not hold, or attempt to hold, an authorized driver liable for physical damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, unless the rental company offers the customer a collision damage waiver under the terms and conditions described in subsection 2 of this section, or unless one or more of the following applies:

a. (1) The damage or loss is caused intentionally by an authorized driver or is a result of the authorized driver's willful, abusive, reckless, or wanton misconduct.

b. (2) The damage or loss arises out of the authorized driver's operation of the rental vehicle while intoxicated or under the influence of a drug.

c. (3) The damage or loss is caused while the authorized driver is engaged in a race, training activity, contest, or use of the rental vehicle for an illegal purpose.

d. (4) The rental agreement is based on false or misleading information supplied by the customer or an authorized driver.

e. (5) The damage or loss is caused by operating the rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots.

f. (6) The damage or loss arises out of the use of the rental vehicle to transport persons or property for hire or to push or tow anything.

g. (7) The damage or loss occurs while the rental vehicle is operated by a driver other than an authorized driver.

h. (8) The damage or loss arises out of the use of the rental vehicle outside the continental United States unless such use is specifically authorized by the rental agreement.

i. (9) The damage or loss is attributable to theft which occurs with the prior knowledge or knowing participation of an authorized driver, or which is attributable to the authorized driver leaving the rental vehicle unattended with the keys in the rental vehicle.

b. This section does not alter the liability of a customer or authorized driver for bodily injury or the death of another and for property damage other than to the rental vehicle in accordance with the rental agreement. This section does not prohibit a rental company from accepting or negotiating master contracts with companies or government entities in advance of need whereby the companies or government entities specifically agree to assume liability in exchange for rate concessions. This section does not prohibit a rental company from entering into agreements with insurance companies to provide replacement vehicles to insurance company customers whereby the insurance company agrees to assume the risk of loss.

c. If the rental vehicle is not repaired, damages shall not exceed the fair market value of the vehicle, as determined in the customary market for that vehicle, less salvage or actual sale value, plus additional license and tax fees incurred because of the sale, plus administrative fees. A claim shall not be made for loss of use if the rental vehicle is not repaired.

2. a. A rental company may offer a collision damage waiver under the following terms and conditions:

a. (1) All restrictions, conditions, and exclusions must be printed in the rental agreement, or on a separate sheet or document, in ten point type, or larger; or written in pen and ink or typewritten in or on the face of the rental agreement in a blank space provided for such restrictions, conditions, and exclusions. The rental agreement may provide that the collision damage waiver may be voided under the conditions set forth in subsection 1, paragraphs "a" through "i" paragraph "a", subparagraphs (1) through (9).

b. (2) The rental agreement, separate sheet, or document must clearly and conspicuously state both the daily and estimated total charge for the collision damage waiver.

c. (3) (a) The rental agreement, separate sheet, or document given to the customer prior to entering into the rental agreement must display in ten point type, or larger, the following notice:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION

DAMAGE WAIVER TO COVER ALL OR PART OF YOUR RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

(b) The customer must separately acknowledge that the customer received the above notice, that the customer desires to purchase the collision damage waiver, and the terms of the collision damage waiver to which the customer agrees.

~~d.~~ (4) The car rental company shall not pay commissions to a rental counter agent or representative for selling collision damage waivers and is prohibited from considering volume of sales of collision damage waivers in an employee evaluation or determination of promotion.

b. However, notwithstanding whether a rental company offers a collision damage waiver under the provisions of this subsection, the rental company shall not hold an authorized driver liable for damage or loss due to theft except where subsection 1, paragraph “i” “a”, subparagraph (9) applies.

Sec. 128. Section 518C.3, subsection 4, paragraph b, Code Supplement 2011, is amended to read as follows:

b. (1) “Covered claim” does not include any of the following:

(1) (a) An amount due a reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, indemnity recoveries, or otherwise.

(2) (b) An amount that constitutes the portion of a claim that is within an insured’s deductible or self-insured retention.

(3) (c) A fee or other amount relating to goods or services sought by or on behalf of an attorney, adjuster, witness, or other provider of goods or services retained by the insolvent insurer or by an insured prior to the date the insurer was declared insolvent.

(4) (d) An amount that constitutes a fine, penalty, interest, or punitive or exemplary damages.

(5) (e) A fee or other amount sought by or on behalf of an attorney, adjuster, witness, or other provider of goods or services retained by the insured or claimant in connection with the assertion of any claim, covered or otherwise, against the association.

(6) (f) A claim filed with the association or with a liquidator for protection afforded under the insured’s policy or contract for incurred but not reported losses or expenses.

(7) (g) An amount that is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.

(2) Notwithstanding ~~subparagraphs (1) through (7)~~ subparagraph (1), subparagraph divisions (a) through (g), a person is not prevented from presenting a noncovered claim to the insolvent insurer or its liquidator. However, the noncovered claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage of the policy issued by the insolvent insurer.

Sec. 129. Section 521A.3, subsections 1 and 2, Code 2011, are amended to read as follows:

1. *Filing requirements.*

a. No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person

has filed with the commissioner and has sent to such insurer, and such insurer has sent to its shareholders, a statement containing the information required by this section and such offer, request, invitation, agreement or acquisition has been approved by the commissioner in the manner hereinafter prescribed.

*b.* For purposes of this section a domestic insurer shall include any other person controlling a domestic insurer unless the other person is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, for purposes of this section “person” does not include a securities broker holding, in the usual and customary broker’s function, less than twenty percent of the voting securities of an insurance company or of a person which controls an insurance company.

*2. Content of statement.*

*a.* The statement to be filed with the commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

*α.* (1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection 1 ~~of this section~~ is to be effected, hereinafter called “acquiring party”.

(1) *(a)* If such person is an individual, the individual’s principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years.

(2) *(b)* If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person’s subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph (1) ~~of this paragraph~~ division (a).

*b.* (2) The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction in which funds were or are to be obtained for any such purpose including a pledge of the insurer’s stock, or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing the consideration. However, if a source of the consideration is a loan made in the lender’s ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests.

*c.* (3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

*d.* (4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

*e.* (5) The number of shares of any security referred to in subsection 1 ~~of this section~~ which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection 1 ~~of this section~~, and a statement as to the method by which the fairness of the proposal was arrived at.

*f.* (6) The amount of each class of any security referred to in subsection 1 ~~of this section~~ which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

*g.* (7) A full description of any contracts, arrangements or understandings with respect to any security referred to in subsection 1 ~~of this section~~ in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into.

~~h.~~ (8) A description of the purchase of any security referred to in subsection 1 ~~of this section~~ during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

~~i.~~ (9) A description of any recommendations to purchase any security referred to in subsection 1 ~~of this section~~ made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interview or at the suggestion of such acquiring party.

~~j.~~ (10) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection 1 ~~of this section~~, and, if distributed, of additional soliciting material relating thereto.

~~k.~~ (11) The terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of securities referred to in subsection 1 ~~of this section~~ for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

~~l.~~ (12) Additional information as the commissioner may by rule prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

~~b.~~ If the person required to file the statement referred to in subsection 1 ~~of this section~~ is a partnership, limited partnership, syndicate or other group, the commissioner may require that the information called for by paragraphs "a" through "l" ~~of this subsection~~ paragraph "a", subparagraphs (1) through (12) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in subsection 1 ~~of this section~~ is a corporation, the commissioner may require that the information called for by paragraphs "a" through "l" ~~of this subsection~~ paragraph "a", subparagraphs (1) through (12) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

Sec. 130. Section 521B.2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Credit for reinsurance is allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurer meets the requirements of subsection 1, 2, 3, 4, or 5. If the reinsurer meets the requirements of subsection 3 or 4, the requirements of subsection 6 must also be met. This section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

Sec. 131. Section 521B.2, subsection 2, Code 2011, is amended to read as follows:

2. ~~a.~~ Credit is allowed if the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in this state. An accredited reinsurer is one which satisfies all of the following conditions:

~~a.~~ (1) Files with the commissioner evidence of submission to the jurisdiction of this state.

~~b.~~ (2) Submits to the authority of this state to examine its books and records.

~~c.~~ (3) Is licensed to transact reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact the business of reinsurance in at least one state.

~~d.~~ (4) Files annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement and does either of the following:

(4) (a) Maintains a surplus with respect to policyholders in an amount which is not less than twenty million dollars and whose accreditation has not been denied by the commissioner within ninety days of its submission to the jurisdiction of this state.

(2) (b) Maintains a surplus with respect to policyholders in an amount less than twenty million dollars and whose accreditation has been approved by the commissioner. Credit shall not be allowed a domestic ceding insurer, if the accreditation of the assuming insurer is revoked by the commissioner after notice and hearing.

b. To qualify as an accredited reinsurer, an assuming insurer must meet all of the requirements and the standards set forth in this subsection. If the commissioner determines that the assuming insurer has failed to continue to meet any of these requirements or standards, the commissioner may upon written notice and hearing revoke accreditation of the assuming insurer.

~~This section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.~~

Sec. 132. Section 521C.3, subsection 5, Code 2011, is amended to read as follows:

5. a. The commissioner may refuse to issue a reinsurance intermediary license if, in the commissioner's judgment, any of the following conditions are present:

a. (1) The applicant, anyone named in the application, or any member, principal, officer, or director of the applicant, is not trustworthy.

b. (2) A controlling person of such applicant is not trustworthy to act as a reinsurance intermediary.

e. (3) Conditions present in paragraph "a" or "b" subparagraph (1) or (2) have given cause for revocation or suspension of a license, or a person referred to in paragraph "a" or "b" subparagraph (1) or (2) has failed to comply with any prerequisite for the issuance of a license.

b. Upon written request, the commissioner shall furnish a written summary of the basis for refusal to issue a license, which document is privileged and not subject to disclosure under chapter 22.

Sec. 133. Section 521D.4, subsection 3, Code 2011, is amended to read as follows:

3. a. A report required to be filed pursuant to this chapter is to be filed regardless of who has initiated the nonrenewal, cancellation, or revision of the ceded reinsurance agreement whenever one or more of the following conditions exist:

a. (1) The entire cession has been canceled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves, after any nonrenewal, cancellation, or revision, represent less than fifty percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred.

b. (2) An authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer.

e. (3) Collateral requirements previously established for unauthorized reinsurers have been reduced.

b. Subject to the materiality criteria, for purposes of paragraphs "b" and "c" paragraph "a", subparagraphs (2) and (3), a report shall be filed if the result of the revision affects more than ten percent of the cession.

Sec. 134. Section 524.605, Code 2011, is amended to read as follows:

**524.605 Liability of directors in certain cases.**

1. In addition to any other liabilities imposed by law upon directors of a state bank:

1. a. Directors of a state bank who vote for or assent to the declaration of any dividend or other distribution of the assets of a state bank to its shareholders in willful or negligent violation of the provisions of this chapter or of any restrictions contained in the articles of incorporation, shall be jointly and severally liable to the state bank for the amount of such dividend which is paid or the value of such assets which are distributed in excess of the amount of such dividend or distribution which could have been paid or distributed without a violation of the provisions of this chapter or of the restrictions in the articles of incorporation.

2. b. The directors of a state bank who vote for or assent to any distribution of assets of a state bank to its shareholders during the dissolution of the state bank without the payment and discharge of, or making adequate provision for, all known debts, obligations, and liabilities of the state bank shall be jointly and severally liable to the state bank for the value of such assets which are distributed, to the extent that such debts, obligations and liabilities of the state bank are not thereafter paid and discharged.

3. c. The directors of a state bank who, willfully or negligently, vote for or assent to loans or extensions of credit in violation of the provisions of this chapter, shall be jointly and severally liable to the state bank for the total amount of any loss sustained.

4. d. The directors of a state bank who, willfully or negligently, vote for or assent to any investment of funds of the state bank in violation of the provisions of this chapter shall be jointly and severally liable to the state bank for the amount of any loss sustained on such investment.

2. A director of a state bank who is present at a meeting of its board of directors at which action on any matter is taken shall be presumed to have assented to the action taken unless the director's dissent shall be entered in the minutes of the meeting or unless the director shall file the director's written dissent to such action with the individual acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered or certified mail to the cashier of the state bank promptly after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

3. A director shall not be liable under subsection 1, ~~2, 3, or 4 of this section~~ paragraph "a", "b", "c", or "d" if the director relied and acted in good faith upon information represented to the director to be correct by an officer or officers of such state bank or stated in a written report by a certified public accountant or firm of such accountants. No director shall be deemed to be negligent within the meaning of this section if the director in good faith exercised that diligence, care and skill which an ordinarily prudent person would exercise as a director under similar circumstances.

4. Any director against whom a claim shall be asserted under or pursuant to this section for the payment of a dividend or other distribution of assets of a state bank and who shall be held liable thereon, shall be entitled to contribution from the shareholders who accepted or received any such dividend or assets, knowing such dividend or distribution to have been made in violation of the provisions of this chapter, in proportion to the amounts received by them respectively. Further, any director against whom a claim shall be asserted pursuant to this section for the payment of any liability imposed by this section shall be entitled to contribution from any director found to be similarly liable.

5. Whenever the superintendent deems it necessary the superintendent may require, after affording an opportunity for a hearing upon adequate notice, that a director or directors whom the superintendent reasonably believes to be liable to a state bank pursuant to subsection 1, ~~2, 3, or 4 of this section~~ paragraph "a", "b", "c", or "d", to place in an escrow account in an insured bank located in this state, as directed by the superintendent, an amount sufficient to discharge any liability which may accrue pursuant to subsection 1, ~~2, 3, or 4 of this section~~ paragraph "a", "b", "c", or "d". The amount so deposited shall be paid over to the state bank by the superintendent upon final determination of the amount of such liability. Any portion of the escrow account which is not necessary to meet such liability shall be repaid on a pro rata basis to the directors who contributed to the fund.

6. Any action seeking to impose liability under this section, other than liability for contribution, shall be commenced only within five years of the action complained of and not thereafter.

Sec. 135. Section 524.901, subsection 7, Code 2011, is amended to read as follows:

7. a. A state bank, upon the approval of the superintendent, may invest up to five percent of its aggregate capital in the shares or equity interests of any of the following:

α. (1) Economic development corporations organized under chapter 496B to the extent authorized by and subject to the limitations of that chapter.

β. (2) Community development corporations or community development projects to the same extent a national bank may invest in such corporations or projects pursuant to 12 U.S.C. § 24.

e. (3) Small business investment companies as defined by the laws of the United States.

d. (4) Venture capital funds which invest an amount equal to at least fifty percent of a state bank's investment in small businesses having their principal offices within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state.

e. (5) Small businesses having a principal office within this state and having either more than one-half of their assets within this state or more than one-half of their employees employed within this state. An investment by a state bank in a small business under this paragraph subparagraph shall be included with the obligations of the small business to the state bank that are incurred as a result of the exercise by the state bank of the powers conferred in section 524.902 for the purpose of determining the total obligations of the small business pursuant to section 524.904. A state bank's equity interest investment in a small business, pursuant to this paragraph subparagraph, shall not exceed a twenty percent ownership interest in the small business.

f. (6) Other entities, acceptable to the superintendent, whose sole purpose is to promote economic or civic developments within a community or this state.

b. A state bank's total investment in any combination of the shares or equity interests of the entities identified in paragraphs "a" through "f" paragraph "a", subparagraphs (1) through (6) shall be limited to fifteen percent of its aggregate capital.

c. For purposes of this subsection:

(1) The term "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.

(2) The term "small business" means a corporation, partnership, proprietorship, or other entity which meets the appropriate United States small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to the state.

~~(3) For purposes of this subsection, the The term "venture capital fund" means a corporation, partnership, proprietorship, or other entity whose principal business is or will be the making of investments in, and the providing of significant managerial assistance to, small businesses. The term "small business" means a corporation, partnership, proprietorship, or other entity which meets the appropriate United States small business administration definition of small business and which is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or other products not previously generally available in this state, or other investments which provide an economic benefit to the state. The term "equity interests" means limited partnership interests and other equity interests in which liability is limited to the amount of the investment, but does not mean general partnership interests or other interests involving general liability.~~

Sec. 136. Section 527.7, Code 2011, is amended to read as follows:

**527.7 Records maintained.**

1. All transactions engaged in through a satellite terminal shall be recorded in a form from which it will be possible to produce a humanly readable record of any transaction, and these recordings shall be retained by the utilizing financial institutions for the periods required by law.

2. The machine receipt provided to a satellite account transaction card user by a satellite terminal shall be admissible as evidence in any legal action or proceeding and shall constitute prima facie proof of the transaction evidence by that receipt.

3. A financial institution shall provide each of its satellite account holders with a periodic account statement that shall contain a brief description of all satellite terminal transactions sufficient to enable the account holder to identify any transaction and to relate it to machine receipts provided by satellite terminals.

4. When a periodic account statement includes both satellite terminal transactions and other nonsatellite terminal transactions, all satellite terminal transactions shall be indicated as such, and shall be accompanied by the description required by this subsection 3.

5. The administrator may provide by rule for the recording and maintenance, by any financial institution utilizing a satellite terminal, of amounts involved in a transaction engaged in through the satellite terminal which are of a known tax consequence to the customer initiating the transaction. For the purpose of this ~~paragraph~~ subsection, “*known tax consequences*” means and includes but shall not be limited to the following:

1. a. An amount directly or indirectly received from a customer and applied to a loan account of the customer which represents interest paid by the customer to the financial institution.

2. b. In any transaction where the total amount involved is deducted from funds in a customer’s account and is simultaneously paid either directly or indirectly by the financial institution to the account of a third party, any portion of the transaction amount which represents a sales or other tax imposed upon or included within the transaction and collected by that third party from the customer, or any portion of the transaction amount which represents interest paid to the third party by the customer.

3. c. Any other transaction which the administrator determines to have direct tax consequences to the customer. The administrator also may provide for the periodic distribution to customers of summaries of transactions having known tax consequences.

Sec. 137. Section 527.9, subsection 2, Code 2011, is amended to read as follows:

2. a. A person desiring to operate a central routing unit shall submit to the administrator an application which shall contain all of the following information:

~~a.~~ (1) The name and business address of the owner of the proposed unit.

~~b.~~ (2) The name and business address of each data processing center and other central routing unit with which the proposed central routing unit will have direct electronic communication.

~~c.~~ (3) The location of the proposed central routing unit.

~~d.~~ (4) A schedule of the charges which will be required to be paid to that applicant by each financial institution which utilizes the proposed central routing unit.

~~The application shall be accompanied by all agreements between the proposed central routing unit and all data processing centers and other central routing units respecting the transmission of transaction data; and a copy of any agreement between the proposed central routing unit and any financial institution establishing a satellite terminal unless that agreement theretofore has been filed with the administrator pursuant to section 527.5.~~

~~e.~~ (5) An agreement by the applicant that the proposed central routing unit will be capable of accepting and routing, and will be operated to accept and route, transmissions of data originating at any satellite terminal located in this state, except limited-function terminals, whether receiving from that terminal or from a data processing center or other central routing unit.

~~f.~~ (6) A representation and undertaking that the proposed central routing unit is directly connected to every data processing center that is directly connected to a satellite terminal located in this state, and that the proposed central routing unit will provide for direct connection in the future with any data processing center that becomes directly connected to a satellite terminal located in this state. This representation and undertaking is not required of a central routing unit with respect to limited-function terminals.

b. The application shall be accompanied by all agreements between the proposed central routing unit and all data processing centers and other central routing units respecting the transmission of transaction data; and a copy of any agreement between the proposed central routing unit and any financial institution establishing a satellite terminal unless that agreement theretofore has been filed with the administrator pursuant to section 527.5.

Sec. 138. Section 533.102, subsection 3, Code 2011, is amended to read as follows:

3. a. “*Credit union*” means a cooperative, nonprofit association, organized or incorporated in accordance with the provisions of this chapter or under the laws of another state or the Federal Credit Union Act, 12 U.S.C. § 1751 et seq., for the purposes of creating a source of credit at a fair and reasonable rate of interest, of encouraging habits of thrift among its members, and of providing an opportunity for its members to use and control their own money on a democratic basis in order to improve their economic and social condition.



b. A ~~credit union~~ “credit union” is also a supervised financial organization as that term is defined and used in chapter 537, the Iowa consumer credit code.

Sec. 139. Section 536A.10, Code 2011, is amended to read as follows:

**536A.10 Issuance of license.**

1. If the superintendent shall find:

1. a. That the financial responsibility, experience, character and general fitness of the applicant and of the officers thereof are such as to command the confidence of the community, and to warrant the belief that the business will be operated honestly, fairly and efficiently within the purpose of this chapter;

2. b. That a reasonable necessity exists for a new industrial loan company in the community to be served;

3. c. That the applicant has available for the operation of the business at the specified location paid-in capital and surplus as required by section 536A.8; and

4. d. That the applicant is a corporation organized for pecuniary profit under the laws of the state of Iowa.

2. The superintendent shall approve the application and issue to the applicant a license to engage in the industrial loan business in accordance with the provisions of this chapter. The superintendent shall approve or deny an application for a license within one hundred twenty days from the date of the filing of such application.<sup>3</sup>

Sec. 140. Section 542B.2, Code 2011, is amended to read as follows:

**542B.2 Terms defined.**

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

1. The “~~board~~” “Board” means the engineering and land surveying examining board provided by this chapter.

2. “Design coordination” includes the review and coordination of technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer.

2. The term “~~engineering documents~~” as used in this chapter includes all plans, specifications, drawings, and reports, if the preparation of such documents constitutes or requires the practice of engineering.

3. The term “~~engineer intern~~” as used in this chapter “Engineer intern” means a person who passes an examination in the fundamental engineering subjects, but does not entitle the person to claim to be a professional engineer.

4. “Engineering documents” includes all plans, specifications, drawings, and reports, if the preparation of such documents constitutes or requires the practice of engineering.

5. “Engineering surveys” includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

4. 6. The term “~~in responsible charge~~” as used in this chapter “In responsible charge” means having direct control of and personal supervision over any land surveying work or work involving the practice of engineering. One or more persons, jointly or severally, may be in responsible charge.

5. a. The practice of “~~land surveying~~” includes providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location of property lines or boundaries, and the utilization, development, and interpretation of these facts into an orderly survey, plat, or map. The practice of land surveying includes, but is not limited to, the following:

<sup>3</sup> See chapter 1138, §74 herein

~~(1) Locating, relocating, establishing, reestablishing, setting, or resetting of permanent monumentation for any property line or boundary of any tract or parcel of land. Setting permanent monuments constitutes an improvement to real property.~~

~~(2) Making any survey for the division or subdivision of any tract or parcel of land.~~

~~(3) Determination, by the use of the principles of land surveying, of the position for any permanent survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point excluding the responsibility of engineers pursuant to section 314.8.~~

~~(4) Creating and writing metes and bounds descriptions as defined in section 354.2.~~

~~(5) Geodetic surveying for determination of the size and shape of the earth both horizontally and vertically for the precise positioning of permanent land survey monuments on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.~~

~~(6) Creation, preparation, or modification of electronic or computerized data, including land information systems and geographical information systems, relative to the performance of the activities identified in subparagraphs (1) through (5).~~

~~b. This subsection does not prohibit a professional engineer from practicing any aspect of the practice of engineering. A land surveyor is not prohibited from performing engineering surveys as defined in the practice of engineering.~~

~~c. A person is construed to be engaged in or offering to be engaged in the practice of land surveying if the person does any of the following:~~

~~(1) Engages in land surveying.~~

~~(2) Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a land surveyor.~~

~~(3) Uses any title which implies that the person is a land surveyor or that the person is licensed under this chapter.~~

~~(4) Holds the person's self out as able to perform, or who does perform, any service or work included in the practice of land surveying.~~

~~6. 7. The term "land surveying documents" as used in this chapter "Land surveying documents" includes all plats, maps, surveys, and reports, if the preparation thereof constitutes or requires the practice of land surveying.~~

~~7. 8. The term "land surveyor" as used in this chapter shall mean "Land surveyor" means a person who engages in the practice of land surveying as defined in this section.~~

~~8. 9. a. "Practice of engineering" as used in this chapter means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences, such as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, any of which embraces such services or creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of the services identified in this paragraph subsection. "Design coordination" includes the review and coordination of technical submissions prepared by others, including as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the engineer. "Engineering surveys" includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.~~

~~b. A person is construed to be engaged in the practice of engineering if the person does any of the following:~~

~~α. (1) Practices any branch of the profession of engineering.~~

~~b.~~ (2) Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a professional engineer.

~~e.~~ (3) Uses any title which implies that the person is a professional engineer or that the person is certified under this chapter.

~~d.~~ (4) The person holds the person's self out as able to perform, or who does perform, any service or work included in the practice of engineering.

10. a. "Practice of land surveying" includes providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location of property lines or boundaries, and the utilization, development, and interpretation of these facts into an orderly survey, plat, or map. The practice of land surveying includes but is not limited to the following:

(1) Locating, relocating, establishing, reestablishing, setting, or resetting of permanent monumentation for any property line or boundary of any tract or parcel of land. Setting permanent monuments constitutes an improvement to real property.

(2) Making any survey for the division or subdivision of any tract or parcel of land.

(3) Determination, by the use of the principles of land surveying, of the position for any permanent survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point excluding the responsibility of engineers pursuant to section 314.8.

(4) Creating and writing metes and bounds descriptions as defined in section 354.2.

(5) Geodetic surveying for determination of the size and shape of the earth both horizontally and vertically for the precise positioning of permanent land survey monuments on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.

(6) Creation, preparation, or modification of electronic or computerized data, including land information systems and geographical information systems, relative to the performance of the activities identified in subparagraphs (1) through (5).

b. This subsection does not prohibit a professional engineer from practicing any aspect of the practice of engineering. A land surveyor is not prohibited from performing engineering surveys as defined in the practice of engineering.

c. A person is construed to be engaged in or offering to be engaged in the practice of land surveying if the person does any of the following:

(1) Engages in land surveying.

(2) Makes a representation by verbal claim, sign, advertisement, letterhead, card, or other manner that the person is a land surveyor.

(3) Uses any title which implies that the person is a land surveyor or that the person is licensed under this chapter.

(4) Holds the person's self out as able to perform, or who does perform, any service or work included in the practice of land surveying.

9. 11. The term "professional engineer" as used in this chapter "Professional engineer" means a person, who, by reason of the person's knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education or practical experience, is qualified to engage in the practice of engineering.

Sec. 141. Section 542B.14, Code 2011, is amended to read as follows:

**542B.14 General requirements for licensure — temporary permit to practice engineering.**

1. Each applicant for licensure as a professional engineer or land surveyor shall have all of the following requirements, respectively, to wit:

1. a. As a professional engineer:

~~æ.~~ (1) (a) Graduation from a course in engineering of four years or more in a school or college which, in the opinion of the board, will properly prepare the applicant for the examination in fundamental engineering subjects.

~~(2)~~ (b) However, prior to July 1, 1988, in lieu of compliance with subparagraph ~~(4)~~ division (a), the board may accept eight years' practical experience which, in the opinion of

the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental engineering subjects.

(3) (c) Between July 1, 1988, and June 30, 1991, in lieu of compliance with subparagraph (1) division (a), the board shall require satisfactory completion of a minimum of two years of postsecondary study in mathematics, physical sciences, engineering technology, or engineering at an institution approved by the board, and may accept six years' practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental engineering subjects.

(4) (d) For applicants who obtained an associate of science degree or a more advanced degree between July 1, 1983, and June 30, 1988, in lieu of compliance with subparagraph (1) division (a), the board shall only require compliance with the provisions of subparagraph (3) division (c) with regard to areas of study and practical experience. Applicants qualifying under this subparagraph division must meet the requirements of paragraph "b" subparagraph (2), by June 30, 2001.

b. (2) Successfully passing a written, oral, or written and oral examination in fundamental engineering subjects which is designed to show the knowledge of general engineering principles. A person passing the examination in fundamental engineering subjects is entitled to a certificate as an engineer intern.

e. (3) In addition to any other requirement, a specific record of four years or more of practical experience in engineering work which is of a character satisfactory to the board.

d. (4) Successfully passing a written, oral, or written and oral examination designed to determine the proficiency and qualifications to engage in the practice of engineering. No applicant shall be entitled to take this examination until the applicant shows the necessary practical experience in engineering work.

2. b. As a land surveyor:

e. (1) (a) Graduation from a course of two years or more in mathematics, physical sciences, mapping and surveying, or engineering in a school or college and six years of practical experience, all of which, in the opinion of the board, will properly prepare the applicant for the examination in fundamental land surveying subjects.

(2) (b) However, prior to July 1, 1988, in lieu of compliance with subparagraph (1) division (a), the board may accept eight years' practical experience which, in the opinion of the board, is of satisfactory character to properly prepare the applicant for the examination in fundamental land surveying subjects.

b. (2) Successfully passing a written, oral, or written and oral examination in fundamental land surveying subjects which is designed to show the knowledge of general land surveying principles.

e. (3) In addition to any other requirement, a specific record of four years or more of practical experience in land surveying work which is of a character satisfactory to the board.

d. (4) Successfully passing a written, oral, or written and oral examination designed to determine the proficiency and qualifications to engage in the practice of land surveying. No applicant shall be entitled to take this examination until the applicant shows the necessary practical experience in land surveying work.

2. The board may establish by rule a temporary permit and a fee to permit an engineer to practice for a period of time without applying for licensure.

Sec. 142. Section 548.112, Code 2011, is amended to read as follows:

**548.112 Infringement.**

1. Subject to section 548.116, a person shall not do any of the following:

f. a. Use, without the consent of the registrant, any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion or mistake, or to deceive as to the source of origin of such goods or services.

2. b. Reproduce, counterfeit, copy, or colorably imitate any such mark and apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used upon or in connection with the sale or other distribution in this state of such goods or services.

2. The person shall be liable in a civil action by the registrant for any or all of the remedies provided in section 548.114, except that under subsection 2 1, paragraph "b", the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

Sec. 143. Section 551A.1, subsection 4, Code 2011, is amended to read as follows:

4. a. "Franchise" means a contract between a seller and a purchaser where the parties agree to all of the following:

a. (1) A franchisee is granted the right to engage in the business of offering, selling, or distributing goods or services under a marketing plan prescribed in substantial part by a franchisor.

b. (2) The operation of the franchisee's business pursuant to such a plan is substantially associated with the franchisor's business and trademark, service mark, trade name, logotype, advertising, or other commercial symbol designating the franchisor or its affiliate.

b. For the purposes of this subsection, "franchisee":

(1) "Franchisee" means a person to whom a franchise is granted and "franchisor":

(2) "Franchisor" means a person who grants a franchise.

Sec. 144. Section 554.2103, subsection 3, Code 2011, is amended to read as follows:

3. "Control" as provided in section 554.7106 and the The following definitions in other Articles apply to this Article:

- a. "Check" .....Section 554.3104
- b. "Consignee" .....Section 554.7102
- c. "Consignor" .....Section 554.7102
- d. "Consumer goods" .....Section 554.9102
- e. "Control" ..... Section 554.7106
- f. "Dishonor" .....Section 554.3502
- g. "Draft" .....Section 554.3104

Sec. 145. Section 554.4104, subsection 3, Code 2011, is amended to read as follows:

3. "Control" as provided in section 554.7106 and the The following definitions in other Articles apply to this Article:

- a. "Acceptance" .....Section 554.3409
- b. "Alteration" .....Section 554.3407
- c. "Cashier's check" .....Section 554.3104
- d. "Certificate of deposit" .....Section 554.3104
- e. "Certified check" .....Section 554.3409
- f. "Check" .....Section 554.3104
- g. "Control" ..... Section 554.7106
- h. "Holder in due course" .....Section 554.3302
- i. "Instrument" .....Section 554.3104
- j. "Notice of dishonor" .....Section 554.3503
- k. "Order" .....Section 554.3103
- l. "Ordinary care" .....Section 554.3103
- m. "Person entitled to enforce" .....Section 554.3301
- n. "Presentment" .....Section 554.3501
- o. "Promise" .....Section 554.3103
- p. "Prove" .....Section 554.3103
- q. "Teller's check" .....Section 554.3104
- r. "Unauthorized signature" .....Section 554.3403

Sec. 146. Section 554.5104, Code 2011, is amended to read as follows:

**554.5104 Formal requirements.**

A letter of credit, confirmation, advice, transfer, amendment, or cancellation may be issued in any form that is a record and is authenticated (i) by a signature or (ii) in accordance with the agreement of the parties or the standard practice referred to in section 554.5108, subsection 5.

Sec. 147. Section 554.9102, subsection 2, Code 2011, is amended to read as follows:

2. *Definitions in other Articles.* “Control” as provided in section 554.7106 and the The following definitions in other Articles apply to this Article:

<u>a.</u> “Applicant” .....	Section 554.5102
<u>b.</u> “Beneficiary” .....	Section 554.5102
<u>c.</u> “Broker” .....	Section 554.8102
<u>d.</u> “Certificated security” .....	Section 554.8102
<u>e.</u> “Check” .....	Section 554.3104
<u>f.</u> “Clearing corporation” .....	Section 554.8102
<u>g.</u> “Contract for sale” .....	Section 554.2106
<u>h.</u> “Control” .....	Section 554.7106
<u>i.</u> “Customer” .....	Section 554.4104
<u>j.</u> “Entitlement holder” .....	Section 554.8102
<u>k.</u> “Financial asset” .....	Section 554.8102
<u>l.</u> “Holder in due course” .....	Section 554.3302
<u>m.</u> “Issuer” (with respect to a letter of credit or letter-of-credit right) .....	Section 554.5102
<u>n.</u> “Issuer” (with respect to a security) .....	Section 554.8201
<u>o.</u> “Issuer” (with respect to documents of title) .....	Section 554.7102
<u>p.</u> “Lease” .....	Section 554.13103
<u>q.</u> “Lease agreement” .....	Section 554.13103
<u>r.</u> “Lease contract” .....	Section 554.13103
<u>s.</u> “Leasehold interest” .....	Section 554.13103
<u>t.</u> “Lessee” .....	Section 554.13103
<u>u.</u> “Lessee in ordinary course of business” .....	Section 554.13103
<u>v.</u> “Lessor” .....	Section 554.13103
<u>w.</u> “Lessor’s residual interest” .....	Section 554.13103
<u>x.</u> “Letter of credit” .....	Section 554.5102
<u>y.</u> “Merchant” .....	Section 554.2104
<u>z.</u> “Negotiable instrument” .....	Section 554.3104
<u>aa.</u> “Nominated person” .....	Section 554.5102
<u>ab.</u> “Note” .....	Section 554.3104
<u>ac.</u> “Proceeds of a letter of credit” .....	Section 554.5114
<u>ad.</u> “Prove” .....	Section 554.3103
<u>ae.</u> “Sale” .....	Section 554.2106
<u>af.</u> “Securities account” .....	Section 554.8501
<u>ag.</u> “Securities intermediary” .....	Section 554.8102
<u>ah.</u> “Security” .....	Section 554.8102
<u>ai.</u> “Security certificate” .....	Section 554.8102
<u>aj.</u> “Security entitlement” .....	Section 554.8102
<u>ak.</u> “Uncertificated security” .....	Section 554.8102

### DIVISION III INTERNAL REFERENCE CHANGES

Sec. 148. Section 225C.28B, subsection 2, Code 2011, is amended to read as follows:

2. *Insurance protection.* Pursuant to section 507B.4, subsection 7 3, paragraph “g”, a person or designated group of persons shall not be denied insurance coverage by reason of mental retardation, a developmental disability, brain injury, or chronic mental illness.

Sec. 149. Section 225C.29, Code 2011, is amended to read as follows:

#### **225C.29 Compliance.**

Except for a violation of section 225C.28B, subsection 2, the sole remedy for violation of a rule adopted by the commission to implement sections 225C.25 through 225C.28B shall

be by a proceeding for compliance initiated by request to the division pursuant to chapter 17A. Any decision of the division shall be in accordance with due process of law and is subject to appeal to the Iowa district court pursuant to sections 17A.19 and 17A.20 by any aggrieved party. Either the division or a party in interest may apply to the Iowa district court for an order to enforce the decision of the division. Any rules adopted by the commission to implement sections 225C.25 through 225C.28B do not create any right, entitlement, property or liberty right or interest, or private cause of action for damages against the state or a political subdivision of the state or for which the state or a political subdivision of the state would be responsible. Any violation of section 225C.28B, subsection 2, shall solely be subject to the enforcement by the commissioner of insurance and penalties granted by chapter 507B for a violation of section 507B.4, subsection 7 3, paragraph "g".

Sec. 150. Section 455B.473, subsection 4, Code Supplement 2011, is amended to read as follows:

4. An owner or operator of a storage tank described in section 455B.471, subsection 11, paragraph "a" "b", subparagraph (1), subparagraph division (a), which brings the tank into use after July 1, 1987, shall notify the department of the existence of the tank within thirty days. The registration of the tank shall be accompanied by a fee of ten dollars to be deposited in the storage tank management account. A tank which is existing before July 1, 1987, shall be reported to the department by July 1, 1989. Tanks under this section installed on or following July 1, 1987, shall comply with underground storage tank regulations adopted by rule by the department.

Sec. 151. Section 491.5, subsection 8, Code 2011, is amended to read as follows:

8. Any provision eliminating or limiting the personal liability of a director to the corporation or its shareholders or members for money damages as provided in section 490.202, subsection 2, paragraph "d", except that section 490.202, subsection 2, paragraph "d", subparagraph (1), subparagraph (3) division (c), shall have no application.

Sec. 152. Section 507B.7, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Payment of interest at the rate of ten percent per annum if the commissioner finds that the insurer failed to pay interest as required under section 507B.4, subsection ~~16~~ 3, paragraph "p".

Sec. 153. Section 512B.13, Code 2011, is amended to read as follows:

**512B.13 Institutions.**

A society may create, maintain, and operate, or may establish organizations to operate, not-for-profit institutions to further the purposes permitted by section 512B.6, subsection 1, paragraph "b" "a", subparagraph (2). The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held, or leased by the society for this purpose shall be reported in every annual statement. A not-for-profit institution so established is a charitable institution with all the rights, benefits, and privileges given to charitable institutions under the Constitution and laws of the State of Iowa. The commissioner may adopt appropriate rules and reporting requirements.

Sec. 154. Section 515E.4, subsection 4, Code Supplement 2011, is amended to read as follows:

4. *Compliance with unfair claim settlement practices law.* A risk retention group, its agents, and representatives, shall comply with the unfair claim settlement practices law in section 507B.4, subsection ~~19~~ 3, paragraph "j".

Sec. 155. Section 524.302, subsection 2, paragraph c, Code 2011, is amended to read as follows:

c. A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for any breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in

good faith or which involve intentional misconduct or a knowing violation of law, for any transaction from which the director derives an improper personal benefit, or under section 524.605, subsection 1, paragraph “a” or 2 “b”. A provision shall not eliminate or limit the liability of a director for any act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 156. Section 536A.30, subsection 2, Code 2011, is amended to read as follows:  
2. Section 536A.10, ~~subsections 2, 3, and 4~~ subsection 1, paragraphs “b”, “c”, and “d”.

#### DIVISION IV DIRECTIVES

Sec. 157. CODE EDITOR DIRECTIVES.

1. Sections 175.6, subsection 12; and 331.652, subsection 4, Code 2011, are amended by striking the word “co-operation” and inserting in lieu thereof the word “cooperation”.

2. Sections 28D.1, 321.6, and 341A.17, Code 2011, are amended by striking the word “co-operation” and inserting in lieu thereof the word “cooperation”.

3. Sections 13A.9, subsection 2; 29C.1, subsection 3; 169.19, subsection 5; 175.6, subsection 5; 273.9, subsection 2; and 403.12, subsection 1, Code 2011, are amended by striking the word “co-operate” and inserting in lieu thereof the word “cooperate”.

4. Sections 177A.4, 199.14, and 249.12, Code 2011, are amended by striking the word “co-operate” and inserting in lieu thereof the word “cooperate”.

5. Section 179.1, subsection 5, Code 2011, is amended by striking the word “co-operatives” and inserting in lieu thereof the word “cooperatives”.

6. Sections 185.1, subsection 5; 185C.1, subsection 7; 215A.1, subsection 4; and 419.1, subsection 4, Code 2011, are amended by striking the word “co-operative” and inserting in lieu thereof the word “cooperative”.

7. Sections 263B.3, 456A.29, and 456B.10, Code 2011, are amended by striking the word “co-operative” and inserting in lieu thereof the word “cooperative”.

8. Section 275.56, Code 2011, is amended by striking the word “re-employing” and inserting in lieu thereof the word “reemploying”.

9. Section 275.56, Code 2011, is amended by striking the word “re-employed” and inserting in lieu thereof the word “reemployed”.

10. Sections 341A.6, subsection 6; and 411.21, subsection 3, Code 2011, are amended by striking the word “re-employed” and inserting in lieu thereof the word “reemployed”.

11. The Code editor is directed to number, renumber, designate, or redesignate to eliminate unnumbered paragraphs within sections 491.5, 491.111, 496C.21, 499.47C, 499.67, 499A.2A, 501.617, 507A.3, 507C.12, 510.2, 511.10, 514B.4, 514B.14, 514B.20, 515.70, 515F.3, 515G.3, 518.11, 524.224, 524.604, 524.801, 524.825, 524.1102, 524.1508, 538.5, 544A.11, 544A.21, 544A.25, 544B.9, 544B.14, 544C.3, 548.103, 548.113, 552.5, and 552.12, Code 2011, in accordance with established Code section hierarchy and correct internal references in the Code and in any enacted Iowa Acts, as necessary.

12. The Code editor is directed to number, renumber, designate, or redesignate to eliminate unnumbered paragraphs within section subunits in sections 490.120, subsection 7; 490.121, subsection 1; 490.744, subsection 4; 490.824, subsection 4; 490.1301, subsection 4; 490.1701, subsection 2; 490.1701, subsection 3, paragraph “b”; 496B.9, subsection 3, paragraph “b”; 499.30, subsection 2, paragraph “a”; 499.66, subsection 2; 500.3, subsection 2; 501A.206, subsection 1; 501A.502, subsection 3; 501A.715, subsection 3; 501A.904, subsection 7; 501A.906, subsection 2; 501A.1003, subsection 4, paragraph “b”; 502.321B, subsection 5; 502.509, subsection 13B; 502A.1, subsection 4; 504.202, subsection 2, paragraph “d”; 504.503, subsection 1; 504.635, subsection 4; 504.1509, subsection 1; 507.10, subsection 4, paragraph “b”, subparagraph (1); 508.36, subsection 2, paragraph “d”; 508.36, subsection 5, paragraph “c”, subparagraph (1), subparagraph division (c), subparagraph subdivision (v); 508.36, subsections 7 and 9; 508.37, subsection 6, paragraph “a”; 508.38, subsection 2; 509B.3, subsection 4; 513B.4, subsection 2; 513C.3, subsection 15; 513C.7, subsection 1; 513C.10, subsection 2; 514C.4, subsection 1; 514D.5, subsection 2; 515.12, subsection 5; 515.48, subsections 1 and 8; 515.109, subsection 2; 515A.18, subsection 3; 515B.5, subsection



1, paragraph “c”; 515B.6, subsection 1; 515D.2, subsection 2; 515F.5, subsection 1; 515F.13, subsection 2, paragraph “d”; 516A.2, subsection 1; 516E.3, subsection 1, paragraph “c”; 516E.3, subsection 2, paragraph “b”; 518C.6, subsection 1, paragraph “c”; 518C.7, subsection 1; 519A.3, subsection 3; 519A.4, subsection 1; 519A.9, subsection 2; 521A.5, subsection 3, paragraphs “a” and “b”; 521A.14, subsection 7; 521B.3, subsection 3; 521C.11, subsection 1; 521D.2, subsection 3; 521E.10, subsection 1; 522B.14, subsections 6, 7, and 8; 523C.5, subsection 1; 523D.3, subsection 1, paragraph “n”; 523D.5, subsection 3; 523G.6, subsection 3; 523I.316, subsection 3, paragraph “d”; 523I.508, subsections 2 and 3; 523I.812, subsection 2; 524.103, subsection 17; 524.606, subsection 2; 524.1403, subsection 2; 527.5, subsection 3; 536A.20, subsection 3; 536A.25, subsection 2; 537.1301, subsection 45; 537.2501, subsection 1, paragraph “f”; 537.2510, subsection 2, paragraph “a”; 537.3612, subsection 4; 537.5110, subsection 2; 537.5201, subsection 1; 537A.10, subsections 9 and 11; 537B.3, subsection 2; 543C.4, subsection 5; 546.10, subsection 3; 548.102, subsection 5; 551A.3, subsection 2; 551A.4, subsection 1, paragraph “b”; 552A.2, subsection 6; 554.2103, subsection 2; 554.4104, subsection 2; 554.5102, subsection 2; 554.8102, subsection 1, paragraph “i”; 554.8102, subsection 2; 554.8503, subsection 4; 554.12105, subsections 2 and 3; and 554.13103, subsections 2 and 3, Code and Code Supplement 2011, in accordance with established Code section hierarchy and correct internal references in the Code and in any enacted Iowa Acts, as necessary.

DIVISION V  
EFFECTIVE DATE PROVISIONS

Sec. 158. EFFECTIVE DATE. The section of this Act amending section 602.4201, subsection 3, paragraph “h”, Code 2011, as amended by 2011 Iowa Acts, ch. 121, section 60, takes effect July 1, 2012.

Approved March 29, 2012

**CHAPTER 1024**  
PUBLIC LAND SURVEY CORNER CERTIFICATES — RECORDING  
*H.F. 2101*

**AN ACT** relating to preparation and recording of public land survey corner certificates.

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

Section 1. Section 355.11, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 3.** A public land survey corner certificate may contain more than one corner that is being certified as part of the land surveying project. The recorder shall accept for recording a certificate containing multiple corners certified pursuant to this section.

Approved March 29, 2012

**CHAPTER 1025**  
**SURPLUS LINES INSURANCE**  
*H.F. 2145*

**AN ACT** establishing regulations to permit access to surplus lines insurance in this state, and providing civil and criminal penalties, coordinating provisions, and repeals, and including effective date provisions.

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

DIVISION I  
SURPLUS LINES INSURANCE

Section 1. **NEW SECTION. 515L.1 Purpose.**

1. The purposes of this chapter are to do all of the following:
  - a. Establish a system of regulation which will permit orderly access to surplus lines insurance in this state.
  - b. Encourage admitted insurers to make new and innovative types of insurance available to consumers in this state.
  - c. Protect persons seeking insurance in this state.
  - d. Permit surplus lines insurance to be placed with reputable and financially sound nonadmitted insurers.
  - e. Provide a system through which persons may independently procure surplus lines insurance.
  - f. Protect revenues of this state.
  - g. Foster a national system of regulation of surplus lines insurance by collaborating with other state insurance commissioners.
  - h. Provide a system which subjects surplus lines insurance activities in this state to the jurisdiction of the insurance commissioner and state and federal courts in suits by or on behalf of the state.
  - i. Ensure compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010, Tit. V, subtit. B, of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.
2. This division<sup>1</sup> shall be liberally construed to promote these purposes.

Sec. 2. **NEW SECTION. 515L.2 Definitions.**

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

1. “Admitted insurer” means an insurer licensed to do insurance business in this state.
2. “Affiliate” means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.
3. “Affiliated group” means any group of entities that are affiliates.
4. “Commercial insurance” means insurance for businesses or professionals.
5. “Commissioner” means the commissioner of insurance, or the commissioner’s designees.
6. “Control” means either of the following:
  - a. That an entity directly or indirectly, or acting through one or more other persons, owns, controls, or has the power to vote twenty-five percent or more of any class of voting securities of another entity.
  - b. That an entity controls in any manner the election of a majority of the directors or trustees of another entity.
7. “Eligible surplus lines insurer” means either of the following:
  - a. A nonadmitted insurer that has filed an application with the commissioner and been approved for placement of surplus lines insurance and appears on the Iowa listing of nonadmitted companies.

<sup>1</sup> See chapter 1138, §73, 86, 87 herein

b. A nonadmitted insurer domiciled outside of the United States that is listed on the quarterly listing of alien insurers maintained by the national association of insurance commissioners.

8. “*Exempt commercial purchaser*” means any person purchasing commercial insurance that, at the time of placement, meets all of the following requirements:

a. The person employs or retains a qualified risk manager to negotiate insurance coverage.

b. The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars in the immediately preceding twelve months.

c. The person meets at least one of the following criteria:

(1) The person possesses a net worth in excess of twenty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(2) The person generates annual revenues in excess of fifty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(3) The person employs more than five hundred full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand employees in the aggregate.

(4) The person is a nonprofit organization or public entity generating annual budgeted expenditures of at least thirty million dollars except that beginning on January 1, 2015, and on January 1 every five years thereafter, this amount shall be adjusted to reflect the percentage change in the consumer price index for all urban consumers for the most recent available five-year period published by the United States department of labor, bureau of labor statistics.

(5) The person is a municipality with a population in excess of fifty thousand persons.

9. “*Home state*” means:

a. Except as provided in paragraph “b”, with respect to an insured either of the following:

(1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence.

(2) If one hundred percent of the insured risk is located out of the state described in subparagraph (1), the state to which the greatest percentage of the insured’s taxable premium for that insurance policy or contract is allocated.

b. If more than one insured from an affiliated group is a named insured on a single surplus lines insurance policy or contract, the home state, as determined pursuant to paragraph “a”, subparagraph (1), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance policy or contract.

10. “*Independently procured insurance*” means insurance obtained by a person directly from a nonadmitted insurer.

11. “*Insurer*” means the same as defined in section 507.1, subsection 2.

12. “*Nonadmitted insurer*” means an insurer not licensed to do insurance business in this state. “*Nonadmitted insurer*” does not include a risk retention group as defined in chapter 515E.

13. “*Person*” means the same as defined in section 507.1, subsection 2, or any government or governmental entity.

14. “*Placement*” or “*placed*” means that an eligible surplus lines insurer has accepted a premium and issued an insurance policy or contract for a particular risk.

15. “*Premium tax*” means the tax imposed by the state on a contract of insurance equal to the applicable percent, as provided in section 432.1.

16. “*Qualified risk manager*” means a person who meets all of the following requirements:

a. The person is an employee of, or third party consultant retained by a commercial insurance policyholder.

b. The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

c. The person meets one of the following requirements:

(1) The person has a bachelor's degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the commissioner to demonstrate minimum competence in risk management; and meets both of the following requirements:

(a) Has three years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance.

(b) Has one of the following designations:

(i) Chartered property and casualty underwriter.

(ii) Associate in risk management.

(iii) Certified risk manager.

(iv) Risk and insurance management society fellow.

(v) Any other designation, certification, or license determined by the commissioner to demonstrate minimum competency in risk management.

(2) The person has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and has any one of the designations specified in subparagraph (1), subparagraph division (b).

(3) The person has at least ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance.

(4) The person has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the commissioner to demonstrate minimum competence in risk management.

17. "Surplus lines insurance" means any property and casualty insurance in this state on properties, risks, or exposures, located or to be performed in this state, that is placed through a surplus lines insurance producer with an eligible surplus lines insurer. For purposes of this chapter only, "surplus lines insurance" also includes disability insurance that is in excess of policy limits available from an admitted insurer.

18. "Surplus lines insurance producer" means a person licensed pursuant to chapter 522B to sell, solicit, or negotiate surplus lines insurance.

**Sec. 3. NEW SECTION. 5151.3 Placement of surplus lines insurance business with nonadmitted insurers.**

1. Surplus lines insurance may be placed by a surplus lines insurance producer with a nonadmitted insurer only if all of the following requirements are met:

a. The proposed nonadmitted insurer is an eligible surplus lines insurer.

b. The proposed nonadmitted insurer is authorized to write the type of insurance sought in this state in its domiciliary jurisdiction.

c. Unless otherwise exempt from this requirement, after a diligent search the full amount or type of insurance cannot be obtained from an admitted insurer.

d. All other requirements of this chapter are met.

2. a. In addition to the full amount of gross premiums charged by the nonadmitted insurer for the insurance on which a premium tax is imposed for surplus lines insurance for which the insured's home state is Iowa, a surplus lines insurance producer shall collect and pay to the state of Iowa the appropriate amount of premium tax as provided in section 432.1 for surplus lines insurance. The commissioner shall adopt rules to specify the use of credits or deductions that may be applied to the premium tax.

b. The tax on any portion of the premium unearned at the termination of the surplus lines insurance that has been credited by the state shall be returned to the policyholder directly by the surplus lines insurance producer. The surplus lines insurance producer is prohibited from rebating, for any reason, any part of the tax.

3. This section shall not apply to a person properly licensed as an insurance producer, who, for a fee and pursuant to a written agreement, is engaged solely to offer advice, counsel, opinion, or service to an insured with respect to the benefits, advantages, or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly

or indirectly, participate in the sale, solicitation, or negotiation of insurance on behalf of the insured.

4. Insurance placed under this section shall be valid and enforceable as to all parties.

**Sec. 4. NEW SECTION. 515I.4 Requirements for eligible surplus lines insurers.**

1. When this state is the home state of the insured, a nonadmitted insurer shall not place any surplus lines insurance business in this state unless the insurer has been approved for such activity by the commissioner. A nonadmitted insurer seeking to qualify as an eligible surplus lines insurer shall submit a request to so qualify in a form and format as directed by the commissioner which demonstrates all of the following:

a. Capital and surplus or its equivalent under the laws of the insurer's domiciliary jurisdiction which equals the greater of either of the following:

(1) The minimum capital and surplus requirements under the laws of this state.

(2) Fifteen million dollars.

b. Evidence that the nonadmitted insurer is in good standing with its domiciliary regulator.

2. The commissioner may waive the requirements of this section or set specific requirements on a case-by-case basis upon an affirmative finding of acceptability by the commissioner that the placement of insurance with the nonadmitted insurer is necessary and will not be detrimental to the public and to policyholders. In determining whether business may be placed with a nonadmitted insurer, the commissioner shall consider all of the following:

a. The interests of the public and policyholders.

b. The length of time the insurer has been licensed to do insurance business in its domiciliary jurisdiction and elsewhere.

c. The unavailability of particular coverages from other admitted insurers or eligible surplus lines insurers in this state.

d. The size of the nonadmitted insurer as measured by the insurer's assets, capital and surplus, reserves, premium writings, insurance in force, or other appropriate criteria.

e. The kinds of business the nonadmitted insurer writes, the insurer's net exposure, and the extent to which the insurer's business is diversified among several lines of insurance and geographic locations.

f. The past and projected trend in the size of the nonadmitted insurer's capital and surplus considering such factors as premium growth, operating history, loss and expense ratios, or other appropriate criteria.

3. Eligible surplus lines insurers shall not be required to file or seek approval of their forms and rates.

**Sec. 5. NEW SECTION. 515I.5 Duties of surplus lines insurance producers.**

1. A surplus lines insurance producer shall not issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by an eligible surplus lines insurer, unless the producer has authority from the insurer to bind the risk to be insured, or has received information from the insurer in the regular course of business that the coverage has been granted.

2. Upon placement of surplus lines insurance, the surplus lines insurance producer shall promptly deliver to the insured the policy or contract, or if the policy or contract is not then available, a certificate cover note, binder, or other evidence of insurance. The certificate cover note, binder, or other evidence of insurance shall contain information as specified by the commissioner by rule.

3. As soon as is reasonably possible after the placement of the insurance, the surplus lines insurance producer shall deliver a copy of the policy or contract or, if not available, a certificate of insurance to the insured to replace any evidence of insurance previously issued. Each policy or contract or certificate of insurance shall contain or have attached a complete record of all policy or contract insuring agreements, conditions, exclusions, clauses, endorsements, or any other material facts that would regularly be included in the policy or contract.

4. If, after delivery of any evidence of insurance, there is any change in the identity of the eligible surplus lines insurer, or the proportion of the risk assumed by such insurer, or any

other material change in coverage as stated in the original evidence of insurance, or in any other material change as to the insurance coverage so evidenced, the surplus lines insurance producer shall promptly issue and deliver to the insured an appropriate substitute for, or endorsement of the original document, accurately showing the current status of the coverage and the surplus lines insurer responsible for the coverage.

5. Each surplus lines insurance producer shall keep a full and true record of each surplus lines insurance policy or contract placed by an eligible surplus lines insurer and issued or delivered by that person which covers risks wholly or partly located or to be performed in this state. These records and any other records deemed reasonably necessary by the commissioner shall be made available to the commissioner for examination upon request. Records shall be maintained for a period of not less than five years following termination of the surplus lines insurance policy or contract.

6. A surplus lines insurance producer shall file a report and remit all premium taxes due to this state for all surplus lines insurance placed by an eligible surplus lines insurer and issued or delivered by that person during the reporting period established by the commissioner. The specific requirements for the timing of and content of the report and the manner of filing shall be specified by the commissioner by rule.

**Sec. 6. NEW SECTION. 515I.6 Actions against eligible surplus lines insurers.**

An eligible surplus lines insurer may be sued upon a cause of action arising in this state under a surplus lines insurance policy or contract placed by the insurer or upon evidence of insurance placed by the insurer and issued or delivered in this state by a surplus lines insurance producer. A policy or contract issued by an eligible surplus lines insurer shall contain a provision stating the substance of this section and designating the person upon whom service of process can be made on behalf of the insurer.

**Sec. 7. NEW SECTION. 515I.7 Effect of payment to surplus lines insurance producer.**

A payment of premium to a surplus lines insurance producer acting for a person other than the producer in procuring, continuing, or renewing any policy or contract of surplus lines insurance procured under this chapter shall be deemed to be payment to the eligible surplus lines insurer, notwithstanding any other conditions or stipulations that are inserted in the policy or contract of insurance.

**Sec. 8. NEW SECTION. 515I.8 Referrals to surplus lines insurance producers.**

A surplus lines insurance producer may accept referrals to place surplus lines insurance from any other licensed insurance producer and the surplus lines insurance producer may compensate the referring insurance producer for the referral.

**Sec. 9. NEW SECTION. 515I.9 Exempt commercial purchasers.**

A surplus lines insurance producer seeking to procure or place surplus lines insurance in this state for an exempt commercial purchaser is not required to make a diligent search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from an admitted insurer if both of the following requirements are met:

1. The surplus lines insurance producer has disclosed to the exempt commercial purchaser that such insurance may be available from an admitted insurer that may provide the purchaser with greater protection and with more regulatory oversight.

2. The exempt commercial purchaser has subsequently requested in writing that the surplus lines insurance producer place such insurance with an eligible surplus lines insurer.

**Sec. 10. NEW SECTION. 515I.10 Independently procured surplus lines insurance — premium tax — penalty.**

1. When this state is the home state of the insured, a person who directly procures, continues, or renews a surplus lines insurance policy or contract independently and without using a surplus lines insurance producer on properties, risks, or exposures located or to be performed in whole or in part in this state shall file a written report regarding the transaction with the commissioner, in a manner and method as directed by the commissioner by rule.

2. When this state is the home state of the insured, each person who has independently procured a surplus lines insurance policy or contract shall pay a premium tax at a rate appropriate to the amount of premium tax equal to the applicable percent, as provided in section 432.1. The tax shall be remitted via a method and schedule and in a manner as directed by the commissioner by rule.

3. The commissioner may assess a penalty of one percent of the delinquent amount of taxes owed per month as specified in section 507A.9.

**Sec. 11. NEW SECTION. 515I.11 Violations and penalties.**

1. The commissioner may, after notice and a hearing, declare a surplus lines insurer ineligible to place surplus lines insurance in the state if at any time the commissioner has reason to believe that a surplus lines insurer meets any of the following conditions:

- a. Is in unsound financial condition or has acted in an untrustworthy manner.
- b. No longer meets the standards set forth in this chapter.
- c. Has willfully violated the laws of this state.
- d. Does not conduct its claims settlement practices in a fair and reasonable manner.
- e. Has committed an unfair or deceptive insurance trade practice under chapter 507B.

2. The commissioner may suspend, revoke, or refuse to renew the license of a surplus lines insurance producer or impose any sanction or penalty allowed under chapter 507B after notice and hearing for one or more of the following grounds:

- a. Removal of the resident surplus lines insurance producer's principal place of business from this state without notice to the commissioner.
- b. Removal of the resident surplus lines insurance producer's office accounts and records from this state during the period for which the accounts and records are required to be maintained.
- c. Closure of the surplus lines insurance producer's office for a period of more than thirty business days, unless permission is granted by the commissioner.
- d. Failure to file required reports with the commissioner or the commissioner's designee.
- e. Failure to remit surplus lines insurance premium taxes to this state as directed by the commissioner.

f. Violating any provision of this chapter.

g. For any cause for which an insurance producer license could be denied, revoked, or suspended, or renewal refused or a civil penalty imposed under chapter 522B.

3. The commissioner may initiate an administrative proceeding against a surplus lines insurance producer for the collection of unpaid premium taxes. The commissioner may assess a penalty of one percent of the delinquent amount of taxes owed per month as specified in section 507A.9 and any other penalties allowed by law.

4. A person that represents or aids a nonadmitted insurer in violation of this chapter shall be subject to criminal penalties as set forth in section 507A.10.

**Sec. 12. NEW SECTION. 515I.12 Cease and desist orders — civil and criminal penalties.**

1. Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the producer or insurer. The commissioner may issue an order requiring the producer or insurer to cease and desist from engaging in the conduct resulting in the violation and may assess a civil penalty of not more than fifty thousand dollars against the producer or insurer.

2. a. Upon a determination by the commissioner that a surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the producer or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

b. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer to whom a summary order has been issued under this subsection may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the producer or insurer shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing.

c. A surplus lines insurance producer, an eligible surplus lines insurer, or a nonadmitted insurer violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the producer or insurer in contempt of the order if the court finds after hearing that the producer or insurer is not in compliance with the order. The court may assess a civil penalty against the producer or insurer and may issue further orders as it deems appropriate.

3. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer 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.

4. A person acting as a surplus lines insurance producer, an eligible surplus lines insurer, or nonadmitted insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

5. 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 chapter 522B, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

6. This chapter does not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

**Sec. 13. NEW SECTION. 515I.13 Insurance policy or contract remains valid.**

A policy or contract of insurance issued or delivered by an eligible surplus lines insurer or a nonadmitted insurer which is otherwise valid and contains a condition or provision not in compliance with the requirements of this chapter is not thereby rendered invalid but shall be construed and applied in accordance with the conditions and provisions which would have applied had the policy or contract been issued or delivered in full compliance with this chapter.

**Sec. 14. NEW SECTION. 515I.13A Scope of operation.**

This chapter applies only to transactions when this state is the home state of the applicant or the insured.

**Sec. 15. NEW SECTION. 515I.14 Severability.**

If any provision of this chapter, or the application of the provision of this chapter to any person or circumstance, is held invalid, the remainder of the chapter and the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by that holding.

**Sec. 16. NEW SECTION. 515I.15 Rulemaking authority.**

The commissioner shall adopt rules pursuant to chapter 17A to implement the purposes of this chapter.



DIVISION II  
COORDINATING PROVISIONS

Sec. 17. Section 432.1, subsection 3, Code 2011, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums written, and assessments and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state except surplus lines insurance, after deducting the amounts returned upon canceled policies, certificates, and rejected applications but not including the gross premiums written, and assessments and fees received in connection with ocean marine insurance authorized in section 515.48. For surplus lines insurance, the applicable percent, as provided in subsection 4, shall be calculated on the amount of premiums written on surplus lines insurance policies where the home state of the insured, as defined in chapter 515I, is Iowa.

Sec. 18. Section 507A.4, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The lawful transaction of surplus lines insurance as permitted by ~~sections 515.120 through 515.122~~ chapter 515I.

Sec. 19. Section 515E.9, Code 2011, is amended to read as follows:

**515E.9 Purchasing group restrictions.**

A purchasing group shall not purchase insurance from an insurer not admitted in this state unless the purchase is effected through a duly licensed ~~agent or broker~~ insurance producer acting pursuant to ~~sections 515.120 through 515.122~~ chapter 515I.

Sec. 20. Section 522B.6, subsection 2, paragraph g, Code 2011, is amended to read as follows:

g. Excess and surplus lines insurance provided by certain nonadmitted insurers pursuant to ~~section 515.120~~ chapter 515I.

Sec. 21. REPEAL. Sections 515.120 through 515.122, Code and Code Supplement 2011, are repealed.

Sec. 22. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 29, 2012

**CHAPTER 1026**  
HYDRONIC — DEFINITION  
*H.F. 2285*

**AN ACT** relating to the definition of hydronic for purposes of the Iowa plumber, mechanical professional, and contractor licensing Act and including effective date provisions.

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

Section 1. Section 105.2, subsection 8, Code Supplement 2011, 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 heating or cooling system or appliance whose primary purpose is to provide comfort using a liquid, water, or steam as the heating or cooling media. “Hydronic” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system. For purposes of this definition, “primary purpose is to provide comfort” means a system or appliance in which<sup>1</sup> fifty-one percent of the capacity generated by its operation, on an annual average, is dedicated to comfort heating or cooling.

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

Approved March 29, 2012

## CHAPTER 1027

### ALTERNATE ENERGY PRODUCTION FACILITIES — CONSTRUCTION OR INSTALLATION — NOTICE

*H.F. 2301*

**AN ACT** requiring advance notification to utilities by specified owners of alternate energy production facilities of construction or installation of the facility.

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

Section 1. **NEW SECTION. 476.6A** **Alternate energy production facilities — notification requirements.**

1. On and after January 1, 2013, the owner of an alternate energy production facility, as defined in section 476.42, which when constructed or installed will be attached to an electric transmission or distribution line or attached to equipment which is attached to an electric transmission or distribution line, who has not entered into a power purchase agreement with a public utility, shall be subject to the notification requirements of subsection 2.

2. No later than thirty days prior to commencement of the construction or installation of an alternate energy production facility as described in subsection 1, the owner of the facility shall provide written notice to the public utility within whose service territory the facility is to be located of the owner’s intent to construct or install the facility, the type of facility to be constructed or installed, and the date that the facility is anticipated to commence operation.

Approved March 29, 2012

## CHAPTER 1028

### AREA AGENCIES ON AGING

*H.F. 2320*

**AN ACT** relating to the designation of area agencies on aging, and including effective date provisions.

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

<sup>1</sup> See chapter 1138, §47, 78, 79 herein

Section 1. Section 231.32, subsections 1 and 2, Code 2011, are amended to read as follows:

1. The commission shall designate ~~thirteen area agencies on aging, the same of which existed on July 1, 1985~~ an area agency on aging for each planning and service area. The commission shall continue the designation until an area agency on aging's designation is removed for cause as determined by the commission ~~or~~, until the agency voluntarily withdraws as an area agency on aging, or until a change in the designation of planning and service areas or area agencies on aging is required by state or federal law. In that event, the commission shall proceed in accordance with subsections 2, 3, and 4. Designated area agencies on aging shall comply with the requirements of the federal Act.

2. The commission shall designate an area agency to serve each planning and service area, after consideration of the views offered by units of general purpose local government. An area agency may be:

a. An established office of aging which is operating within a planning and service area designated by the commission.

b. Any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit.

c. Any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of the such combination for such purpose.

d. Any public or nonprofit private agency in a planning and service area or any separate organizational unit within such agency which is under the supervision or direction for this purpose of the department on aging and which can and will engage only in the planning or provision of a broad range of supportive services or nutrition services within the planning and service area.

Sec. 2. REVOKING OF DESIGNATION AND DESIGNATION OF AREA AGENCIES ON AGING. Based upon the plan for reduction in the number of area agencies on aging submitted pursuant to 2011 Iowa Acts, chapter 122, section 20, and pursuant to procedures established by the department on aging in accordance with the federal Older Americans Act, the commission on aging shall revoke the designation of the existing area agencies on aging and designate a new area agency on aging to represent each planning and service area effective no later than July 1, 2013.

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

Approved March 29, 2012

## CHAPTER 1029

### VETERANS TRUST FUND — CEMETERY GRANT DEVELOPMENT

#### H.F. 2402

**AN ACT** permitting the temporary allocation and use of moneys in the veterans trust fund for cemetery grant development purposes.

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

Section 1. Section 35A.13, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Moneys credited to the trust fund shall not be transferred, used, obligated, appropriated, or otherwise encumbered, except as provided in this section. Moneys in the trust fund may

be used for cash flow purposes during a fiscal year provided that any moneys so allocated are returned to the trust fund by the end of that fiscal year. Moneys in the trust fund may also be used for cemetery grant development purposes provided that any moneys so allocated are returned to the trust fund upon receipt of federal funds received for such purposes.

Approved March 29, 2012

## CHAPTER 1030

### STATE PRISONERS IN COUNTY JAILS — REIMBURSEMENTS

S.F. 2096

**AN ACT** relating to reimbursements for certain state prisoners confined in a county jail.

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

Section 1. Section 904.513, subsection 2, Code 2011, is amended to read as follows:

2. Upon request by the director, a county shall provide temporary confinement for offenders allegedly violating the conditions of assignment to a program under this chapter, if space is available in the county. The department shall negotiate a reimbursement rate with each county. The amount to be reimbursed shall be determined by multiplying the number of days a person is confined by the average daily cost of confining a person in the county facility as negotiated with the department. A county holding offenders in jail due to insufficient space in a community residential facility shall be reimbursed. Payment shall be made upon submission of a voucher executed by the sheriff and approved by the director. A voucher seeking payment shall be submitted within ~~fifteen~~ thirty days of the end of a calendar quarter. If a voucher seeking payment is not made within ~~fifteen~~ thirty days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

Sec. 2. Section 904.908, subsection 3, Code 2011, is amended to read as follows:

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department.

Sec. 3. Section 906.17, subsection 3, Code 2011, is amended to read as follows:

3. Any request for reimbursement under subsection 2 shall be made within ~~fifteen~~ thirty days of the end of a calendar quarter. If a request for reimbursement is not made within ~~fifteen~~ thirty days of the end of the calendar quarter, the request ~~may~~ shall be denied by the department of corrections.

Approved March 30, 2012

**CHAPTER 1031**

## OUT-OF-STATE CERTIFIED PUBLIC ACCOUNTING FIRMS — REVIEW SERVICES

S.F. 2122

**AN ACT** exempting review services from specified requirements otherwise applicable to the performance of attest services by out-of-state certified public accounting firms.

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

Section 1. Section 542.20, subsection 5, paragraph a, Code 2011, is amended to read as follows:

a. The firm shall not perform attest services, other than review services, in Iowa or for a client having a home office in Iowa.

Sec. 2. Section 542.20, subsection 5, paragraph c, Code 2011, is amended to read as follows:

c. The firm may perform compilation or review services only if it complies with the ownership and peer review requirements of section 542.7.

Sec. 3. Section 542.20, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. An individual who provides attest services, other than review 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.

Sec. 4. Section 542.20, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. An individual who provides reviews of financial statements, as provided in section 542.3, subsection 1, in Iowa or for a client having a home office in Iowa must provide such services through a certified public accounting firm that is validly licensed in the state of its principal place of business and complies with the peer review and ownership provisions of section 542.7.

Approved March 30, 2012

**CHAPTER 1032**

## COMMERCIAL AND INDUSTRIAL HIGHWAY NETWORK — SIZE

S.F. 2153

**AN ACT** increasing the size of the commercial and industrial highway network.

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

Section 1. Section 313.2A, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The network of commercial and industrial highways shall not exceed two thousand five six hundred miles including municipal extensions of these highways.

Approved March 30, 2012

**CHAPTER 1033**

## CHILD SUPPORT INFORMATION — RELEASE

S.F. 2159

**AN ACT** relating to child support enforcement including protection of child support information.

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

Section 1. Section 252B.5, subsection 9, paragraph b, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~Notwithstanding section 252B.9, the~~ The unit may forward information to the department of administrative services as necessary to implement this subsection, including but not limited to both of the following:

Sec. 2. Section 252B.9, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A are public records may be released, except when prohibited by federal law or regulation, only as follows:

Sec. 3. Section 252B.9, subsection 2, paragraph a, Code 2011, is amended to read as follows:

~~a. Payment records of the collection services center which are maintained pursuant to chapter 598 are public records and may be released upon request for the administration of a plan or program approved for the supplemental nutrition assistance program or under Tit. IV, XIX, or XXI of the federal Social Security Act, as amended, and as otherwise permitted under Tit. IV-D of the federal Social Security Act, as amended. Payment records of the clerk of the district court, to which the department has access to meet the requirements of a state disbursement unit, are also public records and may be released upon request. A payment record shall not include address or location information.~~

Sec. 4. Section 252B.9, subsection 2, paragraph b, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~Except as otherwise provided in subsection 1, the~~ The department shall not may release details related to payment records or provide alternative formats for release of the information, with the following additional exceptions: for the administration of a plan or program under Tit. IV-D of the federal Social Security Act, as amended, including as follows:

Sec. 5. Section 252B.9, subsection 2, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) The unit or collection services center may provide ~~additional~~ detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Tit. IV-D of the federal Social Security Act, as amended, or to the court.

Sec. 6. Section 252B.9, subsection 3, paragraph e, Code 2011, is amended to read as follows:

e. Information may be released if directly connected with any of the following:

(1) The administration of ~~the a plan or program approved for the supplemental nutrition assistance program or under Tit. I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI, IV, XIX, or XX XXI, or the supplemental security income program established under Tit. XVI, of the federal Social Security Act, as amended.~~

(2) Any investigations, prosecutions, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

~~(3) The administration of any other federal or federally assisted program which provides assistance in cash or in kind or provides services, directly to individuals on the basis of need.~~

(4) (3) Reporting to an appropriate agency or official of any such plan or program, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement action under circumstances which indicate that the child's health or welfare is threatened.

Sec. 7. Section 252B.9, subsection 3, paragraph g, Code 2011, is amended to read as follows:

g. The child support recovery unit shall may release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director or the director's designee for the administration of a plan or program approved for the supplemental nutrition assistance program or under Tit. IV, XIX, or XXI of the federal Social Security Act, as amended, specified under subsection 2 or this subsection, to the extent the release of information does not interfere with the unit meeting its own obligations under Tit. IV-D of the federal Social Security Act, as amended, and subject to requirements prescribed by the federal office of child support enforcement of the United States department of health and human services.

Sec. 8. Section 252B.9A, subsection 1, Code 2011, is amended to read as follows:

1. A person, except a court or government agency, who is an authorized person to receive specified confidential information under 42 U.S.C. § 653, may submit a written request to the unit for disclosure of specified confidential information regarding a nonrequesting party. The written request shall comply with federal law and regulations, including any attestation and any payment to the federal office of child support enforcement of the United States department of health and human services required by federal law or regulation, and shall include a sworn statement attesting to the reason why the requester is an authorized person under 42 U.S.C. § 653, including that the requester would use the confidential information only for purposes permitted in that section.

Sec. 9. Section 252G.5, subsections 2 and 3, Code 2011, are amended to read as follows:

2. State agencies as specified under 42 U.S.C. § 653A which utilize income information for the determination of eligibility or calculation of payments for benefit or entitlement payments unless prohibited under federal law.

3. State agencies which utilize income information for the recoupment of debts to the state operating employment security and workers' compensation programs for the purposes of administering such programs unless prohibited under federal law.

Sec. 10. Section 598.22, subsection 3, Code 2011, is amended to read as follows:

3. An order or judgment entered by the court for temporary or permanent support or for income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. Unless otherwise provided by federal law, if it is possible to identify the support order to which a payment is to be applied, and if sufficient information identifying the obligee is provided, the clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, which and the records kept by the clerk shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 11. Section 598.26, subsection 1, Code 2011, is amended to read as follows:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court, its officers, and the child support recovery unit of the department of human services pursuant to section 252B.9. However, the payment records of a temporary support

order, ~~whether~~ maintained by the clerk of the district court ~~or the department of human services~~, are public records and may be released upon request. Payment records shall not include address or location information. No other person shall permit a copy of any of the testimony, or pleading, or the substance ~~thereof~~ of any testimony or pleading, to be made available to any person other than a party to the action or a party's attorney. Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure.

Approved March 30, 2012

## CHAPTER 1034

### MEDICAL ASSISTANCE — PRIVATE ROOMS IN NURSING FACILITIES

*S.F. 2160*

**AN ACT** relating to allowing financial supplementation to a nursing facility for provision of a private room to a recipient of medical assistance.

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

Section 1. Section 249A.4, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. *a.* Allow supplementation of the combination of client participation and payment made through the medical assistance program for those items and services identified in 42 C.F.R. § 483.10(c)(8)(ii), by the resident of a nursing facility or the resident's family. Supplementation under this subsection may include supplementation for provision of a private room not otherwise covered under the medical assistance program unless either of the following applies:

- (1) The private room is therapeutically required pursuant to 42 C.F.R. § 483.10(c)(8)(ii).
- (2) No room other than the private room is available.

*b.* The rules adopted to administer this subsection shall require all of the following if a nursing facility provides for supplementation for provision of a private room:

(1) The nursing facility shall inform all current and prospective residents and residents' legal representatives of the following:

(a) If the resident desires a private room, the resident or resident's family may provide supplementation by directly paying the facility the amount of supplementation. Supplementation by a resident's family shall not be treated as income of the resident for purposes of medical assistance program eligibility or client participation.

(b) The nursing facility's policy if a resident residing in a private room converts from private pay to payment under the medical assistance program, but the resident or resident's family is not willing or able to pay supplementation for the private room.

(c) A description and identification of the private rooms for which supplementation is available.

(d) The process for an individual to take legal responsibility for providing supplementation, including identification of the individual and the extent of the legal responsibility.

(2) For a resident for whom the nursing facility receives supplementation, the nursing facility shall indicate in the resident's record all of the following:

(a) A description and identification of the private room for which the nursing facility is receiving supplementation.

(b) The identity of the individual making the supplemental payments.

(c) The private pay charge for the private room for which the nursing facility is receiving supplementation.



(d) The total charge to the resident for the private room for which the nursing facility is receiving supplementation, the portion of the total charge reimbursed under the medical assistance program, and the portion of the total charge reimbursed through supplementation.

(3) If the nursing facility only provides one type of room or all private rooms, the nursing facility shall not be eligible to request supplementation.

(4) A nursing facility may base the supplementation amount on the difference between the amount paid for a room covered under the medical assistance program and the private pay rate for the private room identified for supplementation. However, the total payment for the private room from all sources shall not be greater than the aggregate average private room rate for the type of rooms covered under the medical assistance program for which the resident would be eligible.

(5) Supplementation pursuant to this subsection shall not be required as a precondition of admission, expedited admission, or continued stay in a facility.

(6) Supplementation shall not be applicable if the facility's occupancy rate is less than eighty percent.

(7) The nursing facility shall ensure that all appropriate care is provided to all residents notwithstanding the applicability or availability of supplementation.

(8) A private room for which supplementation is required shall be retained for the resident consistent with existing bed-hold policies.

Approved March 30, 2012

## CHAPTER 1035

### CERTIFICATION FOR ADULT DAY SERVICES PROGRAMS — EXCEPTION

*S.F. 2163*

**AN ACT** relating to an exception from state certification for adult day services programs.

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

#### Section 1. NEW SECTION. **231D.3A Exception.**

An entity certified by the centers for Medicare and Medicaid services of the United States department of health and human services as a federal program of all-inclusive care for the elderly shall not be required to be certified as an adult day services program under this chapter. A program for all-inclusive care for the elderly, as used in this section, shall not identify itself or hold itself out to be an adult day services program as defined in section 231D.1.

Approved March 30, 2012

**CHAPTER 1036****CONFINEMENT FEEDING OPERATIONS — SWINE FARROWING AND GESTATING OPERATIONS***S.F. 2172*

**AN ACT** relating to management of swine, including by providing for biosecurity and development in a farrowing and gestating operation which is part of a confinement feeding operation, and making penalties applicable.

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

Section 1. LEGISLATIVE INTENT. It is the intent of the general assembly to support swine confinement feeding operations maintaining swine as part of a farrowing and gestating operation by improving the biosecurity of the confinement feeding operation which provides for the on-site raising of replacement breeding swine for the confinement feeding operation's sow herd.

Sec. 2. Section 459.102, subsection 46, paragraph b, Code 2011, is amended to read as follows:

b. (1) For a confinement feeding operation maintaining swine as part of a farrowing and gestating operation, two thousand five hundred or more animal units.

(2) In calculating the animal unit capacity of a confinement feeding operation under subparagraph (1), an animal unit does not include replacement breeding swine, if all of the following apply:

(a) The replacement breeding swine are raised at the confinement feeding operation.

(b) The replacement breeding swine are used in the farrowing and gestating operation.

(3) The method of calculating animal units under subparagraph (2) shall only be used for purposes of determining whether a confinement feeding operation is a qualified confinement feeding operation subject to section 459.206.

Approved March 30, 2012

**CHAPTER 1037****SUPERVISION OF PHYSICIAN ASSISTANTS***S.F. 2185*

**AN ACT** relating to the supervision of physician assistants.

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

Section 1. Section 148C.3, subsection 2, Code 2011, is amended to read as follows:

2. Rules shall be adopted by the board pursuant to this chapter requiring a licensed physician assistant to be supervised by physicians. The rules shall provide that not more than ~~two~~ five physician assistants shall be supervised by a physician at one time. The rules shall also provide that a physician assistant shall notify the board of the identity of the physician assistant's supervising physician and of any change in the status of the supervisory relationship.

Approved March 30, 2012

**CHAPTER 1038****MEDICAL ASSISTANCE — INMATES OF PUBLIC INSTITUTIONS***S.F. 2186*

**AN ACT** relating to medical assistance eligibility for inmates of public institutions.

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

Section 1. Section 249A.38, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

The following conditions shall apply to an individual who is an inmate of a public institution as defined in 42 C.F.R. § 435.1010, who is enrolled in the medical assistance program at the time of commitment to the public institution, and who is remains eligible for medical assistance by reason of disability or being sixty-five years of age or older as an individual except for the individual's institutional status:

Approved March 30, 2012

**CHAPTER 1039****FOSTER CARE LICENSING — RENEWAL REQUIREMENTS***S.F. 2188*

**AN ACT** relating to the renewal period for foster care licensing.

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

Section 1. Section 237.5, subsection 1, Code 2011, is amended to read as follows:

1. An individual or an agency shall apply for a license by completing an application to the administrator upon forms furnished by the administrator. The administrator shall issue or reissue a license if the administrator determines that the applicant or licensee is or upon commencing operation will provide child foster care in compliance with this chapter. A ~~An~~ initial license for an individual is valid for one year from the date of issuance. After the first two years of licensure, a license for an individual is valid for two years from the most recent date of issuance except that the administrator, within the administrator's discretion and based upon the performance of the licensee, may require annual renewal of the license or may issue a provisional license pursuant to subsection 3. A license for an agency is valid for up to three years from the date of issuance for the period determined by the administrator in accordance with administrative rules providing criteria for making the determination. The license shall state on its face the name of the licensee, the type of facility, the particular premises for which the license is issued, and the number of children who may be cared for by the facility on the premises at one time. The license shall be posted in a conspicuous place in the physical plant of the facility, except that if the facility is in a single-family home the license may be kept where it is readily available for examination upon request.

Sec. 2. Section 237.5A, Code 2011, is amended to read as follows:

**237.5A Foster parent training.**

1. As a condition for initial licensure, each individual licensee shall complete thirty hours of foster parent training offered or approved by the department. However, if the licensee has completed relevant training or has a combination of completed relevant training and experience, and the department deems such training or combination to be an acceptable equivalent to all or a portion of the initial licensure training requirement, or based upon the circumstances of the child and the licensee the department finds there is other good cause, the department may waive all or a portion of the training requirement. Prior to ~~annual~~

renewal of licensure, each individual licensee shall also annually complete six hours of foster parent training. The training shall include but is not limited to physical care, education, learning disabilities, referral to and receipt of necessary professional services, behavioral assessment and modification, self-assessment, self-living skills, and biological parent contact. An individual licensee may complete the training as part of an approved training program offered by a public or private agency with expertise in the provision of child foster care or in related subject areas. The department shall adopt rules to implement and enforce this training requirement.

2. A licensee who is unable to complete six hours of foster parent training annually prior to ~~annual~~ licensure renewal because the licensee is engaged in active duty in the military service shall be considered to be in compliance with the training requirement for ~~annual~~ licensure renewal.

Sec. 3. RULES. The department of human services shall adopt rules to implement the provisions of this Act.

Approved March 30, 2012

## CHAPTER 1040

### CHILD ABUSE — REPORTING

S.F. 2225

**AN ACT** relating to child abuse by prohibiting retaliation for reporting, providing for implementation of reporting policies at postsecondary institutions, requiring review of training requirements, and providing a remedy.

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

Section 1. Section 232.73, unnumbered paragraph 2, Code 2011, is amended to read as follows:

As used in this section and in sections 232.73A, 232.77, and 232.78, “*medically relevant test*” means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

Sec. 2. NEW SECTION. 232.73A Retaliation prohibited — remedy.

1. *a.* An employer shall not take retaliatory action against an employee as a reprisal for the employee’s participation in good faith in making a report, photograph, or X ray, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report pursuant to section 232.71B. This section does not apply to a disclosure of information that is prohibited by statute.

*b.* For purposes of this section, “*retaliatory action*” includes but is not limited to an employer’s action to discharge an employee or to take or fail to take action regarding an employee’s appointment or proposed appointment to, to take or fail to take action regarding an employee’s promotion or proposed promotion to, or to fail to provide an advantage in a position in employment.

2. Subsection 1 may be enforced through a civil action.

*a.* A person who violates subsection 1 is liable to an aggrieved employee for affirmative relief including reinstatement, with or without back pay, or any other equitable relief the court deems appropriate, including attorney fees and costs.

*b.* When a person commits, is committing, or proposes to commit an act in violation of subsection 1, an injunction may be granted through an action in district court to prohibit

the person from continuing such acts. The action for injunctive relief may be brought by an aggrieved employee or the county attorney.

Sec. 3. Section 260C.14, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 23. Develop and implement a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the community college's administration and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

Sec. 4. Section 261.9, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

*"Accredited private institution"* means an institution of higher learning located in Iowa which is operated privately and not controlled or administered by any state agency or any subdivision of the state and which meets the criteria in paragraphs "a" and "b" and all of the criteria in paragraphs "d" through "~~g~~" "h", except that institutions defined in paragraph "c" of this subsection are exempt from the requirements of paragraphs "a" and "b":

Sec. 5. Section 261.9, subsection 1, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Develops and implements a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the accredited private institution's administration and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

Sec. 6. Section 262.9, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Develop and implement a consistent written policy for an employee who in the scope of the person's employment responsibilities examines, attends, counsels, or treats a child to report suspected physical or sexual abuse. The policy shall include an employee's reporting responsibilities. The reporting responsibilities shall designate the time, circumstances, and method for reporting suspected child abuse to the administration of the institution of higher learning and reporting to law enforcement. Nothing in the policy shall prohibit an employee from reporting suspected child abuse in good faith to law enforcement.

Sec. 7. MANDATORY CHILD ABUSE REPORTER TRAINING — COMMITTEE REVIEW.

1. A stakeholder committee shall be convened and staffed by the department of public health to review the training resources for mandatory reporters of child abuse. The review shall address the current training resources and identify options for increasing the frequency of the training and the availability of profession-specific training and for enhancing the effectiveness and quality of the training. The results of the review, including findings, recommendations, and cost projections, shall be submitted to the governor and general assembly on or before December 15, 2012.

2. The membership of the committee shall consist of stakeholders involved with the child protection system and representatives of the professions that are mandatory reporters of child abuse. The members shall be appointed, five members each, by the chairpersons of the committees on human resources of the senate and the house of representatives, in consultation with the ranking members of the committees. In addition, four members of the general assembly shall be appointed to serve in an ex officio, nonvoting capacity. The legislative members shall be selected, one member 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.

Approved March 30, 2012

**CHAPTER 1041**  
**RESPIRATORY CARE SERVICES**  
*S.F. 2248*

**AN ACT** relating to the licensed professionals authorized to prescribe respiratory care services.

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

Section 1. Section 152B.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. “*Qualified health care professional prescriber*” means a physician assistant operating under the prescribing authority granted in section 147.107 or an advanced registered nurse practitioner operating under the prescribing authority granted in section 147.107.

Sec. 2. Section 152B.2, subsection 1, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) Direct and indirect respiratory care services, including but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a licensed physician, ~~or surgeon, or qualified health care professional prescriber.~~<sup>1</sup>

Sec. 3. Section 152B.2, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. “*Respiratory care as a practice*” does not include the delivery, assembly, setup, testing, or demonstration of respiratory care equipment in the home upon the order of a licensed physician ~~or a qualified health care professional prescriber.~~ As used in this paragraph, “*demonstration*” does not include the actual teaching, administration, or performance of the respiratory care procedures.

Sec. 4. Section 152B.2, subsection 2, Code 2011, is amended to read as follows:

2. “*Respiratory care protocols*” as used in this section means policies and procedures developed by an organized health care system through consultation, when appropriate, with administrators, licensed physicians and surgeons, qualified health care professional prescribers, licensed registered nurses, licensed physical therapists, licensed respiratory care practitioners, and other licensed health care practitioners.

Sec. 5. Section 152B.3, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The performance of respiratory care shall be in accordance with the prescription of a licensed physician, ~~or surgeon, or qualified health care professional prescriber~~ and includes but is not limited to the diagnostic and therapeutic use of the following:<sup>2</sup>

<sup>1</sup> See chapter 1138, §51 herein

<sup>2</sup> See chapter 1138, §52 herein

Sec. 6. Section 152B.3, subsection 2, Code 2011, is amended to read as follows:

2. A respiratory care practitioner may transcribe and implement a written or verbal order from a licensed physician, ~~or surgeon,~~ or qualified health care professional prescriber pertaining to the practice of respiratory care.<sup>3</sup>

Sec. 7. Section 152B.4, Code 2011, is amended to read as follows:

**152B.4 Location of respiratory care.**

The practice of respiratory care may be performed in a hospital as defined in section 135B.1, subsection 3, and other settings where respiratory care is to be provided in accordance with a prescription of a licensed physician, ~~or surgeon,~~ or qualified health care professional prescriber. Respiratory care may be provided during transportation of a patient and under circumstances where an emergency necessitates respiratory care.<sup>4</sup>

Approved March 30, 2012

## CHAPTER 1042

### LAND APPLICATION OF ON-FARM PROCESSING OPERATION WASTEWATER

*S.F. 2269*

**AN ACT** relating to the land application of wastewater from on-farm processing operations, and including effective date provisions.

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

Section 1. Section 455B.172A, subsection 1, paragraph a, subparagraph (2), Code Supplement 2011, is amended by striking the subparagraph.

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

Approved March 30, 2012

## CHAPTER 1043

### BOILER INSPECTIONS

*S.F. 2280*

**AN ACT** relating to boiler inspections.

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

Section 1. Section 89.3, subsection 5, paragraph a, subparagraph (4), Code Supplement 2011, is amended to read as follows:

(4) Either of the following:

(a) The owner or user is a participant in good standing in the Iowa occupational safety and health voluntary protection program and has achieved star status within the program, which is administered by the division of labor in the department of workforce development.

<sup>3</sup> See chapter 1138, §53 herein

<sup>4</sup> See chapter 1138, §54 herein

(b) The object is an unfired steam pressure vessel and is part of or integral to the continuous operation of a process covered by and compliant with the occupational safety and health administration process safety management standard contained in 29 C.F.R. § 1910.119 and the owner demonstrates such compliance to a special inspector or the commissioner. The unfired steam pressure vessel must also be included as process safety management process equipment in the owner of the unfired steam pressure vessel's process safety management program.

Approved March 30, 2012

**CHAPTER 1044**  
**RAILROAD CROSSINGS**  
*S.F. 2288*

**AN ACT** relating to requirements for drivers of vehicles at railroad grade crossings upon the approach or presence of railroad track equipment, and making a penalty applicable.

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

Section 1. Section 321.341, Code 2011, is amended to read as follows:

**321.341 Obedience to signal of indicating approach of railroad train or railroad track equipment.**

1. When a person driving a vehicle approaches a railroad grade crossing and warning is given by automatic signal, crossing gates, a flag person, or otherwise of the immediate approach of a railroad train or railroad track equipment, the driver of the vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail and shall not proceed until the driver can do so safely.

2. The driver of a vehicle shall stop and remain standing and not traverse such a grade crossing when a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train or railroad track equipment.

Sec. 2. Section 321.342, subsection 1, Code 2011, is amended to read as follows:

1. The driver of any vehicle approaching a railroad grade crossing across which traffic is regulated by a stop sign, a railroad sign directing traffic to stop, or an official traffic control signal displaying a flashing red or steady circular red colored light shall stop prior to ~~crossing~~ driving across the railroad grade crossing at the first opportunity at either the clearly marked stop line or at a point near the crossing where the driver has a clear view of the approaching ~~railroad traffic~~ railroad train or railroad track equipment.

Sec. 3. Section 321.343, subsection 1, Code 2011, is amended to read as follows:

1. The driver of a motor vehicle carrying passengers for hire, a school bus, or a vehicle carrying hazardous material and required to stop before ~~crossing~~ driving across a railroad track by motor carrier safety rules adopted under section 321.449, before ~~crossing~~ driving across at grade any track of a railroad, shall stop the vehicle within fifty feet but not less than fifteen feet from the nearest rail. While stopped, the driver shall listen and look in both directions for an approaching railroad train or railroad track equipment, and for signals indicating the approach of a railroad train or railroad track equipment, and shall not proceed until the driver can do so safely.



Sec. 4. Section 321.343, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. If the driver is not always required to stop at a railroad crossing, slow down when approaching the crossing and check that the railroad tracks are clear of an approaching railroad train or railroad track equipment before proceeding.

Sec. 5. Section 321.344, subsections 2, 3, and 4, Code 2011, are amended to read as follows:

2. Notice of ~~any such~~ the intended crossing shall be given to a superintendent of ~~such the~~ railroad, and a reasonable time shall be given to ~~such the~~ railroad to provide proper protection at ~~such the~~ crossing.

3. Before making ~~any such~~ the crossing, the person operating or moving ~~any such the~~ vehicle or equipment shall first stop the ~~same~~ vehicle or equipment not less than ten feet nor more than fifty feet from the nearest rail of ~~such railway the~~ railroad and, while so stopped, shall listen and look in both directions along ~~such the~~ track for any approaching railroad train or railroad track equipment and for signals indicating the approach of a railroad train or railroad track equipment, and shall not proceed until the crossing can be made safely.

4. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or ~~car~~ railroad track equipment.

Approved March 30, 2012

## CHAPTER 1045

### REAL ESTATE AUCTIONEERS

S.F. 2294

**AN ACT** relating to the authorized activities of auctioneers in conducting a public sale or auction of real estate, and providing penalty provisions.

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

Section 1. Section 543B.7, subsection 5, Code 2011, is amended to read as follows:

5. The acts of an auctioneer who is not a licensee in conducting a public sale or auction, as provided in this subsection.

a. The auctioneer's role must be limited to establishing the time, place, and method of an auction; advertising the auction ~~including which shall be limited to~~ a brief description of the property for auction and the time and place for the auction; and crying the property at the auction.

(1) The auctioneer shall provide in any advertising the name and address of the real estate broker who is providing brokerage services for the transaction and the name of the real estate broker, ~~or attorney, or closing company~~ who is responsible for closing the sale of the property.

(2) The real estate broker providing brokerage services shall be present at the time of the auction and, if found to be in violation of this subsection, shall be subject to a civil penalty of ~~two one thousand five hundred~~ dollars.

(3) If the auctioneer closes or attempts to close the sale of the property or otherwise engages in acts defined in sections 543B.3 and 543B.6, or paragraph "b" of this subsection, then the requirements of this chapter do apply to the auctioneer.

b. An auctioneer who is not a licensee is expressly prohibited from engaging in the following acts:

(1) Contacting the public regarding real property beyond that which is permitted under this section with the purpose of securing or facilitating the sale of such real property.

(2) Independently showing property or hosting open houses.

(3) Making material and substantive representations regarding title, financing, or closings.

(4) Discussing or explaining a contract, lease, agreement, or other real estate document, other than the contract for conducting the auction or other acts permitted by this subsection, with a prospective buyer, owner, or tenant of the real property, with the purpose of securing or facilitating the sale of such real property.

(5) Collecting or holding deposit moneys, rent, other moneys, or anything of value received from the owner of real property or from a prospective buyer or tenant, other than fees, commissions, or other consideration paid in exchange for conducting the auction or other acts permitted by this subsection, with the purpose of securing or facilitating the sale of such real property.

(6) Providing owners of real property or prospective buyers or tenants with advice, recommendations, or suggestions regarding the sale, purchase, exchange, rental, or leasing of real property, except with regard to acts permitted under this subsection.

(7) Falsely representing in any manner, orally or in writing, that the auctioneer is a licensee.

c. If an investigation pursuant to this chapter reveals that an auctioneer has violated this subsection or has assumed to act in the capacity of a real estate broker or real estate salesperson, the real estate commission ~~may~~ shall issue a cease and desist order, and shall ~~issue a warning letter notifying the auctioneer of the violation~~ impose a penalty of one thousand dollars for the first offense, and impose a penalty of up to the greater of ten thousand dollars or ten percent of the real estate sales price for each subsequent violation.

Approved March 30, 2012

## CHAPTER 1046

### SOLICITATION TO COMMIT MURDER

S.F. 2296

**AN ACT** relating to the criminal offense of solicitation to commit murder and providing a penalty.

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

Section 1. NEW SECTION. 707.3A Solicitation to commit murder.

1. A person who commands, entreats, or otherwise attempts to persuade another to commit murder as defined in section 707.1, with the intent that such act be done and under circumstances which corroborate that intent by clear and convincing evidence, solicits another to commit that murder.

2. Renunciation, as provided for in section 705.2, is a defense to a prosecution for solicitation under this section.

3. A person who solicits another to commit murder commits a class "C" felony.

Approved March 30, 2012

**CHAPTER 1047****SCHOOL BUS DRIVER QUALIFICATIONS***S.F. 2221*

**AN ACT** requiring background checks for school bus drivers and making penalties applicable.

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

Section 1. Section 235A.15, subsection 2, paragraph e, Code Supplement 2011, is amended by adding the following new subparagraph:

**NEW SUBPARAGRAPH.** (22) To the employer or prospective employer of a school bus driver for purposes of an employment record check.

Sec. 2. Section 235B.6, subsection 2, paragraph e, Code Supplement 2011, is amended by adding the following new subparagraph:

**NEW SUBPARAGRAPH.** (18) To the employer or prospective employer of a school bus driver for purposes of an employment record check.

Sec. 3. Section 321.375, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 1A. Prior to hiring an applicant for a school bus driver position, including a contract position, an employer shall have access to and shall review the information in the Iowa court information system available to the general public, the sex offender registry information under section 692A.121 available to the general public, 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 the applicant. An employer shall follow the same procedure every five years upon the renewal of an employee's or contract employee's school bus driver's license issued by the department of transportation valid for the operation of a school bus. An employer shall pay for the cost of the registry checks conducted pursuant to this subsection. An employer shall maintain documentation demonstrating compliance with this subsection.

Sec. 4. Section 321.375, subsection 2, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** 0e. The school bus driver is listed in the sex offender registry established under chapter 692A, the central registry for child abuse information established under section 235A.14, or the central registry for dependent adult abuse information established under section 235B.5. A termination hearing conducted pursuant to this paragraph shall be limited to the question of whether the school bus driver was incorrectly listed in the registry.

Sec. 5. Section 321.376, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The driver of a school bus shall hold a driver's license issued by the department of transportation valid for the operation of the school bus and a certificate of qualification for operation of a commercial motor vehicle issued by a physician or osteopathic physician licensed pursuant to chapter 148, physician's assistant, advanced registered nurse practitioner, or chiropractor or any other person identified by federal and state law as authorized to perform physical examinations, and shall successfully complete an approved course of instruction in accordance with subsection 2. A person holding a temporary restricted license issued under chapter 321J shall be prohibited from operating a school bus.

**1A.** The department of education shall refuse to issue an authorization to operate a school bus to any person who, after notice and opportunity for hearing, is determined to have ~~committed any of the acts proscribed~~ met any of the grounds listed under section 321.375, subsection 2. The department of education shall take adverse action against any person who, after notice and opportunity for hearing, is determined to have ~~committed any of the acts proscribed~~ met any of the grounds listed under section 321.375, subsection 2. Such action may include a reprimand or warning of the person or the suspension or revocation of the person's authorization to operate a school bus. A hearing pursuant to section 321.375,

subsection 2, paragraph “0e”, shall be limited to the question of whether the person was incorrectly listed in the registry. The department of education shall recommend, and the state board of education shall adopt under chapter 17A, rules and procedures for issuing and suspending or revoking authorization to operate a school bus in this state. Rules and procedures adopted shall include but are not limited to provisions for the revocation or suspension of, or refusal to issue, authorization to persons who are determined to have ~~committed any of the acts proscribed~~ met any of the grounds listed under section 321.375, subsection 2.

Sec. 6. 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 April 4, 2012

## CHAPTER 1048

### REGULATION OF MOTOR VEHICLE DEALERS, SALES OF MOTORCYCLES, AND TRAVEL TRAILERS

*S.F. 2249*

**AN ACT** relating to motor vehicle dealer activities at fair events, vehicle shows, vehicle exhibitions, and motorcycle rallies and to the definition of travel trailer for purposes of travel trailer dealer requirements, and including effective date provisions.

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

Section 1. Section 322.2, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 11A. “*Motorcycle*” means as defined in section 321.1. “*Motorcycle*” does not include an all-terrain vehicle as defined in section 321.1.

Sec. 2. Section 322.4, subsection 1, paragraph g, Code 2011, is amended to read as follows:

g. Before the issuance of a motor vehicle dealer’s license to a dealer engaged in the sale of vehicles for which a certificate of title is required under chapter 321, or the issuance of a temporary permit under section 322.5, subsection 6, paragraph “b”, the applicant shall furnish a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of fifty thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating or applicable to the business of a dealer in motor vehicles, and indemnifying any person who buys a motor vehicle from the dealer from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of chapter 321 and this chapter, including but not limited to the furnishing of a proper and valid certificate of title to the motor vehicle involved in a transaction. The bond shall also indemnify any motor vehicle purchaser from any loss or damage caused by the failure of the dealer to comply with the odometer requirements in section 321.71, regardless of whether the motor vehicle was purchased directly from the dealer. The bond shall be filed with the department prior to the issuance of a license or permit. The aggregate liability of the surety, however, shall not exceed the amount of the bond.

Sec. 3. Section 322.5, subsection 2, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) Display, offer for sale, and negotiate sales of new motor vehicles at fair events, as defined in chapter 174, vehicle shows, and vehicle exhibitions, upon application for and receipt of a temporary permit issued by the department. Such activities may only be conducted at fair events, vehicle shows, and vehicle exhibitions that are held in the ~~county~~ of the motor vehicle dealer's principal place of business community, as defined in section 322A.1, for the vehicles that are displayed and offered for sale. A sale of a motor vehicle by a motor vehicle dealer shall not be completed and an agreement for the sale of a motor vehicle shall not be signed at a fair event, vehicle show, or vehicle exhibition. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

Sec. 4. Section 322.5, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 6. a.** Upon application for and receipt of a temporary permit issued by the department under this subsection, a motor vehicle dealer authorized to sell used motorcycles may display, offer for sale, and negotiate sales of used motorcycles at a motorcycle rally located in this state that meets all of the following conditions:

(1) The sponsor of the rally conducts not more than one rally annually in this state.

(2) The rally is conducted for a single period of not less than three and not more than seven consecutive days.

(3) Attendance at the rally is restricted to persons who have paid a nonrefundable admission fee to the sponsor of the rally.

b. A person licensed as a motor vehicle dealer in another state may apply for and be issued a temporary permit under this subsection if the person meets all of the following conditions:

(1) The person presents the department with a current motor vehicle dealer license valid for the sale of used motorcycles at retail in the person's state of residence.

(2) The state in which the person is licensed as a motor vehicle dealer allows a motor vehicle dealer licensed in Iowa to be issued a permit substantially similar to the temporary permit authorized under this section.<sup>1</sup>

(3) The person furnishes to the department a surety bond that meets the requirements of section 322.4, subsection 1, paragraph "g".

(4) The person presents any additional information the department may require.

c. Application for a temporary permit under this subsection shall be made on forms provided by the department accompanied by a fee in the amount established for a temporary permit under subsection 2, paragraph "b".

d. A sale of a motorcycle at a motorcycle rally shall not be completed and an agreement for the sale of a motorcycle shall not be signed at a motorcycle rally. All such sales shall be consummated at the motor vehicle dealer's principal place of business.

e. The department may issue a temporary permit under this subsection for a period not to exceed seven consecutive days. A motor vehicle dealer may not receive more than one temporary permit issued under this subsection in a calendar year.

Sec. 5. Section 322C.2, subsection 10, Code 2011, is amended to read as follows:

10. "*Travel trailer*" means a vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and designed to permit the vehicle to be used as a place of human habitation by one or more persons. The vehicle may be up to eight feet six inches in width and its overall length shall not exceed forty feet. "Travel trailer" does not include a vehicle that is so designed as to permit it to be towed exclusively by a motorcycle.

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

Approved April 4, 2012

<sup>1</sup> See chapter 1138, §66, 82, 83 herein

**CHAPTER 1049****IOWA NONPROFIT CORPORATION ACT***S.F. 2260*

**AN ACT** revising the Iowa nonprofit corporation Act.

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

Section 1. Section 504.141, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 11A. “*Domestic unincorporated entity*” means an unincorporated entity whose internal affairs are governed by the laws of this state.

NEW SUBSECTION. 17A. “*Foreign unincorporated entity*” means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than this state.

NEW SUBSECTION. 25A. “*Organic law*” means a statute principally governing the internal affairs of a domestic or foreign business corporation, nonprofit corporation, or unincorporated entity.

NEW SUBSECTION. 25B. “*Organic record*” means a public organic record or private organic record.

NEW SUBSECTION. 27A. “*Private organic record*” means any record, other than a public organic record, if any, that determines the internal governance of an unincorporated entity. Where a private organic record has been amended or restated, “*private organic record*” means the private organic record as last amended or restated.

NEW SUBSECTION. 29A. “*Public organic record*” means the record, if any, that is filed of public record, to create an unincorporated entity. Where a public organic record has been amended or restated, “*public organic record*” means the public organic record as last amended or restated.

NEW SUBSECTION. 29B. “*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.

NEW SUBSECTION. 34A. a. “*Unincorporated entity*” means an organization or other legal entity that is not a corporation and that either has a separate legal existence or has the power to acquire an estate in real property in the entity’s own name. “*Unincorporated entity*” includes a general partnership, limited liability company, limited partnership, business or statutory trust, joint stock association, and unincorporated nonprofit association.

*b.* “*Unincorporated entity*” does not include a domestic or foreign business corporation, a nonprofit corporation, an estate, a trust, a governmental subdivision, a state, the United States, or a foreign government.

Sec. 2. Section 504.141, subsection 15, Code 2011, is amended to read as follows:

15. “*Entity*” includes a ~~corporation and foreign corporation; business corporation and domestic or foreign business corporation; limited liability company and domestic or foreign limited liability company; profit and nonprofit unincorporated association; corporation sole; business trust; domestic or foreign unincorporated entity; estate, partnership; trust; and two or more persons having a joint or common economic interest; and; state; the United States; and; governmental subdivision; and foreign government.~~

Sec. 3. Section 504.622, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 01. A membership in a public benefit or mutual benefit corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws.

Sec. 4. Section 504.622, subsection 1, Code 2011, is amended to read as follows:

1. ~~A To the extent the articles of incorporation or bylaws do not address the termination or suspension of a member, a member of a public benefit or mutual benefit corporation shall not be expelled or suspended, and a membership or memberships in such a corporation shall~~

not be terminated or suspended except pursuant to a procedure which is fair and reasonable and is carried out in good faith.

Sec. 5. Section 504.701, Code 2011, is amended by adding the following new subsection: **NEW SUBSECTION.** 7. The articles of incorporation or bylaws may provide that an annual or regular meeting of members is not required to be held at a geographic location if the meeting is held by means of the internet or other electronic communications technology in a manner pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrent with the occurrence of the proceedings, vote on matters submitted to the members, pose questions, and make comments.

Sec. 6. Section 504.702, Code 2011, is amended by adding the following new subsection: **NEW SUBSECTION.** 6. The articles of incorporation or bylaws may provide that a special meeting of members is not required to be held at a geographic location if the meeting is held by means of the internet or other electronic communications technology in a manner pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrent with the occurrence of the proceedings, vote on matters submitted to the members, pose questions, and make comments.

Sec. 7. **NEW SECTION. 504.709 Conduct of meetings.**

1. At each meeting of members, an individual shall preside as chair. The chair shall be appointed as follows:

a. As provided in the articles of incorporation or bylaws.

b. In the absence of a provision in the articles of incorporation or bylaws, by the board of directors.

c. In the absence of both a provision in the articles of incorporation or bylaws and an appointment of the chair by the board, by the members at the meeting.

2. Except as provided in the articles of incorporation or bylaws, the chair shall determine the order of business and shall have the authority to establish rules for the conduct of the meeting.

3. Any rules adopted for, and the conduct of, the meeting shall be fair to the members.

4. The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls are closed, no ballots, proxies, or votes, or any otherwise permissible revocations or changes thereto may be accepted.

Sec. 8. **NEW SECTION. 504.719 Inspectors of election.**

1. A corporation with members may appoint one or more inspectors to act at a meeting of members and to make a report in the form of a record of the inspectors' determinations. Each inspector shall execute the duties of inspector impartially and according to the best of the inspector's ability.

2. The inspectors shall do all of the following:

a. Ascertain the number of members and their voting power.

b. Determine the members present at the meeting.

c. Determine the validity of proxies and ballots.

d. Count all votes.

e. Determine the result of the voting.

3. An inspector may, but is not required to, be a director, member of a designated body,<sup>1</sup> member, officer, or employee of the corporation. A person who is a candidate for an office to be filled at the meeting shall not be an inspector at that meeting.

Sec. 9. Section 504.801, subsection 2, Code 2011, is amended to read as follows:

2. Except as otherwise provided in this chapter or subsection 3, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, and subject to the oversight of, its board of directors.

<sup>1</sup> See chapter 1138, §71 herein

Sec. 10. Section 504.826, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 7. A corporation may create or authorize the creation of one or more advisory committees whose members are not required to be directors. An advisory committee is not a committee of the board of directors and shall not exercise any powers of the board.

Sec. 11. Section 504.831, subsection 5, paragraph c, Code 2011, is amended to read as follows:

c. A committee of the board or advisory committee of which the director is not a member, as to matters within ~~its~~ the committee's or advisory committee's jurisdiction, if the director reasonably believes the committee or advisory committee merits confidence.

Sec. 12. NEW SECTION. 504.836 Business opportunities.

1. A director's taking advantage, directly or indirectly, of a business opportunity shall 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 a corporation on the ground that such opportunity should have first been offered to the corporation, if before becoming legally obligated respecting the business opportunity, the director brings the opportunity to the attention of the corporation and action is taken by the directors, a committee of the directors, or the members disclaiming the corporation's interest in the opportunity in compliance with the procedures set forth in section 504.833, as if the decision being made concerned a conflict of interest transaction.

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 first been presented to the corporation, or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation under the circumstances.

Sec. 13. Section 504.1101, subsection 1, Code 2011, is amended to read as follows:

1. Subject to the limitations set forth in section 504.1102, one or more nonprofit corporations may merge with or into any one or more business corporations or nonprofit corporations or ~~limited liability companies~~ unincorporated entities, if the plan of merger is approved as provided in section 504.1103.

Sec. 14. Section 504.1101, subsection 2, paragraphs a, c, and d, Code 2011, are amended to read as follows:

a. The name of each corporation or ~~limited liability company~~ unincorporated entity planning to merge and the name of the surviving corporation into which each plans to merge.

c. The manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving corporation or ~~limited liability company~~ unincorporated entity.

d. If the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or ~~limited liability company~~ unincorporated entity or into cash or other property in whole or in part.

Sec. 15. Section 504.1101, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Any amendments to the articles of incorporation or bylaws of the surviving corporation or ~~limited liability company~~ organic record of the surviving unincorporated entity to be effected by the planned merger.

Sec. 16. Section 504.1102, subsection 1, paragraph d, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A business or mutual benefit corporation or ~~limited liability company~~ an unincorporated entity, provided that all of the following apply where the public benefit or religious corporation is not the surviving entity in the merger:



Sec. 17. Section 504.1102, subsection 1, paragraph d, subparagraph (2), Code 2011, is amended to read as follows:

(2) The business or mutual benefit corporation or ~~limited liability company~~ unincorporated entity shall return, transfer, or convey any assets held by it upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger, in accordance with such condition.

Sec. 18. Section 504.1106, subsection 1, Code 2011, is amended to read as follows:

1. Except as provided in section 504.1102, one or more foreign business or nonprofit corporations or foreign unincorporated entities may merge with one or more domestic nonprofit corporations if all of the following conditions are met:

a. The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated or foreign unincorporated entity is organized and each foreign corporation or foreign unincorporated entity complies with that law in effecting the merger.

b. The foreign corporation or foreign unincorporated entity complies with section 504.1104 if it is the surviving corporation of the merger.

c. Each domestic nonprofit corporation complies with the applicable provisions of sections 504.1101 through 504.1103 and, if it is the surviving corporation of the merger, with section 504.1104.

Sec. 19. Section 504.1106, subsection 2, Code 2011, is amended to read as follows:

2. Upon the merger taking effect, the surviving foreign business or nonprofit corporation, or foreign unincorporated entity, is deemed to have irrevocably appointed the secretary of state as its agent for service of process in any proceeding brought against it.

Approved April 4, 2012

## CHAPTER 1050

### NOTARIAL ACTS

*S.F. 2265*

**AN ACT** providing for notarial acts, providing for fees, and including effective date provisions.

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

#### DIVISION I

#### REVISED UNIFORM LAW ON NOTARIAL ACTS

Section 1. NEW SECTION. 9B.1 Short title.

This chapter may be cited as the “*Revised Uniform Law on Notarial Acts*”.

Sec. 2. NEW SECTION. 9B.2 Definitions.

In this chapter:

1. “*Acknowledgment*” means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

2. “*Electronic*” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

3. “*Electronic signature*” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

4. “*In a representative capacity*” means acting as any of the following:

- a. An authorized officer, agent, partner, trustee, or other representative for a person other than an individual.
  - b. A public officer, personal representative, guardian, or other representative, in the capacity stated in a record.
  - c. An agent or attorney-in-fact for a principal.
  - d. An authorized representative of another in any other capacity.
5. “*Notarial act*” means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.
6. “*Notarial officer*” means a notary public or other individual authorized to perform a notarial act.
7. “*Notary public*” means an individual commissioned to perform a notarial act by the secretary of state.
8. “*Official stamp*” means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record.
9. “*Person*” means an individual, corporation, business trust, statutory 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.
10. a. “*Personal appearance*” means an act of a party to physically appear within the presence of a notary public at the time the notarization occurs.<sup>1</sup>
- b. “*Personal appearance*” does not include appearances which require video, optical, or technology with similar capabilities.
11. “*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.
12. “*Sign*” means, with 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.
13. “*Signature*” means a tangible symbol or an electronic signature that evidences the signing of a record.
14. “*Stamping device*” means any of the following:
- a. A physical device capable of affixing to or embossing on a tangible record an official stamp.
  - b. An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
15. “*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.
16. “*Verification on oath or affirmation*” means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true.

Sec. 3. NEW SECTION. **9B.4 Authority to perform notarial act.**

1. A notarial officer may perform a notarial act authorized by this chapter or by law of this state other than this chapter.
2. A notarial officer shall not perform a notarial act with respect to a record to which the notarial officer or the notarial officer’s spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

Sec. 4. NEW SECTION. **9B.5 Requirements for certain notarial acts.**

1. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the

<sup>1</sup> See chapter 1138, §46, 77 herein

individual appearing before the notarial officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

2. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

3. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and signing the record has the identity claimed.

4. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

5. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 554.3505, subsection 2.

Sec. 5. NEW SECTION. **9B.6 Personal appearance required.**

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

Sec. 6. NEW SECTION. **9B.7 Identification of individual.**

1. A notarial officer has personal knowledge of the identity of an individual appearing before the notarial officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

2. A notarial officer has satisfactory evidence of the identity of an individual appearing before the notarial officer if the notarial officer can identify the individual pursuant to any of the following:

a. By means of any of the following:

(1) A passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act.

(2) Another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the notarial officer.

b. By a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the notarial officer or whom the notarial officer can identify on the basis of a passport, driver's license, or government-issued nondriver identification card, which is current or expired not more than three years before performance of the notarial act.

3. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

Sec. 7. NEW SECTION. **9B.8 Authority to refuse to perform notarial act.**

1. A notarial officer may refuse to perform a notarial act if the notarial officer is not satisfied that any of the following apply:

a. The individual executing the record is competent or has the capacity to execute the record.

b. The individual's signature is knowingly and voluntarily made.

2. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

3. A notarial officer shall not condition the performing of notarial services upon the requirement that the person served be a customer or client of the establishment by which the notarial officer is employed. The employer of a notary public shall not condition the performing of a notarial service upon the requirement that the person served be a customer or client of the establishment by which the notary public is employed.

Sec. 8. NEW SECTION. **9B.9 Signature if individual unable to sign.**

If an individual is physically unable to sign a record, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer

shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

**Sec. 9. NEW SECTION. 9B.10 Notarial act in this state.**

1. A notarial act may be performed in this state by any of the following:
  - a. A notary public of this state.
  - b. A judge, clerk, or deputy clerk of a court of this state.
  - c. A person authorized by the law of this state to administer oaths.
  - d. Any other individual authorized to perform the specific act by the law of this state.
  - e. A registrar of vital statistics or a designee of a registrar of vital statistics.
2. The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a", "b", or "c", conclusively establish the authority of the notarial officer to perform a notarial act.

**Sec. 10. NEW SECTION. 9B.11 Notarial act in another state.**

1. A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed in that state is performed by any of the following:
  - a. A notary public of that state.
  - b. A judge, clerk, or deputy clerk of a court of that state.
  - c. Any other individual authorized by the law of that state to perform the notarial act.
2. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a" or "b", conclusively establish the authority of the notarial officer to perform the notarial act.
4. The notarial act performed in another state must be performed in accordance with section 9B.6.

**Sec. 11. NEW SECTION. 9B.12 Notarial act under authority of federally recognized Indian tribe.**

1. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this state, if the act performed in the jurisdiction of the tribe is performed by any of the following:
  - a. A notary public of the tribe.
  - b. A judge, clerk, or deputy clerk of a court of the tribe.
  - c. Any other individual authorized by the law of the tribe to perform the notarial act.
2. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.
3. The signature and title of a notarial officer described in subsection 1, paragraph "a" or "b", conclusively establish the authority of the notarial officer to perform the notarial act.

**Sec. 12. NEW SECTION. 9B.13 Notarial act under federal authority.**

1. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state, if the act performed under federal law is performed by any of the following:
  - a. A judge, clerk, or deputy clerk of a court.
  - b. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law.
  - c. An individual designated a notarial officer by the United States department of state for performing notarial acts overseas.
  - d. Any other individual authorized by federal law to perform the notarial act.
2. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

3. The signature and title of a notarial officer described in subsection 1, paragraph “a”, “b”, or “c”, conclusively establish the authority of the notarial officer to perform the notarial act.

**Sec. 13. NEW SECTION. 9B.14 Foreign notarial act.**

1. As used in this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

2. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

3. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

4. The signature and official stamp of an individual holding an office described in subsection 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.

5. An apostille in the form prescribed by the Hague convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

6. A consular authentication issued by an individual designated by the United States department of state as a notarial officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the notarial officer holds the indicated office.

**Sec. 14. NEW SECTION. 9B.15 Certificate of notarial act.**

1. A notarial act must be evidenced by a certificate. The certificate must meet all of the following requirements:

- a. Be executed contemporaneously with the performance of the notarial act.
- b. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the secretary of state.
- c. Identify the jurisdiction in which the notarial act is performed.
- d. Contain the title of office of the notarial officer.
- e. If the notarial officer is a notary public, indicate the date of expiration, if any, of the notarial officer’s commission.

2. If a notarial act regarding a tangible record is performed by a notary public, an official stamp must be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by a notarial officer other than a notary public and the certificate contains the information specified in subsection 1, paragraphs “b”, “c”, and “d”, an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in subsection 1, paragraphs “b”, “c”, and “d”, an official stamp may be attached to or logically associated with the certificate.

3. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and all of the following apply:

- a. It is in a short form set forth in section 9B.16.
- b. It is in a form otherwise permitted by the law of this state.
- c. It is in a form permitted by the law applicable in the jurisdiction in which the notarial act is performed.

d. It sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 9B.5, 9B.6, and 9B.7, or a law of this state other than this chapter.

4. By executing a certificate of a notarial act, a notarial officer certifies that the notarial officer has complied with the requirements and made the determinations specified in sections 9B.4, 9B.5, and 9B.6.

5. A notarial officer shall not affix the notarial officer’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

6. If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to section 9B.27 for attaching, affixing, or logically associating the certificate, the process must conform to the standards.

Sec. 15. NEW SECTION. **9B.16 Short form certificates.**

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9B.15, subsections 1 and 2:

1. For an acknowledgment in an individual capacity:

State of.....  
[County] of.....  
This record was acknowledged before me on.....(Date)  
by.....Name(s) of individual(s)  
.....  
Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires:.....]

2. For an acknowledgment in a representative capacity:

State of.....  
[County] of.....  
This record was acknowledged before me on.....(Date)  
by.....Name(s) of individual(s)  
as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).  
.....  
Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires:.....]

3. For a verification on oath or affirmation:

State of.....  
[County] of.....  
Signed and sworn to (or affirmed) before me on.....(Date)  
by.....Name(s) of individual(s) making statement  
.....  
Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires:.....]

4. For witnessing or attesting a signature:

State of.....  
[County] of.....  
Signed [or attested] before me on.....(Date)  
by.....Name(s) of individual(s)  
.....  
Signature of notarial officer  
Stamp  
[.....]  
Title of office  
[My commission expires:.....]

5. For certifying a copy of a record:  
 State of.....  
 [County] of.....  
 I certify that this is a true and correct copy of a record in  
 the possession of.....  
 Dated.....  
 .....  
 Signature of notarial officer  
 Stamp  
 [.....]  
 Title of office  
 [My commission expires:.....]

**Sec. 16. NEW SECTION. 9B.17 Official stamp.**

1. The official stamp of a notary public must comply with all of the following:
  - a. Include the notary public’s name, the words “Notarial Seal” and “Iowa”, the words “Commission Number” followed by a number assigned to the notary public by the secretary of state, the words “My Commission Expires” followed either by the date that the notary public’s term would ordinarily expire as provided in section 9B.21 or a blank line, and other information required by the secretary of state.
  - b. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. If the official stamp contains a blank line, the person must print the date that the notary public’s term would ordinarily expire on the blank line imprinted on each record subject to a notarial act.
2. This section does not apply to a judicial officer as defined in section 602.1101 performing a notarial act in accordance with state or federal authority. This section does not apply to a chief officer or a chief officer’s designee certifying a peace officer’s verification of a uniform citation and complaint pursuant to section 805.6, subsection 3. A judicial officer, chief officer, or chief officer’s designee is not required to acquire or use an official stamp in performing these acts.

**Sec. 17. NEW SECTION. 9B.18 Stamping device.**

1. A notary public is responsible for the security of the notary public’s stamping device and shall not allow another individual to use the device to perform a notarial act.
2. If a notary public’s stamping device is lost or stolen, the notary public or the notary public’s personal representative or guardian shall notify promptly the commissioning officer or agency on discovering that the device is lost or stolen.

**Sec. 18. NEW SECTION. 9B.20 Notification regarding performance of notarial act on electronic record — selection of technology.**

1. A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.
2. Before a notary public performs the notary public’s initial notarial act with respect to an electronic record, a notary public shall notify the secretary of state that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use. If the secretary of state has established standards for approval of technology pursuant to section 9B.27, the technology must conform to the standards. If the technology conforms to the standards, the secretary of state shall approve the use of the technology.

**Sec. 19. NEW SECTION. 9B.21 Commission as notary public — qualifications — no immunity or benefit.**

1. An individual qualified under subsection 2 may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay an application fee of thirty

dollars to the secretary of state. A person appointed as a notary public under subsection 4 is not subject to the fee imposed by this subsection.

2. An applicant for a commission as a notary public shall meet all of the following qualifications:

- a. Be at least eighteen years of age.
- b. Be a citizen or permanent legal resident of the United States.
- c. Be a resident of or have a place of employment or practice in this state.
- d. Be able to read and write English.
- e. Not be disqualified to receive a commission under section 9B.23.

3. Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the secretary of state.

4. a. The secretary of state shall appoint members of the general assembly as notaries public, upon request, and may revoke an appointment for cause.

b. The secretary of state may appoint one or more employees of a state agency as a notary public to perform notarial acts associated with their positions, pursuant to conditions established by the secretary of state. As used in this paragraph, “state agency” means any executive, judicial, or legislative department, commission, board, institution, division, bureau, office, agency, or other entity of state government.

5. The secretary of state may appoint as a notary public a resident of a state bordering Iowa if that person’s place of work or business is within the state of Iowa. If a notary public who is a resident of a state bordering Iowa ceases to work or maintain a place of business in Iowa, the notary commission expires.

6. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of three years. The term of a notarial officer who is a resident of a state bordering Iowa and whose place of work or business is in Iowa is one year. The term of a notary public who is a member of the general assembly is the member’s term of office. The term of a notary public who is an employee of a state agency designated to receive an appointment as provided in subsection 4 shall terminate at the end of employment.

7. A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

**Sec. 20. NEW SECTION. 9B.21A Notice of expiration of term.**

The secretary of state, two months preceding the expiration of a commission, shall notify the notary public of the expiration date and furnish a blank application for reappointment.

**Sec. 21. NEW SECTION. 9B.21B Fees — certification.**

The secretary of state shall collect the following fees, for use in offsetting the cost of administering this chapter:

1. For furnishing a certified copy of any document, instrument, or paper relating to a notary public, one dollar per page and five dollars for the certificate.
2. For furnishing an uncertified copy of any document, instrument, or paper relating to a notary public, one dollar per page.
3. For certifying, under seal of the secretary of state, a statement as to the status of a notary commission which would not appear from a certified copy of documents on file in the secretary of state’s office, five dollars.

**Sec. 22. NEW SECTION. 9B.23 Grounds to deny, refuse to renew, revoke, suspend, or condition commission of notary public.**

1. The secretary of state may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including any of the following acts or omissions:

- a. A failure to comply with this chapter.
- b. A fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the secretary of state.



c. A conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit.

d. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit.

e. A failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules adopted by the secretary of state, or any federal or state law.

f. The use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right, or privilege that the notary public does not have.

g. A violation by the notary public of a rule adopted by the secretary of state regarding a notary public.

h. A denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state.

2. If the secretary of state denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with rules adopted by the secretary of state.

3. The authority of the secretary of state to deny, refuse to renew, suspend, revoke, or impose conditions on a commission as a notary public does not prevent either the secretary of state or a person aggrieved by a notary public from seeking and obtaining other criminal or civil remedies provided by law.

**Sec. 23. NEW SECTION. 9B.24 Database of notaries public.**

The secretary of state shall maintain an electronic database of notaries public which complies with all of the following:

1. Through which a person may verify the authority of a notary public to perform notarial acts.

2. Which indicates whether a notary public has notified the secretary of state that the notary public will be performing notarial acts on electronic records.

**Sec. 24. NEW SECTION. 9B.25 Prohibited acts.**

1. A commission as a notary public does not authorize an individual to do any of the following:

a. Assist persons in drafting legal records, give legal advice, or otherwise practice law.

b. Act as an immigration consultant or an expert on immigration matters.

c. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship, or related matters.

d. Receive compensation for performing any of the activities listed in this subsection.

2. A notary public shall not engage in false or deceptive advertising.

3. A notary public, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

4. A notary public, other than an attorney licensed to practice law in this state, shall not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice, or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this state in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media, or the internet, the notary public shall include the following statement, or an alternate statement authorized or required by the secretary of state in the advertisement or representation, prominently and in each language used in the advertisement or representation:

I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities.

If the form of advertisement or representation is not broadcast media, print media, or the internet and does not permit inclusion of the statement required by this subsection because of size, it must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

5. Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notary public.

Sec. 25. NEW SECTION. **9B.26 Validity of notarial acts.**

1. Except as otherwise provided in section 9B.4, subsection 2, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than this chapter or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

2. The validity of a notarial act shall not be affected or impaired by the fact that the notarial officer performing the notarial act is an officer, director, or shareholder of a corporation that may have a beneficial interest or other interest in the subject matter of the notarial act.

Sec. 26. NEW SECTION. **9B.27 Rules.**

The secretary of state may adopt rules to administer this chapter. Any rules adopted with respect to the performance of notarial acts on electronic records shall not require or favor one technology or technical specification over another.

Sec. 27. NEW SECTION. **9B.28 Notary public commission in effect.**

A commission as a notary public in effect on January 1, 2013, continues until its date of expiration. A notary public who applies to renew a commission as a notary public on or after January 1, 2013, is subject to and shall comply with this chapter. A notary public, in performing notarial acts on or after January 1, 2013, shall comply with this chapter.

Sec. 28. NEW SECTION. **9B.30 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 the revised uniform law on notarial acts.

Sec. 29. NEW SECTION. **9B.31 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. 30. REPEAL. Chapter 9E, Code 2011, is repealed.

DIVISION II  
COORDINATING AMENDMENTS

Sec. 31. Section 2C.7, subsection 1, Code 2011, is amended to read as follows:

1. Hold another public office of trust or profit under the laws of this state other than ~~the office of notary public as provided in chapter 9B.~~

Sec. 32. Section 4.1, subsection 28, Code 2011, is amended to read as follows:

28. *Seal.* Where the seal of a court, public office, public officer, or public or private corporation may be required to be affixed to any paper, the word “seal” shall include an impression upon the paper alone, or upon wax, or a wafer affixed to the paper, or an official ink stamp ~~if a notarial seal of a notarial officer as provided in chapter 9B.~~ If the seal of a court is required, the word “seal” may also include a visible electronic image of the seal on an electronic document.

Sec. 33. Section 29B.129, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The following members of the state military forces may administer oaths for the purposes

of military administration including military justice, and affidavits may be taken for those purposes before persons having the general powers of a notary public as provided in chapter 9B:

Sec. 34. Section 43.14, subsection 4, paragraph e, Code 2011, is amended to read as follows:

e. The signature of a notary public under chapter 9B or other officer empowered to witness oaths.

Sec. 35. Section 45.5, subsection 5, paragraph d, Code 2011, is amended to read as follows:

d. The signature of a notary public under chapter 9B or other officer empowered to witness oaths.

Sec. 36. Section 144.12A, subsection 5, paragraph a, Code 2011, is amended to read as follows:

a. Information provided to the registry may be revoked by the registrant by submission of a written statement signed and acknowledged by the registrant before a notary public as provided in chapter 9B.

Sec. 37. Section 144A.3, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. Is acknowledged before a notarial officer within this state as provided in chapter 9B.

Sec. 38. Section 144B.3, subsection 1, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

(2) Is acknowledged before a notarial officer within this state as provided in chapter 9B.

Sec. 39. Section 144C.6, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Acknowledged before a notarial officer as provided in chapter 9B.

Sec. 40. Section 252A.3A, subsection 5, paragraph h, Code Supplement 2011, is amended to read as follows:

h. The signature of a notary public under chapter 9B attesting to the identities of the parties signing the affidavit of paternity.

Sec. 41. Section 321.251, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. A written notice of election shall be filed with the designated officials of the local authority whose ordinances, rules, or regulations will govern the vehicular traffic. The appropriate officials shall be the city clerk and chief of police of the city in which the real property is located and the county sheriff and the county recorder of the county in which the real property is located. The notice shall include the legal description of the real property, the street address, if any, and the date and time when the owner wishes the election to become effective. The notice shall be signed by every titleholder of the real property and acknowledged by a notary public as provided in chapter 9B.

Sec. 42. Section 321G.29, subsection 3, Code Supplement 2011, is amended to read as follows:

3. An owner of a snowmobile shall apply to the county recorder for issuance of a certificate of title within thirty days after acquisition. The application shall be on forms the department prescribes and accompanied by the required fee. The application shall be signed and sworn to before a ~~notary public~~ notarial officer as provided in chapter 9B or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the snowmobile or the fair market value if

no sale immediately preceded the transfer and any additional information the department requires. If the application is made for a snowmobile last previously registered or titled in another state or foreign country, the application shall contain this information and any other information the department requires.

Sec. 43. Section 321I.31, subsection 3, Code 2011, is amended to read as follows:

3. An owner of an all-terrain vehicle shall apply to the county recorder for issuance of a certificate of title within thirty days after acquisition. The application shall be on forms the department prescribes and accompanied by the required fee. The application shall be signed and sworn to before a notary public as provided in chapter 9B or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the all-terrain vehicle or the fair market value if no sale immediately preceded the transfer and any additional information the department requires. If the application is made for an all-terrain vehicle last previously registered or titled in another state or foreign country, the application shall contain this information and any other information the department requires.

Sec. 44. Section 462A.77, subsection 4, Code 2011, is amended to read as follows:

4. Every owner of a vessel subject to titling under this chapter shall apply to the county recorder for issuance of a certificate of title for the vessel within thirty days after acquisition. The application shall be on forms the department prescribes, and accompanied by the required fee. The application shall be signed and sworn to before a notary public as provided in chapter 9B or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, it shall contain this information and any other information the department requires.

Sec. 45. Section 535B.1, subsection 11, Code Supplement 2011, is amended to read as follows:

11. "*Real estate closing services*" means the administrative and clerical services required to carry out the conveyance or transfer of real estate or an interest in real estate located in this state to a purchaser or lender. "*Real estate closing services*" include but are not limited to preparing settlement statements, determining that all closing documents conform to the parties' contract requirements, ascertaining that the lender's instructions have been satisfied, conducting a closing conference, receiving and disbursing funds, and completing form documents and instruments selected by and in accordance with instructions of the parties to the transaction. "*Real estate closing services*" do not include performing solely ~~notary functions~~ notarial acts as provided in chapter 9B.

Sec. 46. Section 554.3505, subsection 2, Code 2011, is amended to read as follows:

2. A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public as provided in chapter 9B or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made, the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

Sec. 47. Section 558.15, Code 2011, is amended to read as follows:

**558.15 Notarial Official stamps or seals of nonresidents nonresident public notaries — presumption.**

Any ~~notarial official stamp or seal~~ purporting to have been affixed to any instrument in

writing, by any notary public as provided in chapter 9B residing elsewhere than in this state, shall be prima facie evidence that the words thereon engraved conform to the requirements of the law of the place where such certificate purports to have been made.

Sec. 48. Section 558.20, Code 2011, is amended to read as follows:

**558.20 Acknowledgments.**

The acknowledgment of any deed, conveyance, or other instrument in writing by which real estate in this state is conveyed or encumbered, whether made within this state, outside this state, outside the United States, or under federal authority, shall comply with the provisions of chapter ~~9E~~ 9B.

Sec. 49. Section 558.40, Code 2011, is amended to read as follows:

**558.40 Liability of officer.**

Any officer, who knowingly misstates a material fact in any of the certificates mentioned in this chapter or chapter ~~9E~~ 9B, shall be liable for all damages caused thereby, and shall be guilty of a serious misdemeanor.

Sec. 50. Section 558.42, Code 2011, is amended to read as follows:

**558.42 Acknowledgment as condition precedent.**

A document shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in chapter ~~9E~~ 9B, except that affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and uniform commercial code financing statements and financing statement changes as provided in chapter 554 need not be thus acknowledged.

Sec. 51. Section 589.4, Code 2011, is amended to read as follows:

**589.4 Acknowledgments by corporation officers.**

The acknowledgments of all deeds, mortgages, or other instruments in writing taken or certified more than ten years earlier, which instruments have been recorded in the recorder's office of any county of this state, including acknowledgments of instruments made by a corporation, or to which the corporation was a party, or under which the corporation was a beneficiary, and which have been acknowledged before or certified by a notary public as provided in chapter 9B who was at the time of the acknowledgment or certifying a stockholder or officer in the corporation, are legal and valid official acts of the notaries public, and entitle the instruments to be recorded, anything in the laws of the state of Iowa in regard to acknowledgments to the contrary notwithstanding. This section does not affect pending litigation.

Sec. 52. Section 589.5, Code 2011, is amended to read as follows:

**589.5 Acknowledgments by stockholders.**

All deeds and conveyances of lands within this state executed more than ten years earlier, but which have been acknowledged or proved according to and in compliance with the laws of this state before a notary public as provided in chapter 9B or other official authorized by law to take acknowledgments who was, at the time of the acknowledgment, an officer or stockholder of a corporation interested in the deed or conveyance, or otherwise interested in the deeds or conveyances, are, if otherwise valid, valid in law as though acknowledged or proved before an officer not interested in the deeds or conveyances; and if recorded more than ten years earlier, in the respective counties in which the lands are, the records are valid in law as though the deeds and conveyances, so acknowledged or proved and recorded, had, prior to being recorded, been acknowledged or proved before an officer having no interest in the deeds or conveyances.

Sec. 53. Section 600.7, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. If by any other person, either in the presence of the juvenile court or court in which the adoption petition is filed or before a notary public as provided in chapter 9B.

Sec. 54. Section 602.8102, subsection 78, Code 2011, is amended to read as follows:

78. Certify an acknowledgment of a written instrument relating to real estate as provided in section ~~9E.10~~ 9B.10 or 558.20.

Sec. 55. Section 622.86, Code 2011, is amended to read as follows:

**622.86 Foreign affidavits.**

Those taken out of the state before any judge or clerk of a court of record, or before a notary public as provided in chapter 9B, or a commissioner appointed by the governor of this state to take acknowledgment of deeds in the state where such affidavit is taken, are of the same credibility as if taken within the state.

Sec. 56. Section 624.37, subsection 1, Code Supplement 2011, is amended to read as follows:

1. When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for that party, must acknowledge satisfaction of the judgment by the execution of an instrument referring to it, duly acknowledged or notarized in the manner prescribed in chapter ~~9E~~ 9B, and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to acknowledge satisfaction of the judgment in such manner within thirty days after having been requested to do so in a writing containing a draft release of the judgment shall subject the delinquent party to a penalty of four hundred dollars to be recovered by a motion filed in the court that rendered the original judgment requesting that the payor of the judgment, if different from the judgment debtor, be subrogated to the rights of the judgment creditor, that the court determine the amount currently owed on the judgment, or any other relief as may be necessary to accomplish payment and satisfaction of the judgment. If the motion relates to a lien of judgment as to specific property, the motion may be filed by a person with an interest in the property.

Sec. 57. Section 633.279, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

a. An attested will may be made self-proved at the time of its execution, or at any subsequent date, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before a person authorized to administer oaths and take acknowledgments under the laws of this state, and evidenced by such person's certificate, under seal, attached or annexed to the will, in form and content substantially as follows:

Affidavit

State of ..... )  
County of ..... ) ss

We, the undersigned, ....., ....., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn, declare to the undersigned authority that said instrument is the testator's will and that the testator willingly signed and executed such instrument, or expressly directed another to sign the same in the presence of the witnesses, as a free and voluntary act for the purposes therein expressed; that said witnesses, and each of them, declare to the undersigned authority that such will was executed and acknowledged by the testator as the testator's will in their presence and that they, in the testator's presence, at the testator's request, and in the presence of each other, did subscribe their names thereto as attesting witnesses on the date of the date of such will; and that the testator, at the time of the execution of such instrument, was of full age and of sound mind and that the witnesses were sixteen years of age or older and otherwise competent to be witnesses.

.....  
Testator

.....  
Witness

.....  
Witness

Subscribed, sworn and acknowledged before me by ....., the testator; and subscribed and sworn before me by ..... and ....., witnesses, this ..... day of ..... (month), ..... (year)

(Seal) (Stamp) ..... Notary Public, or other notarial officer authorized to take and certify acknowledgments and administer oaths

Sec. 58. Section 633.295, Code 2011, is amended to read as follows:

633.295 Testimony of witnesses.

The proof may be made by the oral or written testimony of one or more of the subscribing witnesses to the will. If such testimony is in writing, it shall be substantially in the following form executed and sworn to after the death of the decedent:

In the District Court of Iowa In and for ..... County

In the Matter of the Estate of .....

....., Deceased

Probate No. ....

Testimony of Subscribing Witness on Probate of Will.

State of ..... )

..... County ) ss

I, ....., being first duly sworn, state:

I reside in the County of ....., State of .....; I knew the testator on the ..... day of ..... (month), ..... (year), the date of the instrument, the original or exact reproduction of which is attached hereto, now shown to me, and purporting to be the last will and testament of the said ....., deceased; I am one of the subscribing witnesses to said instrument; at the said date of said instrument, I knew ....., the other subscribing witness; that said instrument was exhibited to me and to the other subscribing witness by the testator, who declared the same to be the testator's last will and testament, and was signed by the testator at ....., in the County of ....., State of ....., on the date shown in said instrument, in the presence of myself and the other subscribing witness; and the other subscribing witness and I then and there, at the request of the testator, in the presence of said testator and in the presence of each other, subscribed our names thereto as witnesses.

.....

Name of witness

.....

Address

Subscribed and sworn to before me this ..... day of ..... (month), ..... (year)

(Seal) (Stamp) ..... Notary Public in and for the State of .....

Sec. 59. Section 633A.4604, subsection 2, Code 2011, is amended to read as follows:

2. The certification must contain a statement that the trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification of trust to be incorrect and must contain a statement that it is being signed by all of the currently acting trustees of the trust and is sworn and subscribed to under penalty of perjury before a notary public as provided in chapter 9B.

DIVISION III  
EFFECTIVE DATE

Sec. 60. EFFECTIVE DATE. This Act takes effect January 1, 2013.

Approved April 4, 2012

**CHAPTER 1051**  
PUBLIC FUNDS — AUTHORIZED DEPOSITS  
*H.F. 2168*

**AN ACT** relating to the authorized deposit of public funds.

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

Section 1. Section 12B.10, subsection 7, Code Supplement 2011, is amended to read as follows:

7. Notwithstanding sections 12C.2, 12C.4, 12C.6, 12C.6A, and any other provision of law relating to the deposits of public funds, if public funds are deposited in a depository, as defined in section 12C.1, any uninsured portion of the public funds invested through the depository may be invested in insured deposits or certificates of deposit arranged by the depository that are placed in or issued by one or more federally insured banks or savings associations regardless of location for the account of the public funds depositor if all of the following requirements are satisfied:

a. The full amount of the principal and any accrued interest ~~of each on such public funds~~ or each such certificate of deposit issued shall be covered by federal deposit insurance.

b. The depository, either directly or through an agent or subcustodian, shall act as custodian of the insured deposits or certificates of deposit.

c. ~~The~~ On the same day that the public funds deposits are placed or the certificates of deposit are issued, the depository shall have received deposits in an amount eligible for federal deposit insurance from, and, with regard to certificates of deposit, shall have issued certificates of deposit to, customers of other financial institutions wherever located that are equal to or greater than the amount of public funds invested under this subsection by the public funds depositor through the depository.

Sec. 2. Section 12C.22, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The amount of the collateral required to be pledged by a bank shall at all times equal or exceed the total of the amount by which the public funds deposits in the bank exceeds the total capital of the bank. For purposes of this section, deposits that comply with section 12B.10, subsection 7, that are evidenced either by one or more certificates of deposit or one or more orders for the next business day settlement and issuance of certificates of deposit, by a federally insured bank or savings association other than the depository, or that are public funds placed in accordance with section 12B.10, subsection 7, shall not be deemed public funds deposits in the bank or savings association. For purposes of this chapter, unless the context otherwise requires, “total capital of the bank” means its tier one capital plus both of the following components of tier two capital:

Sec. 3. Section 12C.22, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* Certificates of deposit issued by a federal deposit insurance corporation insured bank, the payment of which is fully insured by the federal deposit insurance corporation both as to principal and accrued interest, and that have been assigned



a committee on uniform security identification procedures number and deposited for the account of the public funds depository bank at the depository trust company.

Sec. 4. Section 12C.23A, subsection 3, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If a bank is closed by its primary state or federal regulator, including a bank that has accepted public funds deposits under section 12B.10, subsection 7, each public funds depositor with deposits in the bank shall notify the treasurer of state of the amount of any claim within thirty days of the closing. The treasurer of state shall implement the following procedures:

Sec. 5. Section 12C.23A, subsection 3, paragraph d, Code 2011, is amended to read as follows:

d. If the loss of public funds is not covered by federal deposit insurance and the proceeds of the closed bank's assets that are liquidated within thirty days of the closing of the bank are not sufficient to cover the loss, then any further payments to cover the loss will come from the state sinking fund for public deposits in banks. If the balance in that sinking fund is inadequate to pay the entire loss, then the treasurer shall obtain the additional amount needed by making an assessment against other banks that are organized under chapter 524, national banks with offices in this state, and branches of out-of-state banks located in this state whose public funds deposits exceed federal deposit insurance coverage. A bank's assessment shall be determined by multiplying the total amount of the remaining loss to all public depositors in the closed bank by a percentage that represents the assessed bank's proportional share of the total of uninsured public funds deposits held by all banks and all branches of out-of-state banks, based upon the average of the uninsured public funds of the assessed bank or branch of an out-of-state bank as of the end of the four calendar quarters prior to the date of closing of the closed bank and the average of the uninsured public funds in all banks and branches of out-of-state banks as of the end of the four calendar quarters prior to the date of closing of the closed bank, excluding the amount of uninsured public funds held by the closed bank at the end of the four calendar quarters. Each bank shall pay its assessment to the treasurer of state within three business days after it receives notice of assessment. For purposes of this section, when calculating uninsured public funds, a bank shall include all deposits of customers of other financial institutions as permitted by section 12B.10, subsection 7.<sup>1</sup>

Approved April 4, 2012

## CHAPTER 1052

### UNIFORM COMMERCIAL CODE — SECURED TRANSACTIONS

#### H.F. 2321

**AN ACT** amending provisions in the uniform commercial code relating to secured transactions, and including effective date provisions.

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

Section 1. Section 554.9102, subsection 1, paragraph g, subparagraph (2), Code 2011, is amended to read as follows:

(2) ~~to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process.~~

<sup>1</sup> See chapter 1138, §38 herein

Sec. 2. Section 554.9102, subsection 1, paragraphs j, ax, and br, Code 2011, are amended to read as follows:

j. *“Certificate of title”* means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest’s obtaining priority over the rights of a lien creditor with respect to the collateral.

ax. *“Jurisdiction of organization”*, with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized.

br. *“Registered organization”* means an organization formed or organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized by the filing of a public organic record with, the issuance of a public organic record by, or the enactment of legislation by the state or the United States. The term includes a business trust that is formed under the law of a single state if a statute of the state governing business trusts requires that the business trust’s organic record be filed with the state.

Sec. 3. Section 554.9102, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *Obp. “Public organic record”* means a record that is available to the public for inspection and is:

(1) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States which amends or restates the initial record;

(2) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state which amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or

(3) a record consisting of legislation enacted by the legislature of a state or the Congress of the United States which forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States which amends or restates the name of the organization.

Sec. 4. Section 554.9105, Code 2011, is amended to read as follows:

**554.9105 Control of electronic chattel paper.**

1. *General rule: control of electronic chattel paper.* A secured party has control of electronic chattel paper if a system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

2. *Specific facts giving control.* A system satisfies subsection 1 if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

1. a. a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in ~~subsections 4, 5, and 6~~ paragraphs “d”, “e”, and “f”, unalterable;

2. b. the authoritative copy identifies the secured party as the assignee of the record or records;

3. c. the authoritative copy is communicated to and maintained by the secured party or its designated custodian;

4. d. copies or ~~revisions~~ amendments that add or change an identified assignee of the authoritative copy can be made only with the participation consent of the secured party;

5. e. each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

6. f. any ~~revision~~ amendment of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

Sec. 5. Section 554.9307, subsection 6, paragraph b, Code 2011, is amended to read as follows:

b. in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location, including by designating its main office, home office, or other comparable office; or

Sec. 6. Section 554.9311, subsection 1, paragraphs b and c, Code 2011, are amended to read as follows:

b. any certificate-of-title statute, including as provided in chapter 321, covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of perfection; or

c. a ~~certificate-of-title~~ statute of another jurisdiction which provides for a security interest to be indicated on ~~the~~ a certificate of title as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

Sec. 7. Section 554.9316, Code 2011, is amended by adding the following new subsections:

**NEW SUBSECTION. 8.** *Effect on filed financing statement of change in governing law.* The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

a. A financing statement filed before the change pursuant to the law of the jurisdiction designated in section 554.9301, subsection 1, or section 554.9305, subsection 3, is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location.

b. If a security interest perfected by a financing statement that is effective under paragraph "a" becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 554.9301, subsection 1, or section 554.9305, subsection 3, or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

**NEW SUBSECTION. 9.** *Effect of change in governing law on financing statement filed against original debtor.* If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in section 554.9301, subsection 1, or section 554.9305, subsection 3, and the new debtor is located in another jurisdiction, the following rules apply:

a. The financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 554.9203, subsection 4, if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor.

b. A security interest perfected by the financing statement and which becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in section 554.9301, subsection 1, or section 554.9305, subsection 3, or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but which does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 8. Section 554.9317, subsections 2 and 4, Code 2011, are amended to read as follows:

2. *Buyers that receive delivery.* Except as otherwise provided in subsection 5, a buyer, other than a secured party, of tangible chattel paper, tangible documents, goods, instruments, or a ~~security certificate~~ certificated security takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

4. *Licensees and buyers of certain collateral.* A licensee of a general intangible or a buyer, other than a secured party, of ~~accounts, electronic chattel paper, electronic documents, general intangibles, or investment property collateral~~ other than tangible chattel paper, tangible documents, goods, instruments, or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Sec. 9. Section 554.9326, Code 2011, is amended to read as follows:

**554.9326 Priority of security interests created by new debtor.**

1. *Subordination of security interest created by new debtor.* Subject to subsection 2, a security interest that is created by a new debtor which is in collateral in which the new debtor has or acquires rights and is perfected solely by a filed financing statement that is effective solely under section 554.9508 in collateral in which a new debtor has or acquires rights would be ineffective to perfect the security interest but for the application of section 554.9316, subsection 9, paragraph "a", or section 554.9508 is subordinate to a security interest in the same collateral which is perfected other than by such a filed financing statement that is effective solely under section 554.9508.

2. *Priority under other provisions — multiple original debtors.* The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements ~~that are effective solely under section 554.9508 described in subsection 1.~~ However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 10. Section 554.9406, subsection 5, Code 2011, is amended to read as follows:

5. *Inapplicability of subsection 4 to certain sales.* Subsection 4 does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under section 554.9610 or an acceptance of collateral under section 554.9620.

Sec. 11. Section 554.9408, subsection 2, Code 2011, is amended to read as follows:

2. *Applicability of subsection 1 to sales of certain rights to payment.* Subsection 1 applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under section 554.9610 or an acceptance of collateral under section 554.9620.

Sec. 12. Section 554.9502, subsection 3, paragraph c, Code 2011, is amended to read as follows:

c. the record satisfies the requirements for a financing statement in this section, ~~other than an indication but:~~

(1) the record need not indicate that it is to be filed in the real property records; and

(2) the record sufficiently provides the name of a debtor who is an individual if it provides the individual name of the debtor or the surname and first personal name of the debtor, even if the debtor is an individual to whom section 554.9503, subsection 1, paragraph "d" applies; and

Sec. 13. Section 554.9503, subsection 1, paragraphs a through d, Code 2011, are amended to read as follows:

a. except as otherwise provided in paragraph "c", if the debtor is a registered organization or if the collateral is held in a trust that is a registered organization, only if the financing statement provides the name of the debtor indicated that is stated to be the registered organization's name on the public organic record of most recently filed with or issued or enacted by the debtor's registered organization's jurisdiction of organization which shows the debtor to have been organized purports to state, amend, or restate the registered organization's name;

b. subject to subsection 6, if the debtor is a decedent's estate collateral is being administered by the personal representative of a decedent, only if the financing statement provides, as the name of the debtor, the name of the decedent and, in a separate part of the

financing statement, indicates that the debtor is an estate collateral is being administered by a personal representative;

c. if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement collateral is held in a trust that is not a registered organization, only if the financing statement:

(1) provides as the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and of the debtor:

(a) if the organic record of the trust specifies a name for the trust, the name specified; or

(b) if the organic record of the trust does not specify a name for the trust, the name of the settlor or testator; and

(2) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and in a separate part of the financing statement:

(a) if the name is provided in accordance with subparagraph (1), subparagraph division (a), indicates that the collateral is held in a trust; or

(b) if the name is provided in accordance with subparagraph (1), subparagraph division (b), provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlors or the same testator and indicates that the collateral is held in a trust, unless the additional information so indicates;

d. subject to subsection 7, if the debtor is an individual to whom this state has issued a driver's license under chapter 321 that has not expired, only if the financing statement provides the name of the individual which is indicated on the driver's license;

e. if the debtor is an individual to whom paragraph "d" does not apply, only if the financing statement provides the individual name of the debtor or the surname and first personal name of the debtor; and

f. in other cases:

(1) if the debtor has a name, only if it the financing statement provides the individual or organizational name of the debtor; and

(2) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

Sec. 14. Section 554.9503, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. unless required under subsection 1, paragraph "d" "f", subparagraph (2), names of partners, members, associates, or other persons comprising the debtor.

Sec. 15. Section 554.9503, Code 2011, is amended by adding the following new subsections:

**NEW SUBSECTION. 6. *Name of decedent.*** The name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the "name of the decedent" under subsection 1, paragraph "b".

**NEW SUBSECTION. 7. *Multiple driver's licenses.*** If this state has issued to an individual more than one driver's license under chapter 321 of a kind described in subsection 1, paragraph "d", the one that was issued most recently is the one to which subsection 1, paragraph "d" refers.

**NEW SUBSECTION. 8. *Definition.*** In this section, the "name of the settlor or testator" means:

a. if the settlor is a registered organization, the name that is stated to be the settlor's name on the public organic record most recently filed with or issued or enacted by the settlor's jurisdiction of organization which purports to state, amend, or restate the settlor's name; or

b. in other cases, the name of the settlor or testator indicated in the trust's organic record.

Sec. 16. Section 554.9507, subsection 3, Code 2011, is amended to read as follows:

3. *Change in debtor's name.* If a debtor so changes its the name that a filed financing statement provides for a debtor becomes insufficient as the name of the debtor under section

554.9503, subsection 1, so that the financing statement becomes seriously misleading under section 554.9506:

a. the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the ~~change~~ filed financing statement becomes seriously misleading; and

b. the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the ~~change~~ filed financing statement becomes seriously misleading, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after ~~the change~~ the financing statement became seriously misleading.

Sec. 17. Section 554.9515, subsection 6, Code 2011, is amended to read as follows:

6. *Transmitting utility financing statement.* If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

Sec. 18. Section 554.9516, subsection 2, paragraph c, subparagraph (2), unnumbered paragraph 1, Code 2011, is amended to read as follows:

in the case of an amendment or ~~correction~~ information statement, the record:

Sec. 19. Section 554.9516, subsection 2, paragraph c, subparagraph (3), Code 2011, is amended to read as follows:

(3) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's ~~last name~~ surname; or

Sec. 20. Section 554.9516, subsection 2, paragraph e, Code 2011, is amended to read as follows:

e. in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(1) provide a mailing address for the debtor; or

(2) indicate whether the name provided as the name of the debtor is the name of an individual or an organization; or

(3) if the financing statement indicates that the debtor is an organization, provide:

(a) a type of organization for the debtor;

(b) a jurisdiction of organization for the debtor; or

(c) an organizational identification number for the debtor or indicate that the debtor has none;

Sec. 21. Section 554.9518, Code 2011, is amended to read as follows:

**554.9518 Claim concerning inaccurate or wrongfully filed record.**

1. ~~Correction statement~~ Statement with respect to record indexed under person's name. A person may file in the filing office a ~~correction~~ an information statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

2. *Sufficiency* Contents of correction statement under subsection 1. A ~~correction~~ An information statement under subsection 1 must:

a. identify the record to which it relates by:

(1) by the file number assigned to the initial financing statement to which the record relates; and

(2) ~~if the correction statement relates to a record filed or recorded in a filing office described in section 554.9501, subsection 1, paragraph "a", the date and time that the initial financing statement was filed or recorded and the information specified in section 554.9502, subsection 2;~~

b. indicate that it is a ~~correction~~ an information statement; and

c. provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

3. Statement by secured party of record. A person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so under section 554.9509, subsection 4.

4. Contents of statement under subsection 3. An information statement under subsection 3 must:

a. identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

b. indicate that it is an information statement; and

c. provide the basis for the person's belief that the person that filed the record was not entitled to do so under section 554.9509, subsection 4.

3. 5. Record not affected by ~~correction~~ information statement. The filing of a ~~correction~~ an information statement does not affect the effectiveness of an initial financing statement or other filed record.

Sec. 22. Section 554.9607, subsection 2, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) a default has occurred with respect to the obligation secured by the mortgage; and

Sec. 23. Section 554.9625, subsection 3, Code 2011, is amended to read as follows:

3. Persons entitled to recover damages — statutory damages in ~~consumer goods transaction~~ if collateral is consumer goods. Except as otherwise provided in section 554.9628:

a. a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection 2 for its loss; and

b. if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

Sec. 24. **NEW SECTION. 554.9801 Effective date.** The amendments to this Article, as enacted in this Act, take effect on July 1, 2013.

Sec. 25. **NEW SECTION. 554.9802 Savings clause.**

1. *Pre-effective-date transactions or liens.* Except as otherwise provided in this part, this Act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013.

2. *Pre-effective date proceedings.* This Act does not affect an action, case, or proceeding commenced before July 1, 2013.

Sec. 26. **NEW SECTION. 554.9803 Security interest perfected before effective date.**

1. *Continuing perfection: perfection requirements satisfied.* A security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under this Article, as amended by this Act, if on July 1, 2013, the applicable requirements for attachment and perfection under this Article, as amended by this Act, are satisfied without further action.

2. *Continuing perfection: perfection requirements not satisfied.* Except as otherwise provided in section 554.9805, if immediately before July 1, 2013, a security interest is a perfected security interest, but the applicable requirements for perfection under this Article, as amended by this Act, are not satisfied on July 1, 2013, the security interest remains perfected thereafter only if the applicable requirements for perfection under this Article, as amended by this Act, are satisfied within one year after July 1, 2013.

Sec. 27. **NEW SECTION. 554.9804 Security interest unperfected before effective date.**

A security interest that is an unperfected security interest immediately before July 1, 2013,

becomes a perfected security interest:

1. without further action, on July 1, 2013, if the applicable requirements for perfection under this Article, as amended by this Act, are satisfied before or on July 1, 2013; or
2. when the applicable requirements for perfection are satisfied if the requirements are satisfied after July 1, 2013.

Sec. 28. **NEW SECTION. 554.9805 Effectiveness of action taken before effective date.**

1. *Pre-effective-date filing effective.* The filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this Article, as amended by this Act.

2. *When pre-effective-date filing becomes ineffective.* This Act does not render ineffective an effective financing statement that, before July 1, 2013, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this Article, as it existed before July 1, 2013. However, except as otherwise provided in subsections 3 and 4 and section 554.9806, the financing statement ceases to be effective:

a. if the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this Act not taken effect; or

b. if the financing statement is filed in another jurisdiction, at the earlier of:

(1) the time the financing statement would have ceased to be effective under the law of that jurisdiction; or

(2) June 30, 2018.

3. *Continuation statement.* The filing of a continuation statement on or after July 1, 2013, does not continue the effectiveness of a financing statement filed before July 1, 2013. However, upon the timely filing of a continuation statement on or after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection as provided in this Article, as amended by this Act, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

4. *Application of subsection 2, paragraph "b", subparagraph (2) to transmitting utility financing statement.* Subsection 2, paragraph "b", subparagraph (2) applies to a financing statement that, before July 1, 2013, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this Article, as it existed before July 1, 2013, only to the extent that this Article, as amended by this Act, provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

5. *Application of Part 5.* A financing statement that includes a financing statement filed before July 1, 2013, and a continuation statement filed on or after July 1, 2013, is effective only to the extent that the financing statement satisfies the requirements of Part 5, as amended by this Act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative within the meaning of section 554.9503, subsection 1, paragraph "b", as amended by this Act. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust within the meaning of section 554.9503, subsection 1, paragraph "c", as amended by this Act.

Sec. 29. **NEW SECTION. 554.9806 When initial financing statement suffices to continue effectiveness of financing statement.**

1. *Initial financing statement in lieu of continuation statement.* The filing of an initial financing statement in the office specified in section 554.9501 continues the effectiveness of a financing statement filed before July 1, 2013, if:

a. the filing of an initial financing statement in that office would be effective to perfect a security interest under this Article, as amended by this Act;

b. the pre-effective-date financing statement was filed in an office in another state; and

c. the initial financing statement satisfies subsection 3.



2. *Period of continued effectiveness.* The filing of an initial financing statement under subsection 1 continues the effectiveness of the pre-effective-date financing statement:

a. if the initial financing statement is filed before July 1, 2013, for the period provided in section 554.9515, as it existed before July 1, 2013, with respect to an initial financing statement; and

b. if the initial financing statement is filed on or after July 1, 2013, for the period provided in section 554.9515, as amended by this Act, with respect to an initial financing statement.

3. *Requirements for initial financing statement under subsection 1.* To be effective for purposes of subsection 1, an initial financing statement must:

a. satisfy the requirements of Part 5, as amended by this Act, for an initial financing statement;

b. identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

c. indicate that the pre-effective-date financing statement remains effective.

**Sec. 30. NEW SECTION. 554.9807 Amendment of pre-effective-date financing statement.**

1. *“Pre-effective-date financing statement”.* In this section, “pre-effective-date financing statement” means a financing statement filed before July 1, 2013.

2. *Applicable law.* On or after July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in this Article, as amended by this Act. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

3. *Method of amending: general rule.* Except as otherwise provided in subsection 4, if the law of this state governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended on or after July 1, 2013, only if:

a. the pre-effective-date financing statement and an amendment are filed in the office specified in section 554.9501;

b. an amendment is filed in the office specified in section 554.9501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 554.9806, subsection 3; or

c. an initial financing statement that provides the information as amended and satisfies section 554.9806, subsection 3, is filed in the office specified in section 554.9501.

4. *Method of amending: continuation.* If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under section 554.9805, subsections 3 and 5, or section 554.9806.

5. *Method of amending: additional termination rule.* Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in this state may be terminated on or after July 1, 2013, by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies section 554.9806, subsection 3, has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this Article, as amended by this Act, as the office in which to file a financing statement.

**Sec. 31. NEW SECTION. 554.9808 Person entitled to file initial financing statement or continuation statement.**

A person may file an initial financing statement or a continuation statement under this part if:

1. the secured party of record authorizes the filing; and

2. the filing is necessary under this part:

a. to continue the effectiveness of a financing statement filed before July 1, 2013; or

b. to perfect or continue the perfection of a security interest.

Sec. 32. **NEW SECTION. 554.9809 Priority.**

This Act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this Article, as it existed before July 1, 2013, determines priority.

Sec. 33. **CODE EDITOR DIRECTIVE.** Section 554.9316, Code 2011, is amended by striking from the headnote the words “Continued perfection of security interest following change in governing law.” and inserting in lieu thereof the words “Effect of change in governing law.”

Sec. 34. **REPEAL.** Sections 554.9701 through 554.9710, Code 2011, are repealed.

Sec. 35. **REPEAL.** Sections 554.9801 through 554.9809 are repealed effective July 1, 2019.

Sec. 36. **GENERAL SAVINGS PROVISION.** The repeals of sections 554.9701 through 554.9710, and sections 554.9801 through 554.9809 in this Act are subject to the application of section 4.13, relating to general savings provisions.

Sec. 37. **EFFECTIVE DATE.** This Act takes effect July 1, 2013.

Approved April 4, 2012

## CHAPTER 1053

### CIVIL ACTIONS AFFECTING REAL ESTATE

*H.F. 2370*

**AN ACT** relating to civil actions relating to real estate, including mortgage foreclosure actions.

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

Section 1. Section 617.11, Code 2011, is amended to read as follows:

**617.11 Lis pendens.**

1. When so indexed said action When a petition or municipal infraction citation affecting real estate is indexed pursuant to section 617.10, either action shall be considered pending so as to charge all third persons with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff’s rights.

2. If a claim of interest against the property is acquired prior to the indexing of a petition affecting real estate and filed by anyone other than a city and such claim is not indexed or filed of record prior to the indexing of the petition, it is subject to the pending action as provided in subsection 1, unless any of the following occurs:

a. The claimant intervenes in the pending action prior to entry of judgment.

b. The claimant, prior to transfer of an interest in the property to a bona fide third-party transferee, records an affidavit showing that the party seeking relief under the pending action had, prior to the indexing of the petition, actual notice of the claim of interest and of the identity of the claimant.

3. If a claim of interest against the property is acquired prior to the indexing of a petition or municipal<sup>1</sup> citation affecting real estate and filed by a city and such claim is not indexed or filed of record prior to the indexing of the petition or citation, it is subject to the pending action as provided in subsection 1, unless either of the following occurs:

<sup>1</sup> See chapter 1138, §76 herein

a. The claimant intervenes in the pending action and obtains relief from the court prior to entry of judgment.

b. Within ninety days after entry of judgment, the claimant files an application to reopen a petition or municipal infraction citation affecting real estate and filed by a city and proves at the hearing on the application that the claimant is entitled to relief because the city had actual notice of the claim of interest and of the identity of the claimant prior to the indexing of the petition or citation.

4. Subsections 2 and 3 shall not apply to a mechanic's lien filed pursuant to chapter 572 or to a person who has taken possession of the property for value prior to the indexing of the petition or citation.

Sec. 2. Section 654.4A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

In addition to any other form of service authorized by law, where in rem relief is the only relief requested in a foreclosure action or nonjudicial foreclosure under section 654.18 or chapter 655A against either a party or a person to be served with a notice pursuant to section 654.15B, all of the following shall apply:

Sec. 3. Section 654.18, subsection 1, paragraph e, Code 2011, is amended to read as follows:

e. (1) The mortgagee shall send by certified mail a notice of the election to all junior lienholders as of the date of the conveyance under paragraph "a", stating that the junior lienholders have thirty days from the date of mailing to exercise any rights of redemption. The notice may also be given in the manner prescribed in section 656.3 in which case the junior lienholders have thirty days from the completion of publication to exercise the rights of redemption.

(2) In addition to any other form of service authorized by law, service of process in an alternative nonjudicial voluntary foreclosure procedure filed pursuant to this section where in rem relief is the only relief requested shall be served in the manner provided in section 654.4A.

Sec. 4. Section 655A.3, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. The notice shall contain the following in capital letters of the same type or print size as the rest of the notice:

WITHIN THIRTY DAYS AFTER YOUR RECEIPT OF THIS NOTICE, YOU MUST EITHER CURE THE DEFAULTS DESCRIBED IN THIS NOTICE OR FILE WITH THE RECORDER OF THE COUNTY WHERE THE MORTGAGED PROPERTY IS LOCATED A REJECTION OF THIS NOTICE AND SERVE A COPY OF YOUR REJECTION ON THE MORTGAGEE IN THE MANNER PROVIDED BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF ORIGINAL NOTICES IN SECTION 655A.4. IF YOU WISH TO REJECT THIS NOTICE, YOU SHOULD CONSULT AN ATTORNEY AS TO THE PROPER MANNER TO MAKE THE REJECTION.

IF YOU DO NOT TAKE EITHER OF THE ACTIONS DESCRIBED ABOVE WITHIN THE THIRTY-DAY PERIOD, THE FORECLOSURE WILL BE COMPLETE AND YOU WILL LOSE TITLE TO THE MORTGAGED PROPERTY. AFTER THE FORECLOSURE IS COMPLETE THE DEBT SECURED BY THE MORTGAGED PROPERTY WILL BE EXTINGUISHED.

Sec. 5. Section 655A.4, Code 2011, is amended to read as follows:

**655A.4 Service.**

Notice under this chapter shall be served as provided in the rules of civil procedure for service of original notice or as provided in section 654.4A. Rejection of notice under this chapter shall be served by ordinary or electronic mail addressed as provided in the notice, or if no address is provided, to the last address of the mortgagee known to the mortgagor.

**CHAPTER 1054****EXPUNGING CRIMINAL RECORDS***H.F. 2379*

**AN ACT** relating to expunging certain criminal records, and including applicability provisions.

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

Section 1. Section 907.1, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION. 2A.** “*Expunged*” means the court’s criminal record with reference to a deferred judgment or any other criminal record that has been segregated in a secure area or database which is exempted from public access.

Sec. 2. Section 907.4, Code Supplement 2011, is amended to read as follows:

**907.4 Deferred judgment docket.**

1. A deferment of judgment under section 907.3 shall be entered promptly by the clerk of the district court, or the clerk’s designee, into the deferred judgment database of the state, which shall serve as the deferred judgment docket. The deferred judgment docket shall be maintained by the state court administrator and shall not be destroyed. The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall search the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant.

2. The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, judicial district departments of correctional services, county attorneys, the department of public safety, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, judicial district department of correctional services, or county attorney, or departments.

Sec. 3. Section 907.9, subsection 4, Code 2011, is amended to read as follows:

4. a. At the expiration of the period of probation if the fees imposed under section 905.14 and court debt collected pursuant to section 602.8107 have been paid, the court shall order the discharge of the person from probation. 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.

b. Upon discharge from probation, if judgment has been deferred under section 907.3, the court’s criminal record with reference to the deferred judgment, any counts dismissed by the court, which were contained in the indictment, information, or complaint that resulted in the deferred judgment, and any other related charges that were not contained in the indictment, information, or complaint but were dismissed, shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. However, the court’s record shall not be expunged until the person has paid the restitution, civil penalties, court costs, fees, or other financial obligations ordered by the court or assessed by the clerk of the district court in the case that includes the deferred judgment. The expunged record is a confidential record exempt from public access under section 22.7 but shall be made available by the clerk of the district court, upon request and without court order, to an agency or person granted access to the deferred judgment docket under section 907.4, subsection 2. The court’s record shall not be expunged in any other circumstances unless authorized by law.

c. A dismissed count or related charge shall be expunged pursuant to the provisions of paragraph “b” in the following manner:

(1) A count which was contained in the indictment, information, or complaint that resulted in the deferred judgment shall be expunged when the deferred judgment is expunged.

(2) A related charge that was not contained in the indictment, information, or complaint that resulted in the deferred judgment shall only be expunged upon a court order that identifies the related charge to be expunged.

d. A count or related charge that was dismissed shall not be expunged pursuant to paragraph "c" in any case in which a count or charge resulted in a conviction that was not expunged.

e. The provisions of paragraph "c" apply whether the deferred judgment was expunged prior to the effective date of this Act, or on or after the effective date of this Act.

f. The provisions of paragraph "b" that require payment of financial obligations as a condition for expungement of a deferred judgment apply to any deferred judgment that has not been expunged prior to the effective date of this Act.

g. For purposes of this subsection, a charge or count is related to another charge or count if the charge or count arose from the same transaction or occurrence or from two or more transactions or occurrences constituting parts of a common scheme or plan.

Sec. 4. APPLICABILITY AND COMPLIANCE. The judicial branch shall have until July 1, 2013, to comply with the provisions of this Act on expungement of the court's record of a dismissed count or related charge.

Approved April 4, 2012

## CHAPTER 1055

### SCHOOL EMPLOYEE MISCONDUCT — REPORTING

H.F. 2383

**AN ACT** relating to mandatory reporting of school employee misconduct to the board of educational examiners.

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

Section 1. Section 272.15, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. (1) The board of directors of a school district or area education agency, the superintendent of a school district, the chief administrator of an area education agency, and the authorities in charge of an accredited nonpublic school shall report to the board any instance of disciplinary action taken against a licensed school employee by the board of directors of the school district or area education agency, the superintendent of the school district, the chief administrator of the area education agency, or the authorities in charge of the accredited nonpublic school for conduct constituting any of the following:

(a) Soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student.

(b) Falsifying student grades, test scores, or other official information or material.

(c) Converting public property or funds to the personal use of the school employee.

(2) The board of directors of a school district or area education agency, the superintendent of a school district or, the chief administrator of an area education agency, and the authorities in charge of an accredited nonpublic school shall report to the board the nonrenewal or termination, for reasons of alleged or actual misconduct, of a person's contract executed under sections 279.12, 279.13, 279.15 through 279.21, 279.23, and 279.24, and the resignation of a person who holds a license, certificate, or authorization issued by the board as a result of or following an incident or allegation of misconduct that, if proven, would constitute a violation of the rules adopted by the board to implement section 272.2, subsection 14,

paragraph “b”, subparagraph ~~(1)~~, (1); soliciting, encouraging, or consummating a romantic or otherwise inappropriate relationship with a student; falsifying student grades, test scores, or other official information or material; or converting public property or funds to the personal use of the school employee, when the board or reporting official has a good faith belief that the incident occurred or the allegation is true. The board may deny a license or revoke the license of an administrator if the board finds by a preponderance of the evidence that the administrator failed to report the termination or resignation of a school employee holding a license, certificate, statement of professional recognition, or coaching authorization, for reasons of alleged or actual misconduct, as defined by this section.

Approved April 4, 2012

## CHAPTER 1056

### ELDER ABUSE — REVIEW

H.F. 2387

**AN ACT** relating to improvements to and implementation of laws concerning elder abuse.

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

#### Section 1. ELDER ABUSE REVIEW AND REPORT.

1. The department on aging shall work with the department of inspections and appeals, the department of human services, the office of the attorney general, and other affected stakeholders to conduct a comprehensive review of occurrences of and laws relating to the abuse, neglect, or exploitation of individuals in the state who are sixty years of age or older.

2. The review shall include all of the following:

a. The current situation of abuse, neglect, and exploitation of individuals in the state who are sixty years of age or older.

b. An analysis of laws in other states related to the abuse, neglect, or exploitation of individuals who are sixty years of age or older.

c. An analysis of current state law addressing issues related to abuse, neglect, or exploitation of an individual who is sixty years of age or older and recommendations for improvements to existing law or implementation of other laws specifically addressing abuse, neglect, or exploitation of an individual who is sixty years of age or older.

d. Other information the department on aging deems relevant.

3. The department on aging shall, by December 15, 2012, submit a report of its review including findings and recommendations to the governor and general assembly.

Approved April 4, 2012

## CHAPTER 1057

### OBSCENE MATERIAL, COMMERCIAL SEXUAL ACTIVITY, AND HUMAN TRAFFICKING

H.F. 2390

**AN ACT** relating to obscene material, commercial sexual activity, and human trafficking, and providing penalties and making penalties applicable.

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

Section 1. Section 692A.102, subsection 1, paragraph c, Code Supplement 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (032) Solicitation of commercial sexual activity in violation of section 710A.2A.

Sec. 2. Section 710A.1, subsection 4, Code 2011, is amended to read as follows:

4. a. “*Human trafficking*” means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

~~a.~~ (1) Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.

~~b.~~ (2) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

b. “*Human trafficking*” also means knowingly purchasing or attempting to purchase services involving commercial sexual activity from a victim or another person engaged in human trafficking.

Sec. 3. Section 710A.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A person’s ignorance of the age of the victim or a belief that the victim was older is no defense to a violation of this section.

Sec. 4. NEW SECTION. 710A.2A Solicitation of commercial sexual activity.

A person shall not entice, coerce, or recruit, or attempt to entice, coerce, or recruit either a person under the age of eighteen or a law enforcement officer or agent representing oneself to be under the age of eighteen, to engage in a commercial sexual activity. A person who violates this section commits a class “D” felony.

Sec. 5. Section 728.1, subsection 7, paragraphs e through g, Code 2011, are amended to read as follows:

e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.

g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

Sec. 6. Section 728.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 11. “*Visual depiction*” means but is not limited to any picture, slide, photograph, digital or electronic image, negative image, undeveloped film, motion picture, videotape, digital or electronic recording, live transmission, or other pictorial or three-dimensional representation.

Sec. 7. Section 728.12, subsection 1, Code 2011, is amended to read as follows:

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

Sec. 8. Section 728.12, subsection 3, unnumbered paragraph 1, Code 2011, is amended to read as follows:

It shall be unlawful to knowingly purchase or possess a ~~negative, slide, book, magazine, computer, computer disk, or other print or visual medium, or an electronic, magnetic, or~~

~~optical storage system, or any other type of storage system which depicts~~ visual depiction of a minor engaging in a prohibited sexual act or the simulation of a prohibited sexual act. A visual depiction containing pictorial representations of different minors shall be prosecuted and punished as separate offenses for each pictorial representation of a different minor in the visual depiction. However, violations of this subsection involving multiple visual depictions of the same minor shall be prosecuted and punished as one offense. A person who commits a violation of this subsection commits an aggravated misdemeanor for a first offense and a class "D" felony for a second or subsequent offense. For purposes of this subsection, an offense is considered a second or subsequent offense if, prior to the person's having been convicted under this subsection, any of the following apply:

Sec. 9. Section 728.14, Code 2011, is amended to read as follows:

**728.14 Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts.**

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a ~~film, photograph, video tape, negative, or slide which depicts~~ visual depiction of a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the visual depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney visual depictions involving mere nudity of the minor, but shall report visual depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all ~~films, photographs, video tapes, negatives, or slides~~ visual depictions delivered to the processor within the processor's professional capacity or employment.

2. For purposes of this section, "*prohibited sexual act*" means any of the following:

- a. A sex act as defined in section 702.17.
- b. An act of bestiality involving a minor.
- c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
- d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
- e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
- f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
- g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.

2. 3. A person who violates this section is guilty of a simple misdemeanor.

Sec. 10. Section 915.87, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The victim assisting, attempting, or committing a criminal act. This paragraph shall not apply to a victim under the age of eighteen involved in commercial sexual activity as defined in section 710A.1.

Approved April 4, 2012



**CHAPTER 1058****COMMERCIAL DRIVER'S LICENSES — MILITARY SERVICE EXPERIENCE***H.F. 2403*

**AN ACT** relating to requirements for a commercial driver's license for certain persons transitioning from military service.

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

Section 1. Section 321.188, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 6. *a.* The department may waive the requirement that an applicant pass a driving skills test specified in this section for an applicant who is on active duty in the military service, or who has separated from such service in the last ninety days, who certifies that during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:

- (1) The applicant has not had more than one driver's license, other than a military license.
- (2) The applicant has not had any driver's license suspended, revoked, or canceled.
- (3) The applicant has not been convicted of an offense committed while operating any type of motor vehicle that is listed as a disqualifying offense in 49 C.F.R. § 383.51(b).
- (4) The applicant has not had more than one conviction for an offense committed while operating any type of motor vehicle that is listed as a serious traffic violation in 49 C.F.R. § 383.51(c).

(5) The applicant has not had a conviction for a violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident and has no record of a traffic accident in which the applicant was at fault.

*b.* An applicant for a waiver of the driving skills test under this subsection shall certify and provide evidence as required by the department that the following apply:

(1) The applicant is regularly employed or was regularly employed within the last ninety days in a military position requiring operation of a commercial motor vehicle.

(2) The applicant was exempt from commercial driver licensing requirements pursuant to section 321.176A, subsection 3, or a comparable law of another state implementing 49 C.F.R. § 383.3(c).

(3) The applicant was operating a motor vehicle representative of the class of motor vehicle the applicant operates or expects to operate for at least two years immediately preceding honorable separation from military service as evidenced by the person's certificate of release or discharge from active duty, commonly referred to as a DD214.

*c.* An applicant who obtains a skills test waiver under this subsection shall take and successfully pass the knowledge test required pursuant to subsection 2.<sup>1</sup>

Approved April 4, 2012

**CHAPTER 1059****VETERANS AFFAIRS***S.F. 2038*

**AN ACT** relating to the duties and requirements of the department of veterans affairs and the commission of veterans affairs.

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

<sup>1</sup> See chapter 1138, §62 herein

Section 1. Section 35A.2, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3. *a.* The commissioners are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6.

*b.* The executive director, commandant, and employees of the department and the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties.

*c.* All out-of-state travel by commissioners shall be approved by the chairperson of the commission.

Sec. 2. Section 35A.5, subsection 4, Code Supplement 2011, is amended to read as follows:

4. Permanently maintain the records including certified records of bonus applications for awards paid ~~from the war orphans educational fund under chapter 35.~~

Sec. 3. Section 35A.5, subsection 5, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:

5. *a.* Coordinate with United States department of veterans affairs hospitals, health care facilities, and clinics in this state and the department of public health to provide assistance to veterans and their families to reduce the incidence of alcohol and chemical dependency and suicide among veterans and to make mental health counseling available to veterans.

*b.* The assistance program shall include but not be limited to the following:

(1) Public education and awareness programs for veterans, health care professionals, and the public, relative to the needs of veterans.

(2) Referral services to identify appropriate counseling and treatment programs for veterans in need of services.

*c.* Any assistance program established pursuant to this subsection shall be implemented in a manner that does not duplicate other services readily available to veterans.

Sec. 4. Section 35A.5, subsection 6, Code Supplement 2011, is amended to read as follows:

6. Conduct ~~two~~ one service schools school each year for ~~the Iowa association of county commissioners and executive directors~~ one service school for executive directors and administrators. The service school for executive directors and administrators shall provide at least sixteen continuing education units.

Sec. 5. Section 35A.8, subsections 4 and 5, Code 2011, are amended by striking the subsections.

Sec. 6. Section 35A.16, subsection 4, Code 2011, is amended to read as follows:

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 and training for department personnel.

Sec. 7. **NEW SECTION. 35A.19 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 35A.20, 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. 8. **NEW SECTION. 35A.20 Expenditure by department.**

1. *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.

*b.* A child eligible to receive funds under this section shall not receive more than three thousand dollars under this subsection during the child's lifetime.

2. *a.* Upon application by a child who 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 an amount of 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 at 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 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. 9. NEW SECTION. 35A.21 Eligibility and payment of assistance.**

Eligibility for assistance shall be determined upon application to the department of veterans affairs, whose decision is final. The eligibility of eligible applicants shall be certified by the department of veterans affairs to the director of the department of administrative services, and all amounts that are or become due an individual or a training institution under this chapter shall be paid to the individual or institution by the director of the department of administrative services upon receipt by the director of certification by the president or governing board of the educational or training institution as to accuracy of charges made, and as to the attendance of the individual at the educational or training institution. The department of veterans affairs may pay over the annual sum set forth in section 35A.20 to the educational or training institution in a lump sum, or in installments as the circumstances warrant, upon receiving from the institution such written undertaking as the department may require to assure the use of funds for the child for the authorized purposes and for no other purpose. A person is not eligible for the benefits of this chapter until the person has graduated from a high school or educational institution offering a course of training equivalent to high school training.

**Sec. 10. NEW SECTION. 35A.22 Expenses chargeable to fund.**

Any expense incurred in carrying out the provisions of sections 35A.19 through 35A.21 shall be chargeable to the war orphans educational assistance fund.

**Sec. 11. Section 35D.14, Code 2011, is amended to read as follows:**

**35D.14 Personnel — expenses — compensation.**

1. The commandant or the commandant's designee shall employ such personnel as are necessary for the performance of the duties and responsibilities assigned to the commandant. All employees shall be selected on a basis of fitness for the work to be performed with due regard to training and experience and shall be subject to the provisions of chapter 8A, subchapter IV.

2. The commandant and employees of the Iowa veterans home are entitled to receive, in addition to salary, reimbursement for actual expenses incurred while engaged in the performance of official duties pursuant to section 35A.9 35A.2, subsection 3.

Sec. 12. Section 422.7, subsection 51, Code Supplement 2011, is amended by striking the subsection.

Sec. 13. REPEAL. Sections 35.8, 35.9, 35.10, 35.11, and 35.12, Code 2011, are repealed.

Sec. 14. REPEAL. Section 35A.9, Code 2011, is repealed.

Approved April 5, 2012

## CHAPTER 1060

### PROPERTY TAXES FOR JOINT COUNTY-CITY BUILDINGS

S.F. 2137

**AN ACT** relating to certain property taxes for joint county-city buildings and including applicability provisions.

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

Section 1. Section 331.424, subsection 1, paragraph a, subparagraph (5), Code 2011, is amended by striking the subparagraph.

Sec. 2. Section 331.430, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 6. The taxes realized from the tax levy imposed under section 346.27, subsection 22, for a joint county-city building shall be deposited into a separate account in the county's debt service fund for the payment of the annual rent and shall be disbursed pursuant to section 346.27, subsection 22.

Sec. 3. Section 346.27, subsection 22, Code 2011, is amended to read as follows:

22. When an incorporating unit enters into a lease with the authority, the governing body of the incorporating unit shall provide by ordinance or resolution for the levy and collection of a direct annual tax sufficient to pay the annual rent payable under the lease as and when it becomes due and payable. The tax shall be levied and collected in like manner with the other taxes of the incorporating unit and shall be in addition to all other taxes authorized to be levied by that incorporating unit. This tax shall not be included within and shall be in addition to any statutory limitation of rate or amount for that incorporating unit. ~~The fund taxes realized from the tax levy shall be set aside~~ deposited into an account in the debt service fund of the incorporating unit for the payment of the annual rent and shall not be disbursed for any other purpose until the annual rental has been paid in full.

Sec. 4. Section 384.4, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. The taxes realized from the tax levy imposed under section 346.27, subsection 22, for a joint county-city building shall be deposited into a separate account in the city's debt service fund for the payment of the annual rent and shall be disbursed pursuant to section 346.27, subsection 22.

Sec. 5. Section 384.12, subsection 15, Code 2011, is amended by striking the subsection.

Sec. 6. Section 403.19, subsection 2, Code Supplement 2011, is amended to read as follows:

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22, ~~except that.~~ However, taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2, and taxes for the payment of bonds and interest of each taxing district ~~must,~~ and taxes imposed under section 346.27, subsection 22, related to joint county-city buildings shall be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. However, all or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the auditor certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on bonds issued by the municipality to finance an urban renewal project, which bonds were issued before July 1, 2001. Indebtedness incurred to refund bonds issued prior to July 1, 2001, shall not be included in the certification. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property. In those instances where a school district has entered into an agreement pursuant to section 279.64 for sharing of school district taxes levied and collected from valuation described in this subsection and released to the school district, the school district shall transfer the taxes as provided in the agreement.<sup>1</sup>

Sec. 7. **APPLICABILITY.** This Act applies to property taxes due and payable in fiscal years beginning on or after July 1, 2013.

Approved April 5, 2012

## CHAPTER 1061

### ADMINISTRATIVE PATERNITY PROCEEDINGS — NOTICE OF ALLEGED PATERNITY AND SUPPORT DEBT

S.F. 2165

**AN ACT** relating to the documentation required to prepare a notice of alleged paternity and support debt in administrative paternity proceedings.

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

<sup>1</sup> See chapter 1124, §16, 26 herein

Section 1. Section 252F.3, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The unit may prepare a notice of alleged paternity and support debt to be served on a party if the mother of the child or a government official with knowledge of the circumstances of possible paternity relying on government records provides a written statement to the ~~unit~~ department of human services certifying in accordance with section 622.1 that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 1.305. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include or be accompanied by all of the following:

Approved April 5, 2012

## CHAPTER 1062

### LICENSING OF COSMETOLOGY AND BARBER SCHOOLS

S.F. 2220

**AN ACT** relating to the licensing of schools of cosmetology arts and sciences and barber schools.

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

Section 1. Section 157.8, subsection 1, Code 2011, is amended to read as follows:

1. It is unlawful for a school of cosmetology arts and sciences to operate unless the owner has obtained a license issued by the department. The owner shall file a verified application with the department on forms prescribed by the board.

1A. a. The application for a license for a school shall be accompanied by the annual license fee determined pursuant to section 147.80 and shall state the name and location of the school and such other additional information as the board may require. The license is valid for one year and may be renewed.

b. The license shall contain a statement which provides that the licensee is approved by the department as a provider of postsecondary education.

c. A license for a school of cosmetology arts and sciences shall not be issued for any space in any location where the same space is also licensed as a barber school.

d. The school of cosmetology arts and sciences must pass a sanitary inspection under section 157.6. An annual inspection of each school of cosmetology arts and sciences, including the educational activities of each school, shall be conducted and completed by the board or its designee prior to renewal of the license.

Sec. 2. Section 158.7, subsection 5, Code 2011, is amended to read as follows:

5. a. The application shall be accompanied by the annual license fee determined under the provisions of section 147.80 and shall state the name and location of the school, name of the owner, name of the manager, and such other additional information as the board may require. The license is valid for one year and may be renewed.

b. The license shall contain a statement which provides that the licensee is approved by the department as a provider of postsecondary education.

Approved April 5, 2012

**CHAPTER 1063****INDIGENT DEFENSE — PRACTICES AND PROCEDURES***S.F. 2231*

**AN ACT** relating to the practices and procedures of the state public defender.

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

Section 1. Section 13B.4, subsections 2 and 3, Code 2011, are 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 enter into a contract with a nonprofit organization or an attorney, designating that the nonprofit organization or attorney provide legal services to eligible indigent persons as the state public defender's designee.~~ The state public defender may also designate a person admitted to practice law in this state or a nonprofit organization employing persons admitted to practice law in this state to be appointed by the court as a designee of the state public defender. 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 persons or to serve as guardian ad litem for eligible children in juvenile court in all cases and proceedings specified in the designation. The appointment shall not be made if the state public defender or the state public defender's designee notifies the court that the state public defender's designee will not provide services in certain cases as identified in the designation by the state public defender.

3. The state public defender may contract with persons admitted to practice law in this state and nonprofit organizations employing persons admitted to practice law in this state for the provision of legal services to indigent persons. The contract may incorporate administrative rules into the terms of the contract or expressly provide that payments may be paid that are other than on an hourly rate basis for legal services provided, including but not limited to a fixed rate per case or per month.

Sec. 2. Section 13B.9, subsection 1, paragraphs a and b, Code 2011, are amended to read as follows:

a. Represent ~~without fee~~ an indigent person who is under arrest or charged with a crime if the indigent person requests representation or the court orders representation when the type of case, the county, and the court have been designated for such representation by the state public defender. The local public defender shall counsel and defend an indigent defendant at every stage of the criminal proceedings and prosecute before or after conviction any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case.

b. Represent an indigent party, ~~without fee and upon an order of the court,~~ in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 in a county served by a public defender when designated by the state public defender to represent the indigent party in the type of case for that county. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 in a county served by a public defender to which the local public defender is appointed and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case.

Sec. 3. Section 13B.9, subsection 4, paragraph a, Code 2011, is amended to read as follows:

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 or a person admitted to practice law in this state that has contracted with the state public defender under section 13B.4, subsection 3.

Sec. 4. Section 602.8107, subsection 1, Code 2011, is amended to read as follows:

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 ordered pursuant to section 815.9, or fees charged pursuant to section 356.7 or 904.108.

Sec. 5. Section 814.11, subsections 3 and 4, Code 2011, are amended to read as follows:

3. In a juvenile case in which a petition on appeal is required under chapter 232 or a proceeding under chapter 600A, 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. If the court grants the attorney permission to withdraw, the court shall appoint an attorney who has a contract with the state public defender to provide legal services in appellate cases.

4. ~~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 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, In all other cases not specified in subsection 2 or 3, or except as otherwise provided in this section,~~ the court shall appoint an attorney to represent an indigent person who has a contract with the state public defender to ~~handle such an appeal~~ provide legal services in appellate cases.

Sec. 6. Section 815.4, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**815.4 Special witnesses for indigents.**

1. An application for an expert or other witnesses under Iowa rule of criminal procedure 2.20 shall include a statement attesting that the attorney advised the indigent person of the application, the expected expenses, and the potential for reimbursement of the expenses pursuant to section 815.9.

2. a. The court shall authorize the securing of a witness prior to the witness incurring any expenses.

b. The court shall either set in advance a maximum dollar amount of the claim for expenses or approve the final amount of the claim for expenses as reasonable compensation.

c. The state public defender shall only approve the claim for the expenses of the witness if the securing of the witness was authorized by the court and either the maximum dollar amount of the claim for expenses was set prior to the expenses being incurred or the court has approved the final amount of the claim for expenses as reasonable compensation.

3. A witness secured for an indigent person under Iowa rule of criminal procedure 2.20 shall file a claim for compensation with the state public defender as required by the rules of the state public defender, and the claim shall be supported by an itemization specifying the time expended, services rendered, and expenses incurred on behalf of the indigent person.

Sec. 7. Section 815.7, subsection 5, Code 2011, is amended to read as follows:

5. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. The attorney need not follow the case into another county or into the appellate court unless so directed by the court. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section. Only one attorney fee shall be so awarded in any one case except that in class “A” felony cases, two may be authorized if both attorneys are appointed pursuant to section 815.10.

Sec. 8. Section 815.9, subsection 3, Code 2011, is amended to read as follows:

3. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person pursuant to this section. “*Legal assistance*” as used in this section shall include not only the expense of the public defender or an appointed attorney, but also transcripts, witness fees, expenses, and any other



goods or services required by law to be provided to an indigent person entitled to an appointed attorney.

Sec. 9. Section 815.9, subsections 4, 5, 6, 7, and 9, Code 2011, are amended by striking the subsections and inserting in lieu thereof the following:

4. *a.* If the appointed attorney is a public defender, the attorney shall submit a report to the court specifying the total hours of service plus expenses incurred in providing legal assistance to the person. In a criminal case, the report shall be submitted within ten days of the date of sentencing, acquittal, or dismissal. In a case other than a criminal case, the report shall be submitted within ten days of any court ruling or the conclusion of a trial held in the case, or if the case is dismissed within ten days of the dismissal.

*b.* If the appointed attorney is a private attorney or is employed by a nonprofit organization, the state public defender shall report to the clerk of the district court the amounts of any approved claims for compensation and expenses paid on behalf of a person receiving legal assistance after such claims have been reviewed and paid by the state public defender.

5. If the person receiving legal assistance is convicted in a criminal case, the total costs and fees incurred for legal assistance shall be ordered paid when the reports submitted pursuant to subsection 4 are received by the court, and the court shall order the payment of such amounts as restitution, to the extent to which the person is reasonably able to pay, or order the performance of community service in lieu of such payments, in accordance with chapter 910.

6. If the person receiving legal assistance is acquitted in a criminal case or is a party in a case other than a criminal case, the court shall order the payment of all or a portion of the total costs and fees incurred for legal assistance, to the extent the person is reasonably able to pay, after an inquiry which includes notice and reasonable opportunity to be heard.

7. When ordering payment of all or a portion of the total costs and fees incurred for legal assistance under subsection 6, the court may order payment of the costs and fees in reasonable installments as provided in section 909.3, or may order the entire amount due and payable. If any costs and fees are not paid at the time specified in the order of the court, a judgment shall be entered against the person for any unpaid amount. Such judgment may be enforced by the state in the same manner as a civil judgment.

9. Notwithstanding subsections 3 and 6, a minor granted a court-appointed attorney or guardian ad litem under section 232.11 in a juvenile proceeding shall not be ordered to reimburse costs and fees incurred for legal assistance except as otherwise provided in chapter 232.

Sec. 10. Section 815.10, subsections 1 and 2, Code 2011, are amended to read as follows:

1. *a.* The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint the state public defender's designee pursuant to section 13B.4 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation if applicable under section 908.2A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, termination under chapter 600A, detention under section 811.1A, competency under chapter 812, parole revocation under chapter 908, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed

*b.* An indigent person is entitled to the appointment of one attorney in all cases, except that in class "A" felony cases the court may appoint two attorneys. However, in a class "A" felony case, a person who is represented by a privately retained attorney or by an attorney who has agreed to represent the person is not entitled to have an attorney appointed to represent the person based upon the indigence of the person.

2. If the state public defender or the state public defender's designee is unable to represent an indigent person, the court shall appoint an attorney who has a contract with the state

public defender to represent the person in the particular type of case and in the county in which the case is pending.

Sec. 11. Section 815.10A, subsection 3, Code 2011, is amended to read as follows:

3. a. An attorney shall obtain court approval prior to exceeding the fee limitations established by the state public defender pursuant to section 13B.4. An attorney may exceed the fee limitations if good cause for exceeding the fee limitations is shown. An attorney may obtain court approval after exceeding the fee limitations if good cause excusing the attorney's failure to seek approval prior to exceeding the fee limitations is shown. However, failure to file an application to exceed a fee limitation prior to exceeding the fee limitation does not constitute good cause. The order approving an application to exceed the fee limitations shall be effective from the date of filing the application unless the court order provides an alternative effective date. The application and the court order approving the application to exceed fee limitations and any other order affecting the amount of compensation or reimbursement shall be submitted with any claim for compensation.

b. Except for an application to exceed fee limitations by an attorney or guardian ad litem representing a juvenile in a juvenile proceeding, an application to exceed fee limitations shall include a statement attesting that the attorney advised the indigent person of the application, and the potential for reimbursement of the attorney fees pursuant to section 815.9.

Sec. 12. Section 815.14, Code 2011, is amended to read as follows:

**815.14 Fee for public defender.**

~~When determining the~~ The amount of restitution for the expense of the public defender for each case under section 910.3, the expense of the public defender or the total cost of legal assistance required to be reimbursed under section 815.9, subsection 3, shall be include all expenses incurred in the representation of the person combined with the attorney fees for the public defender calculated at the same hourly rate of compensation specified under section 815.7. However, the ~~The expense of the public defender shall not~~ may exceed the fee limitations established in section 13B.4. The expense of the public defender required to be reimbursed is subject to a determination of the extent to which the person is reasonably able to pay, as provided for in section 815.9 and chapter 910.

Approved April 5, 2012

## CHAPTER 1064

### FARMERS MARKETS

*H.F. 2092*

**AN ACT** providing for the year-round operation of farmers markets, and including effective date provisions.

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

Section 1. Section 137F.1, subsection 5, Code 2011, is amended to read as follows:

5. "Farmers market" means a marketplace which seasonally operates principally as a common market for ~~fresh fruits and vegetables~~ Iowa-produced farm products on a retail basis for off-the-premises consumption.

Sec. 2. Section 137F.6, subsection 1, paragraph g, Code 2011, is amended to read as follows:

g. For a farmers market where potentially hazardous food is sold or distributed, one ~~seasonal~~ annual license fee of one hundred dollars for each vendor on a countywide basis.

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

Approved April 5, 2012

## CHAPTER 1065

### ELECTRICAL UTILITIES — TRANSMISSION FACILITY OWNERSHIP

*H.F. 2144*

**AN ACT** relating to permissible forms of ownership of transmission facilities subject to a joint agreement for generating, purchasing, or otherwise acquiring electric power and energy.

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

Section 1. Section 390.1, subsection 9, Code 2011, is amended to read as follows:

9. “Own” and “ownership” in the case of transmission facilities, including substations and associated facilities, ~~which are located in whole or in part in Iowa~~, may include the right to the use of an amount of the capacity of the facilities, if the joint agreement so provides. “Own” and “ownership” ~~in the case of transmission facilities, including substations and associated facilities, does not may include those which are located in states which are not contiguous to Iowa~~ a joint facility located in this state or outside this state.

Sec. 2. **NEW SECTION. 390.8A Transmission facility ownership.**

In addition to the powers conferred upon a city or electric power agency elsewhere in this chapter, a city or electric power agency may acquire ownership interest in a transmission facility, including ownership of the capacity of such facility, within this state or in any other state for the purpose of participating with other utilities in transmission to be operated by a regional transmission organization or an independent transmission operator approved by the federal energy regulatory commission. For purposes of this section, “electric power agency” means the same as defined in section 390.9.

Approved April 5, 2012

## CHAPTER 1066

### STREAMLINED SALES TAX AGREEMENT — ADMINISTRATION

*H.F. 2166*

**AN ACT** relating to the administration of the streamlined sales tax agreement by the department of revenue.

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

Section 1. Section 423.1, subsection 51, paragraph a, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller except as provided in paragraph “b”, subparagraphs (5) and (6), and any other expenses of the seller.

Sec. 2. Section 423.1, subsection 51, paragraph b, Code Supplement 2011, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (5) Any state or local tax on a retail sale that is imposed on the seller if the statute, rule, or local ordinance imposing the tax provides that the seller may, but is not required to, collect such tax from the consumer, and if the tax is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

NEW SUBPARAGRAPH. (6) Any tribal tax on a retail sale that is imposed on the seller if the tribal law imposing the tax provides that the seller may but is not required to collect such tax from the consumer, and if the tax is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Sec. 3. Section 423.31, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Persons required to file a return under this section may instead file a simplified electronic return pursuant to section 423.49.

Sec. 4. Section 423.49, subsection 4, paragraph d, Code 2011, is amended to read as follows:

d. A model 4 seller, or a seller not registered under the agreement who is otherwise registered in the state, may elect to file a simplified return. Model 4 sellers, or sellers not registered under the agreement who are otherwise registered in the state, electing to do so shall file the first part of the return each month.

Sec. 5. Section 423.49, subsection 4, paragraph e, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A model 4 seller required to register in the state, or a seller not registered under the agreement who is otherwise registered in the state, may submit the information collected in the second part of the return in one of the following ways:

Sec. 6. Section 423.52, subsection 1, Code 2011, is amended to read as follows:

1. Sellers and certified service providers using databases derived from zip codes or state or vendor provided address-based databases are relieved from liability to this state or its local taxing jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments. If this state provides an address-based system for assigning taxing jurisdictions, the director is not required to provide liability relief for errors resulting from reliance on the information a database derived from zip codes and provided by this state if the director has given adequate notice, as determined by the governing board, to affected parties of the decision to end this relief.

Approved April 5, 2012

## CHAPTER 1067

### VETERANS — INTERMENT RIGHTS

*H.F. 2264*

**AN ACT** relating to interment rights of certain veterans and their spouses in cemeteries owned and controlled by governmental subdivisions.

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

Section 1. Section 523I.304, subsection 7, Code 2011, is amended to read as follows:

7. A cemetery owned and controlled by a governmental subdivision shall adopt and enforce a rule allowing any veteran who is a landowner or who lives within the governmental

subdivision to purchase an interment space and to be interred within the cemetery. The rule shall also allow any veteran who purchases an interment space within the cemetery to purchase an interment space for interment of the spouse of the veteran if such a space is available and shall allow the surviving spouse of a veteran interred within the cemetery to purchase an interment space and be interred within the cemetery if such a space is available. For the purposes of this section, “veteran” means the same as defined in section 35.1.

Approved April 5, 2012

## CHAPTER 1068

### MEDICAL ASSISTANCE ADVISORY COUNCIL MEMBERSHIP

*H.F. 2306*

**AN ACT** relating to the membership of the medical assistance advisory council.

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

Section 1. Section 249A.4B, subsection 2, paragraph a, Code Supplement 2011, is amended by adding the following new subparagraphs:

NEW SUBPARAGRAPH. (41) The Iowa dietetic association.

NEW SUBPARAGRAPH. (42) The Iowa behavioral health association.

NEW SUBPARAGRAPH. (43) The midwest association for medical equipment services or an affiliated Iowa organization.

Approved April 5, 2012

## CHAPTER 1069

### VITAL STATISTICS — DEATH CERTIFICATES AND BURIAL TRANSIT PERMITS

*H.F. 2369*

**AN ACT** relating to vital statistics, including the issuance of a burial transit permit and the transmission and recording of certain death certificates, and including effective date provisions.

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

Section 1. Section 144.26, subsection 3, Code Supplement 2011, is amended to read as follows:

3. a. The county in which a dead body is found is the county of death. If death occurs in a moving conveyance, the county in which the dead body is first removed from the conveyance is the county of death.

b. If a decedent died outside of the county of the decedent’s residence, the state registrar shall send a copy of the decedent’s death certificate and any amendments to the county registrar of the county of the decedent’s residence. The county registrar shall record a death certificate received pursuant to this paragraph in the same records in which the death certificate of a decedent who died within the county is recorded. The state registrar may provide the county registrars with electronic access to vital records in lieu of the requirements of this paragraph.

Sec. 2. Section 144.32, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If a person other than a funeral director, medical examiner, or emergency medical service assumes custody of a dead body or fetus, the person shall secure a burial transit permit. To be valid, the burial transit permit must be issued by the county medical examiner, a funeral director, or the ~~county state registrar of the county where the certificate of death or fetal death was filed~~. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

Sec. 3. EFFECTIVE UPON ENACTMENT. The section of this Act amending section 144.26, being deemed of immediate importance, takes effect upon enactment.

Approved April 5, 2012

## CHAPTER 1070

### DRIVER'S LICENSE EFFECTIVE DATE — MILITARY SERVICE

*H.F. 2404*

**AN ACT** relating to the extension of the effective date of a driver's license for a person serving on active duty in military service.

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

Section 1. Section 321.198, subsection 1, Code 2011, is amended to read as follows:

1. *a.* The effective date of a valid driver's license issued under the laws of this state, held by any person at the time of entering the military service of the United States or of the state of Iowa, notwithstanding the expiration of the license according to its terms, is hereby extended without fee until six months following the initial separation from active duty of the person from the military service, provided the person is not suffering from physical disabilities which impair the person's competency as an operator, and provided further that the licensee shall furnish, upon demand of any peace officer, satisfactory evidence of the person's military service. However, a person entitled to the benefits of this section who is charged with operating a motor vehicle without a valid driver's license shall not be convicted if the person produces in court, within a reasonable time, a valid driver's license previously issued to that person along with satisfactory evidence of the person's military service as provided in this paragraph.

*b.* The department is authorized to renew any driver's license falling within the provisions and limitations of paragraph "a", without examination, upon application and payment of fee made within six months following separation from the military service.

*c.* For purposes of this subsection, a United States department of defense common access card issued to a person is satisfactory evidence of the person's current military service, and a certificate of release or discharge from active duty, commonly referred to as a DD214, is satisfactory evidence of a person's previous military service and separation from active duty. A person who produces a valid driver's license previously issued to the person along with the person's common access card or DD214 shall not be required to produce any additional documentation to satisfy the requirements of paragraph "a".

Approved April 5, 2012

**CHAPTER 1071****LOCAL EMERGENCY MANAGEMENT COMMISSIONS — FINANCIAL RESPONSIBILITIES****S.F. 413**

**AN ACT** relating to financial responsibilities of local emergency management commissions.

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

Section 1. Section 29C.9, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The commission shall be composed of a member of the board of supervisors ~~or its appointed representative, the sheriff or the sheriff's representative, and the mayor or the mayor's representative~~ from each city within the county. ~~The commission members shall be the operations liaison officers between their jurisdiction and the commission. A commission member may designate an alternate to represent the designated entity. For any activity relating to section 29C.17, subsection 2, or chapter 24, participation shall only be by a commission member or a designated alternate that is an elected official from the same designated entity.~~

Sec. 2. Section 29C.17, subsections 2 and 5, Code Supplement 2011, are amended to read as follows:

2. For the purposes consistent with this chapter, the local emergency management agency's approved budget ~~may~~ shall be funded by one or any combination of the following options, as determined by the commission:

a. ~~A countywide special levy approved by the board of supervisors pursuant to section 331.424, subsection 1.~~

b. Per capita allocation funded from city and county general funds or by a combination of city and county special levies which may be apportioned among the member jurisdictions.

c. An allocation computed as each jurisdiction's relative share of the total assessed valuation within the county.

d. A voluntary share allocation.

e. Other funding sources allowed by law.

5. Subject to chapter 24, the commission shall adopt, certify, and ~~submit~~ provide a budget, on or before February 28 of each year, to the ~~county board of supervisors and the cities for the ensuing fiscal year which will include an itemized list of the number of emergency management personnel, their salaries and cost of personnel benefits, travel and transportation costs, fixed costs of operation, and all other anticipated emergency management expenses. The salaries and compensation of agency personnel coming under the merit system as determined by the commission will include salary schedules for classes in which the salary of a class is based on merit qualifications for the positions~~ funding entities determined pursuant to subsection 2. The form of the budget shall be as prescribed by the department of management. Any portion of a tax levied by a county or city to support the local emergency management agency shall be identified separately on tax statements issued by the county treasurer.

Sec. 3. Section 29C.17, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Joint emergency response communication services under section 29C.9, subsection 6, shall be funded as provided for in the agreement entered into pursuant to chapter 28E.

Approved April 12, 2012

**CHAPTER 1072**

## PUBLIC DEFENSE AND MILITARY AFFAIRS

S.F. 2097

**AN ACT** relating to the department of public defense by making changes regarding the Iowa military code and military service, including terminology modifications and leases entered into by the department of public defense and the armory board, and including effective date provisions.

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

Section 1. Section 8A.321, subsection 6, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* This subsection shall not apply to the department of public defense or the armory board.

Sec. 2. Section 8A.327, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A rent revolving fund is created in the state treasury under the control of the department to be used by the department to pay the lease or rental costs of all buildings and office space necessary for the proper functioning of any state agency, except the department of public defense or the armory board, wherever located throughout the state as provided in section 8A.321, subsection 6, except that this fund shall not be used to pay the rental or lease costs of a state agency which has not received funds budgeted for rental or lease purposes.

Sec. 3. Section 8A.402, subsection 2, paragraph f, subparagraphs (1) and (2), Code 2011, are amended to read as follows:

(1) Develop, in consultation with the department of veterans affairs, programs to inform state employees who are members of the national guard or organized reserves of the armed forces of the United States, and their families, of their rights and benefits while the member is deployed in active federal service active duty.

(2) Develop, in consultation with the department of veterans affairs and the department of workforce development, 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 active duty about job opportunities in state government.

Sec. 4. Section 8A.402, subsection 2, paragraph f, subparagraph (3), subparagraph division (a), Code 2011, is amended to read as follows:

(a) Programs to inform disabled veterans returning to the state after active federal service active duty about federally funded job training opportunities in state government, pursuant to 38 U.S.C. ch. 31.

Sec. 5. Section 16.54, subsection 1, Code 2011, is amended to read as follows:

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 active duty beginning on or after September 11, 2001, that precluded completion of a minimum aggregate of ninety days of active federal service active duty.

Sec. 6. Section 29A.1, subsection 3, Code 2011, is amended to read as follows:

3. “*Federal service active duty*” means full-time duty in the active military service of the United States authorized and performed under the provisions of Tit. 10 U.S.C. as part of the active military forces of the United States or the army national guard of the United States or the air national guard of the United States Code.



Sec. 7. Section 29A.1, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 7A.** “*National guard duty*” means training or other duty authorized and performed under the provisions of 32 U.S.C. including but not limited to 32 U.S.C. § 316, 32 U.S.C. §§ 502 – 505, and 32 U.S.C. § 709 as part of the national guard and paid for with federal funds. “*National guard duty*” includes but is not limited to full-time national guard duty and inactive duty training and annual training.

Sec. 8. Section 29A.1, subsection 9, Code 2011, is amended to read as follows:

9. “*On duty*” means training, including unit training assemblies, and other training, operational duty, and other service which may be required under state or federal law, regulations, or orders, and the necessary travel of an officer or enlisted person to the place of performance and return home after performance of that duty, but does not include federal service active duty. A member of the national guard shall be considered to be on duty when called to testify about an incident which the member observed or was involved in while that member was on duty.

Sec. 9. Section 29A.1, subsection 12, Code 2011, is amended by striking the subsection.

Sec. 10. Section 29A.7, subsections 1 and 2, Code 2011, are amended to read as follows:

1. The governor is the commander in chief of the military forces, except when they are in on federal service active duty. The governor may employ the military forces of the state for the defense of the state, to provide assistance to civil authorities in emergencies resulting from disasters or public disorders as defined in section 29C.2, including homeland security and defense duties, and for parades and ceremonies of a civic nature.

2. The governor shall provide for the participation of the national guard in training at the times and places as necessary to ensure readiness for public defense or federal service active duty.

Sec. 11. Section 29A.8A, Code 2011, is amended to read as follows:

**29A.8A State military service National guard duty.**

1. If federal funding and authorization exist for ~~this the purpose identified by the governor,~~ the governor may order to ~~state military service~~ national guard duty 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.~~

2. 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 ~~state military service~~ national guard duty.

3. When performing ~~state military service~~ national guard duty, the adjutant general, a deputy adjutant general, or the state quartermaster shall not be considered a state employee, except for purposes of the Iowa public employees’ retirement system, state health and dental plans, and other state employee benefits plans.

Sec. 12. Section 29A.15, Code 2011, is amended to read as follows:

**29A.15 State awards and decorations.**

The adjutant general, from the funds appropriated for the support and maintenance of the national guard, shall procure and issue to the members of the national guard merit or service badges or other appropriate awards for service under regulations and according to the design and pattern determined by the adjutant general. Members of the national guard who, by order of the president, serve in federal forces during national emergency, may count the period of that federal service active duty toward the procurement of a service badge.

Sec. 13. Section 29A.19, Code Supplement 2011, is amended to read as follows:

**29A.19 Quartermaster.**

A present or retired member of the national guard who has ten years’ service in the ~~Iowa army national guard or the Iowa air national guard~~ shall be detailed to be the quartermaster and ~~property officer of the state, who shall have charge of and be accountable~~ responsible for, under the adjutant general, all state military property and facilities. ~~The quartermaster shall keep property returns and reports and give bond to the state of Iowa as the governor~~

~~may direct.~~

Sec. 14. Section 29A.27, subsections 1 and 3, Code Supplement 2011, are amended to read as follows:

1. Officers and enlisted persons while in state active duty shall receive the same pay, per diem, and allowances as are paid for the same rank or grade for federal ~~service~~ active duty. However, a person shall not be paid at a base rate of pay of less than one hundred dollars per calendar day of state active duty.

3. Where the provisions of this section may be applicable or at other times as considered necessary, ~~but at least once a year~~, the adjutant general shall appoint a state review board consisting of three officers, one of whom shall be a medical officer, for the purpose of determining the continuation of benefits for individuals who have established their eligibility under this section. Once established, benefits shall be paid until terminated by the review board and shall continue for the duration of the disability even though the individual may no longer be medically qualified for military service and may have been discharged from the national guard.

Sec. 15. Section 29A.28, subsections 1 and 3, Code 2011, are 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~~ national guard duty, or federal ~~service~~ active duty, 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~~ national guard duty, federal ~~service~~ active duty, 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~~ national guard duty, federal ~~service~~ active duty, 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.

3. Upon returning from a leave of absence under this section, an employee shall be entitled to return to the same position and classification held by the employee at the time of entry into state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty, or to the position and classification that the employee would have been entitled to if the continuous civil service of the employee had not been interrupted by state active duty, ~~state military service~~ national guard duty, federal ~~service~~ active duty, or civil air patrol duty. Under this subsection, "position" includes the geographical location of the position.

Sec. 16. Section 29A.43, subsections 1 and 2, Code Supplement 2011, are 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 or service, as defined in section 29A.1, subsection 3, 7A, or 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 unless the employment is of a temporary nature. 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 position of like seniority, status, and pay. However, the person shall give evidence to the employer of satisfactory completion of the 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.

2. An officer or enlisted person of the national guard or organized reserves of the armed forces of the United States who is insured as a dependent under a group policy for accident or health insurance as a full-time student less than twenty-five years of age, whose coverage under the group policy would otherwise terminate while the officer or enlisted person was on a leave of absence during a period of temporary duty or service, as defined for members of the national guard in section 29A.1, subsection 3, ~~7A, or 11, or 12~~, or as a member of the organized reserves called to active duty from a reserve component status, shall be considered to have been continuously insured under the group policy for the purpose of returning to the insured dependent status as a full-time student who is less than twenty-five years of age. This subsection does not apply to coverage of an injury suffered or a disease contracted by a member of the national guard or organized reserves of the armed forces of the United States in the line of duty.

Sec. 17. Section 29A.53, unnumbered paragraph 3, Code 2011, is amended to read as follows:

Officers and enlisted personnel called into federal ~~service~~ active duty through the national guard shall upon completion of such ~~service duty~~ continue to serve the balance of their enlistment period the same as though it had not been interrupted by such ~~service duty~~.

Sec. 18. Section 29A.65, Code 2011, is amended to read as follows:

**29A.65 Activation.**

Whenever any part of the national guard is ~~in~~ on federal ~~service~~ active duty the governor may activate such part of the unorganized militia, to be designated the "Iowa State Guard", as the governor may deem necessary, subject to provisions of federal law and regulations relating to such military organizations.

Sec. 19. Section 29A.67, Code 2011, is amended to read as follows:

**29A.67 Chief of staff.**

In the event the state headquarters of the national guard is inducted into federal ~~service~~ active duty, the governor shall appoint a chief of staff for the Iowa state guard.

Sec. 20. Section 29A.90, subsection 3, Code 2011, is amended to read as follows:

3. "*Military service*" means full-time ~~state military service~~ national guard duty or state active duty, as defined in section 29A.1, for a period of at least ~~ninety~~ thirty consecutive days, commencing on or after ~~April 22, 2002~~ the effective date of this Act.

Sec. 21. Section 29B.1, Code 2011, is amended to read as follows:

**29B.1 Persons subject to code.**

This chapter applies to all members of the state military forces, while not ~~in~~ on federal ~~service~~ active duty. As used in this chapter, unless the context otherwise requires, "*state military forces*" has the same meaning as in section 29A.6, and "*code*" means this chapter, which may be cited as the "*Iowa Code of Military Justice*".

Sec. 22. Section 29B.13, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Under regulations as may be prescribed under this code a person subject to this code who is ~~on state military service~~ national guard duty or state active duty who is accused of an offense against civil authority may be delivered, upon request, to the civil authority for trial.

Sec. 23. Section 29B.21, Code 2011, is amended to read as follows:

**29B.21 Confinement instead of fine.**

In the state military forces, not ~~in~~ on federal ~~service~~ active duty, a court-martial may, instead of imposing a fine, sentence to confinement for not more than one day for each three dollars of the authorized fine.

Sec. 24. Section 29B.22, unnumbered paragraph 2, Code 2011, is amended to read as follows:

The adjutant general shall designate a staff judge advocate for the army national guard and the air national guard. The adjutant general may appoint the number of judge advocates of the state military forces as the adjutant general considers necessary to perform state active duty to supplement or replace national guard judge advocates in emergencies or when the national guard judge advocates are ~~in~~ on federal ~~service~~ active duty.

Sec. 25. Section 29C.21, subsection 13, Code 2011, is amended to read as follows:

13. *Article XIII — Additional provisions.* Nothing in this compact shall authorize or permit the use of military force by the national guard of a state at any place outside that state in any emergency for which the president is authorized by law to call into federal ~~service~~ active duty the militia, or for any purpose for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under 18 U.S.C. § 1385.

Sec. 26. Section 35.1, subsection 2, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) Former members of the reserve forces of the United States who served at least twenty years in the reserve forces and who were discharged under honorable conditions. However, a member of the reserve forces of the United States who completed a minimum aggregate of ninety days of ~~active federal~~ service active duty, other than training, and was discharged under honorable conditions, or was retired under Tit. 10 of the United States Code shall be included as a veteran.

Sec. 27. Section 35.1, subsection 2, paragraph c, Code 2011, is amended to read as follows:

c. A resident of this state who served on ~~active federal service~~ active duty, other than training, in the armed forces of the United States and who was discharged under honorable conditions.

Sec. 28. Section 35.9, subsection 1, paragraph a, Code 2011, 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~~ active duty while serving in the armed forces or during ~~active federal military service~~ active duty 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.

Sec. 29. Section 35.9, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Upon application by a child who 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~~ active duty while serving in the armed forces or during ~~active federal military service~~ active duty in the Iowa national guard or other military component of the United States, and who at the time of entering into federal ~~active military service~~ active duty had maintained the person's residence in the state for a period of at least six months immediately before entering into ~~federal active military service~~ duty, the department shall provide state educational assistance

in an amount of 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 at any postsecondary educational institution in this state.

Sec. 30. Section 69.20, subsections 1 and 3, Code 2011, are amended to read as follows:

1. A temporary vacancy in an elective office of a political subdivision, community college, or hospital board of trustees of this state occurs on the date when the person filling that office is placed on ~~state military service~~ national guard duty or federal ~~service active duty~~, as those terms are defined in section 29A.1, and when such a person will not be able to attend to the duties of that person's elective position for a period greater than sixty consecutive days. The temporary vacancy terminates on the date when such person is released from such service, or the term of office expires.

3. Upon the termination of a temporary vacancy due to a person's release from ~~state military service~~ national guard duty or federal ~~service active duty~~, the person who held the elective office just prior to the temporary vacancy shall immediately be deemed to have been reinstated to that position and the person who filled the temporary vacancy shall immediately be deemed to have been removed from that office.

Sec. 31. Section 96.7, subsection 2, paragraph a, subparagraph (2), subparagraph division (e), subparagraph subdivision (i), Code 2011, is amended to read as follows:

(i) 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, 7A, or 11, ~~or 12~~, for any purpose, who has completed the duty as evidenced in accordance with section 29A.43.

Sec. 32. Section 144.13B, Code Supplement 2011, is amended to read as follows:

**144.13B Waiver of fees — military service.**

Notwithstanding any provision of this chapter to the contrary, the certified copy fees for a birth certificate or death certificate of a service member who died while performing military duty, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, shall be waived for a period of one year from the date of death for a family member of the deceased service member.

Sec. 33. Section 144C.6, subsection 4, Code Supplement 2011, is amended to read as follows:

4. A declaration for disposition of remains made by a service member who died while performing military duty as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, on forms provided and authorized by the department of defense for service members for this purpose shall constitute a valid declaration of designee for purposes of this chapter.

Sec. 34. Section 260C.14, subsection 20, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Adopt a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 14, paragraph "b", subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service or active~~ duty:

Sec. 35. Section 261.9, subsection 1, paragraph g, subparagraph (1), unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Adopts a policy to offer not less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child, of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service or~~ active duty:

Sec. 36. Section 262.9, subsection 30, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Direct the institutions of higher education under its control to adopt a policy to offer not

less than the following options to a student who is a member, or the spouse of a member if the member has a dependent child as defined in subsection 17, paragraph “b”, subparagraph (2), subparagraph division (a), of the Iowa national guard or reserve forces of the United States and who is ordered to ~~state military service~~ national guard duty or federal ~~service or active duty~~.

Sec. 37. Section 422.7, subsection 38, Code Supplement 2011, is amended to read as follows:

38. Subtract, to the extent not otherwise excluded, the amount of withdrawals from qualified retirement plan accounts made during the tax year if the taxpayer or taxpayer’s spouse is a member of the Iowa national guard or reserve forces of the United States who is ordered to ~~state military service~~ national guard duty or federal ~~service or active duty~~. In addition, a penalty for such withdrawals shall not be assessed by the state.

Sec. 38. Section 483A.24, subsection 14, Code Supplement 2011, is amended to read as follows:

14. 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 has served in the armed forces of the United States on ~~active federal service~~ active duty 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 a service connected rating under 38 U.S.C. ch. 11.

Sec. 39. Section 654.1A, Code 2011, is amended to read as follows:

**654.1A Maintenance of mortgagor protections — discontinuation of occupation.**

For purposes of sections 615.1, 615.3, 628.28, 654.2D, 654.20, 654.21, and 654.26, property shall be deemed the residence of and occupied by the mortgagor where occupation has ceased because of the effects of natural disaster, injury to the property not willfully caused by the mortgagor, or the mortgagor’s ~~state military service~~ national guard duty or federal ~~military service~~ active duty as those terms are defined in section 29A.1.

Sec. 40. Section 724.7, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The commissioner of public safety shall develop a process to allow service members deployed for military service to submit a renewal of a nonprofessional permit to carry weapons early and by mail. In addition, a permit issued to a service member who is deployed for military service, as defined in section 29A.1, subsection 3, 7A, or 11, ~~or 12~~, that would otherwise expire during the period of deployment shall remain valid for ninety days after the end of the service member’s deployment.

Sec. 41. 2011 Iowa Acts, chapter 127, section 2, is amended by adding the following new subsection:

NEW SUBSECTION. 5. This section shall not apply to leases entered into by the department of public defense or the armory board.

Sec. 42. **MILITARY OCCUPATIONAL SPECIALTIES AND PROFESSIONAL CERTIFICATIONS STUDY COMMITTEE.**

1. The legislative council is requested to establish a military occupational specialties and professional certifications study committee. The study committee shall assess the feasibility of allowing military occupational specialties to be counted toward professional certifications or other certifications required in Iowa for certain occupations, and shall recommend legislative or administrative rule changes relating to such requirements.

2. The study committee shall meet during the 2012 legislative interim. The study committee shall submit a report and recommendations to the general assembly by January 1, 2013.

Sec. 43. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 29A.90, subsection 3.

Approved April 12, 2012

## CHAPTER 1073

### STATE SOCIAL SECURITY ADMINISTRATION — FUNDING

S.F. 2126

**AN ACT** providing for the funding of the duties of the state's social security administrator.

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

Section 1. **NEW SECTION. 97C.13A Federal-state agreement administration — costs.**

Actual costs incurred by the state agency in the fulfillment of its duties under this chapter shall be paid as an expense authorized by the executive council from the appropriations addressed in section 7D.29. Costs paid from appropriations as provided in this section shall not exceed ten thousand dollars each fiscal year.

Approved April 12, 2012

## CHAPTER 1074

### HEALTH OR CHILD CARE FACILITY EMPLOYMENT AND CRIMINAL OR ABUSE RECORDS

S.F. 2164

**AN ACT** relating to department of human services' evaluations of criminal or abuse records of employees of health care facilities and child care facilities and homes.

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

Section 1. Section 135C.33, subsection 4, paragraph b, Code 2011, is amended to read as follows:

b. A person with a criminal or abuse record who is or was 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 However, 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 in accordance with the department of human services' evaluation of the latest record checks is pending and an exemption from the requirements in paragraph "a" for reevaluation of the latest record checks is authorized.~~ Otherwise, the requirements of paragraph "a" remain applicable to the person's employment. Authorization of an exemption under this paragraph "b" from requirements for reevaluation of the latest record checks by the department of human services is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department of human services shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph "b" may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

Sec. 2. Section 237A.5, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0g. A person subject to a record check who is or was employed by a child care facility or child care home provider and is hired by another child care facility or child care home provider, shall be subject to a record check in accordance with this subsection. However, if the person was subject to an evaluation because of a transgression in the person's record and the evaluation determined that the transgression did not warrant prohibition of the person's involvement with child care and the latest record checks do not indicate there is a transgression that was committed subsequent to that evaluation, the person may commence employment with the other child care facility or provider in accordance with the department's evaluation and an exemption from any requirements for reevaluation of the latest record checks is authorized. Authorization of an exemption under this paragraph "0g" from requirements for reevaluation of the latest record checks by the department is subject to all of the following provisions:

(1) The position with the subsequent employer is substantially the same or has the same job responsibilities as the position for which the previous evaluation was performed.

(2) Any restrictions placed on the person's employment in the previous evaluation by the department shall remain applicable in the person's subsequent employment.

(3) The person subject to the record checks has maintained a copy of the previous evaluation and provides the evaluation to the subsequent employer or the previous employer provides the previous evaluation from the person's personnel file pursuant to the person's authorization. If a physical copy of the previous evaluation is not provided to the subsequent employer, the record checks shall be reevaluated.

(4) Although an exemption under this paragraph "0g" may be authorized, the subsequent employer may instead request a reevaluation of the record checks and may employ the person while the reevaluation is being performed.

Approved April 12, 2012

## CHAPTER 1075

### ARREST WARRANT CONFIDENTIALITY

S.F. 2208

**AN ACT** relating to the confidentiality of an arrest warrant.

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

Section 1. Section 804.29, Code 2011, is amended to read as follows:

**804.29 Confidentiality.**



1. All Unless otherwise ordered by the court, all information filed with the court for the purpose of securing a warrant for an arrest, including but not limited to a citation and affidavits, shall be a confidential record until such time as a peace officer has made the arrest and has made the officer's return on the warrant, or the defendant has made an initial appearance in court. During the period of time that information is confidential, ~~it~~ the record shall be sealed by the court and the information contained ~~therein~~ in the record shall not be disseminated to any person other than a peace officer, ~~employee of a county attorney's office, magistrate, or another court employee, in the course of official duties~~ unless otherwise ordered by the court.

2. However, during the period of confidentiality in subsection 1, the information in the record may be disseminated, without court order, during the course of official duties to the following persons:

a. A peace officer.

b. An employee of the county attorney's office.

c. A judicial officer or other court employees.

d. An employee of the department of corrections or judicial district department of correctional services, if authorized by the director of the department of corrections.

Approved April 12, 2012

## CHAPTER 1076

### VETERANS — POSTTRAUMATIC STRESS DUAL DIAGNOSIS TREATMENT PROGRAM STUDY

*S.F. 2245*

**AN ACT** requiring a study and report on the establishment of a dual diagnosis treatment program for posttraumatic stress at the Iowa veterans home.

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

Section 1. IOWA VETERANS HOME — POSTTRAUMATIC STRESS DUAL DIAGNOSIS TREATMENT PROGRAM STUDY.

1. The Iowa veterans home shall initiate and coordinate the establishment of a posttraumatic stress dual diagnosis treatment program study. The study shall evaluate possible funding sources, program structure, program requirements, and the needs for such a treatment program for veterans in this state. The study shall focus on the establishment of a dual diagnosis program for individuals seeking treatment for service-connected posttraumatic stress and substance abuse.

2. The commandant of the Iowa veterans home shall prepare a report for delivery to the department of veterans affairs, the commission of veterans affairs, the department of public health, the general assembly and the governor no later than January 15, 2013, regarding the establishment of a posttraumatic stress dual diagnosis treatment program at the Iowa veterans home. The report shall make recommendations to the governor and the general assembly relative to the creation of such a program at the Iowa veterans home.

Approved April 12, 2012

**CHAPTER 1077**

## OVERSIGHT OF POSTSECONDARY EDUCATIONAL PROGRAMS AND INSTITUTIONS

## S.F. 2267

AN ACT concerning oversight of schools offering postsecondary educational programs by the college student aid commission and making penalties applicable.

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

DIVISION I  
POSTSECONDARY REGISTRATION — REQUIREMENTS

Section 1. Section 261B.2, Code 2011, is amended to read as follows:

**261B.2 Definitions.**

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

1. “*Commission*” means the college student aid commission created pursuant to section 261.1.

2. “*Course of instruction*” means a postsecondary educational program that a school offers through in-person instruction, distance delivery, correspondence study methods, or any combination thereof.

3. “*Degree*” means a postsecondary credential conferring on the recipient the title of associate, bachelor, master, or doctor, or an equivalent title, signifying educational attainment based on any one or a combination of study or the equivalent which may be supplemented by experience or achievement testing. A postsecondary degree under this chapter shall not include an honorary degree or other unearned degree.

4. “*Presence*” means ~~maintaining an address within Iowa~~ a location in Iowa at which a student participates in any structured activity related to a school’s distance education course of instruction, with the exception of proctored examinations. “*Presence*” also means an address, location, telephone number, or internet protocol address in Iowa from which a school conducts any aspect of its operations. For the purpose of a residential course of instruction offered on a school’s campus that is not located in Iowa, “*presence*” does not include:

a. Occasional, short-term activities conducted at a location in Iowa for the purpose of recruiting students for the school’s residential course of instruction.

b. A residency, practicum, internship, clinical, or similar experience that the school permits the student to participate in at a location in Iowa, provided that a person who provides instruction or supervision at the Iowa location is not compensated by the school.

5. “*School*” means an agency of the state or political subdivision of the state, individual, partnership, company, firm, society, trust, association, corporation, or any combination which meets any of the following criteria:

a. Is, owns, or operates a nonprofit postsecondary educational institution.

b. Provides a postsecondary instructional program or course of instruction leading to a degree.

c. Uses in its name the term “*college*”, “*academy*”, “*institute*”, or “*university*” or a similar term to imply that the person is primarily engaged in the education of students at the postsecondary level, and which makes a charge for its services.

6. “*Student*” means a person who enrolls in or seeks to enroll in a course of instruction offered or conducted by a school.

Sec. 2. Section 261B.3, Code 2011, is amended to read as follows:

**261B.3 Registration.**

1. Except as provided in section 261B.11, a school that maintains or shall register with the commission if a person compensated by the school conducts one or more courses any portion of a course of instruction, including courses of instruction by correspondence or other distance delivery method, offered in this state or which if the school otherwise has a presence in this state and offers courses in other states or foreign countries shall register with the commission.

a. Registrations shall be renewed every four two years or and shall be amended upon any substantive change in location, program offering, or accreditation. A school makes a substantive change in a program offering when the school proposes to offer or modify a program that requires the approval of the state board of education or any other state agency authorized to approve the school or its program in this state.

b. Registration shall be made on application forms approved and supplied made available by the commission and at the time and in the manner prescribed by the commission. Upon receipt of a complete and accurate registration application, the commission shall issue an acknowledgment of document filed and send it to the school.

2. The commission may request require a school to provide additional information as the commission deems necessary to enable the commission to determine the accuracy and completeness of the information contained in the evaluate a school's suitability for registration application.

3. The commission shall notify a school in writing of its decision to grant or deny registration and any stipulation associated with the school's registration.

4. If a school fails to meet any of the registration criteria, or if the commission believes that false, misleading, or incomplete information has been submitted in connection with an application for registration, the commission may deny registration. The commission shall conduct a hearing on the denial if a hearing is requested by a school. The commission may withhold an acknowledgment of document filed pending the outcome of the hearing. Upon a finding after the hearing that the school fails to meet any of the registration criteria, or that information contained in the registration application is false, misleading, or incomplete, the commission shall deny an acknowledgment of document filed to the school registration. The commission shall make the final decision on each registration. However, the decision of the commission is subject to judicial review in accordance with section 17A.19.

3. 5. The commission shall adopt rules under chapter 17A for the implementation of this chapter.

Sec. 3. Section 261B.3A, Code 2011, is amended to read as follows:

**261B.3A Requirements.**

1. In order to register, a school shall be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by any other state agency authorized to approve the school in this state, and, subsequently, be approved for operation by the commission.

2. A practitioner preparation program, as defined in section 272.1, operated by a school that applies to register the program in accordance with this chapter shall, in order to register, be accredited by an agency or organization approved or recognized by the United States department of education or a successor agency, be approved by the state board of education pursuant to section 256.7, subsection 3, and, subsequently, be approved for operation by the commission.

3. The commission may grant a provisional registration to a school that is not accredited by an agency or organization that is recognized by the United States department of education or its successor agency. The commission shall determine the duration of the provisional registration. During the provisional registration period, the school shall, at six-month intervals, submit to the commission documentation of its progress toward achieving accreditation. The commission may renew the school's provisional registration at its discretion if the documentation submitted indicates that the school is making progress toward accreditation.

3. 4. Nothing in this chapter shall be construed to exempt a school from the requirements of chapter 490, or 491, or 714.

Sec. 4. Section 261B.4, Code 2011, is amended to read as follows:

**261B.4 Registration information.**

As a basis for registration, schools shall provide the commission with the following information:

1. The name or title of the school.

2. ~~The~~ As applicable, the principal location of the school in this state, in other states, and in foreign countries, and the location of the place or places in this state, in other states, and in foreign countries where instruction is likely to be given.

3. A schedule of the total tuition charges, fees, and other costs payable to the school by a student during the course of instruction.

4. The refund policy of the school for the return of refundable portions of tuition, fees, or other charges. The tuition refund policy for Iowa resident students of a for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must comply with section 714.23.

~~5. The degrees granted by the school.~~

~~6.~~ 5. The names and addresses of the principal owners of the school or the officers and members of the legal governing body of the school.

~~7.~~ 6. The name and address of the chief executive officer of the school.

~~8.~~ 7. A copy of or a description of the means by which the school intends to comply with section 261B.9.

~~9.~~ 8. The name of the accrediting agency recognized by the United States department of education or a successor agency which has accredited the school, ~~and the status under which accreditation is held, the name of any other accrediting or licensing entity that has accredited or licensed the school or its programs, a copy of the accrediting or licensure notice issued by the entity, and a record of any sanctions the entity has levied against the school.~~

~~10.~~ 9. The name, address, and telephone number of a contact person in this state. A school that applies for registration to offer a course of instruction by distance delivery may provide the name and address of its registered agent in Iowa.

~~11.~~ 10. The names or titles and a description of the courses and degrees to be offered in Iowa.

~~12.~~ 11. A description of procedures for the preservation of student records ~~and the contact information to be used by students and graduates who seek to obtain transcript information.~~

~~13.~~ 12. The academic and instructional methodologies and delivery systems to be used by the school and the extent to which the school anticipates each methodology and delivery system will be used, including, but not limited to, classroom instruction, correspondence, ~~electronic telecommunications~~ distance delivery, independent study, and portfolio experience evaluation.

13. The name, title, business address, telephone number, and resume of an Iowa resident compensated by the school to perform duties at a location in Iowa. A school that applies for registration to offer a course of instruction by distance delivery may provide an internet address as the business address for an Iowa resident it compensates to perform duties remotely from a location in Iowa.

14. The school's official Stafford loan cohort default rate as calculated by the United States department of education for the three most recent federal fiscal years, if applicable.

15. Average student loan debt upon graduation of students completing programs at the school.

16. The graduation rate of undergraduate students as reported to the United States department of education.

17. Evidence that the school meets the conditions of financial responsibility established in section 714.18, or that the school qualifies for an exemption under section 714.19 or 714.22.

Sec. 5. Section 261B.7, Code 2011, is amended to read as follows:

**261B.7 Unauthorized representation.**

~~Neither a~~ A school nor its or a school's officials or employees shall not advertise or represent that the school is approved or accredited by the commission or the state of Iowa ~~nor shall it use the registration as a reference in promotional materials.~~ However, a registered school shall disclose that the school is registered by the commission on behalf of the state of Iowa and provide the commission's contact information for students who wish to inquire about the school or file a complaint.

Sec. 6. Section 261B.9, subsection 5, Code 2011, is amended to read as follows:

5. Whether the postsecondary credential ~~or certificate~~ issued, awarded, or credited to a student upon completion of the course or the fact of completion of the course is applicable toward a degree granted by the school and, if so, under what circumstances the application will be made.

Sec. 7. Section 261B.9, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 7. The disclosures required by the department of education for an out-of-state school that the board of education approves to offer a practitioner preparation program by distance delivery method.

Sec. 8. Section 261B.11, Code 2011, is amended to read as follows:

**261B.11 Exceptions.**

1. This chapter does not apply to the following types of schools and courses of instruction:

1. a. Schools and educational programs conducted by firms, corporations, or persons solely for the training of their own employees.

2. b. Apprentice or other training programs provided by labor unions solely to members or applicants for membership.

3. c. Courses of instruction of an avocational or recreational nature that do not lead to an occupational objective.

4. d. Seminars, refresher courses, and programs of instruction sponsored by professional, business, or farming organizations or associations for the members and employees of members of these organizations or associations.

5. e. Courses of instruction conducted by a public school district or a combination of public school districts.

6. f. Colleges and universities authorized by the laws of this state to grant degrees.

7. g. Schools or courses of instruction or courses of training that are offered by a vendor solely to the purchaser or prospective purchaser of the vendor's product when the objective of the school or course is to enable the purchaser or the purchaser's employees to gain skills and knowledge to enable the purchaser to use the product.

8. h. Schools and educational programs conducted by religious organizations solely for the religious instruction of leadership practitioners of that religious organization.

9. i. Postsecondary educational institutions licensed by the state of Iowa ~~prior to July 1, 2009, under section 157.8 or 158.7 to conduct business~~ operate as schools of cosmetology arts and sciences or as barber schools in the state.

10. ~~j. Accredited higher~~ Higher education institutions that meet the criteria established under section ~~261.92, 261.9,~~ subsection 1.

11. k. Postsecondary educational institutions offering programs limited to nondegree specialty vocational training programs.

12. ~~Not for-profit colleges and universities established and authorized by city ordinance to grant degrees.~~

l. Higher education institutions located in Iowa that are affiliated with health care systems located in Iowa, and which offer health professions programs that are accredited by an accrediting agency recognized by the United States department of education.

m. Higher education institutions located in Iowa whose massage therapy curriculum is approved under administrative rules of the professional licensure division of the department of public health and whose instructors are licensed massage therapists under chapter 152C.

n. A postsecondary educational institution established in Bettendorf in 1969 to prepare students for the federal communications commission radio broadcasting examination.

2. A school that claims an exemption from registration under subsection 1, paragraph "h", "i", "k", "l", or "m", must demonstrate to the commission or its designee that it qualifies for the exemption. The school must apply for approval of its exemption claim on an application supplied by the commission. The commission or its designee may approve the school's exemption claim or deny it. A school whose exemption claim is approved must reapply to renew its exemption no less frequently than every two years.

a. A school that is granted an exemption under this section must file evidence of financial responsibility under section 714.18 or demonstrate to the commission or its designee that the school qualifies for an exemption under section 714.19 or 714.22.

b. A for-profit school with at least one program of more than four months in length that leads to a recognized educational credential, such as an academic or professional degree, diploma, or license, must submit to the commission or its designee a tuition refund policy that meets the conditions of section 714.23.

3. A school that is denied an exemption claim by the commission or its designee, or that no longer qualifies for a claimed exemption, shall apply for registration or cease operating in Iowa.

Sec. 9. NEW SECTION. 261B.11A Ineligibility for state student aid programs.

1. Students attending schools required to register under this chapter are ineligible for state student financial aid programs established under chapter 261.

2. A school required to register under this chapter is prohibited from offering state aid or advertising that state aid is or may be available to students attending the school.

DIVISION II  
POSTSECONDARY REGISTRATION — UNLAWFUL ACTIVITY

Sec. 10. Section 714.17, Code 2011, is amended to read as follows:

**714.17 Unlawful advertising and selling of educational courses of instruction.**

It shall be unlawful for any person, firm, association, or corporation maintaining, advertising, or conducting in Iowa any educational course of instruction for profit, or for tuition charge, whether by classroom instructions, ~~or~~ by correspondence, or by other delivery method to:

1. Falsely advertise or represent to any person any matter material to ~~such an educational course of instruction~~. All advertising of such courses ~~of instruction~~ shall adhere to and comply with the applicable rules and regulations of the federal trade commission ~~as of July 4, 1965~~.

2. Collect tuition or other charges in excess of one hundred fifty dollars in the case of educational courses offered by correspondence ~~courses of study~~, in advance of the receipt and approval by the pupil of the first assignment or lesson of such course. Any contract providing for advance payment of more than one hundred fifty dollars shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

3. Promise or guarantee employment utilizing information, training, or skill purported to be provided or otherwise enhanced by a an educational course, unless the promisor or guarantor offers the student or prospective student a bona fide contract of employment agreeing to employ said student or prospective student for a period of not less than one hundred twenty days in a business or other enterprise regularly conducted by the promisor or guarantor and in which such information, training, or skill is a normal condition of employment.

Sec. 11. Section 714.18, subsection 1, Code 2011, is amended to read as follows:

1. Except as otherwise provided in subsection 2, every person, firm, association, or corporation maintaining or conducting in Iowa any ~~such educational course of instruction~~ by classroom instruction or by correspondence ~~or by other distance~~ or by other delivery method, or soliciting in Iowa the sale of such course, shall file with the college student aid commission all of the following:

a. A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars conditioned ~~for~~ on the faithful performance of all contracts and agreements with students made by such person, firm, association, or corporation, or their salespersons; but the aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving thirty days' written notice to the college student aid commission and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

b. A statement designating a resident agent for the purpose of receiving service in civil actions. In the absence of such designation, service may be had upon the secretary of state if service cannot otherwise be made in this state.

c. A copy of any catalog, prospectus, brochure, or other advertising material intended for distribution in Iowa. Such material shall state the cost of the educational course offered, the schedule of tuition refunds for portions of the educational course not completed, and if no refunds are to be paid, the material shall so state. Any contract induced by advertising materials not previously filed as provided in this chapter shall be voidable on the part of the pupil or any person liable for the tuition provided for in the contract.

Sec. 12. Section 714.18, subsection 2, paragraph a, subparagraphs (1) and (4), Code 2011, are amended to read as follows:

(1) A continuous corporate surety bond to the state of Iowa in the sum of fifty thousand dollars or ten percent of the total annual tuition collected, whichever is less, conditioned ~~for~~ on the faithful performance of all contracts and agreements with students made by such school. A school desiring to file a surety bond based on a percentage of annual tuition shall provide to the college student aid commission, in the form prescribed by the commission, a notarized statement attesting to the total amount of tuition collected in the preceding twelve-month period. The commission shall determine the sufficiency of the statement and the amount of the bond. Tuition information submitted pursuant to this subparagraph shall be kept confidential.

(4) The college student aid commission may accept a letter of credit ~~from~~ issued by a bank in lieu of and for the amount of the corporate surety bond required by this paragraph “a” subparagraphs (1) through (3), as applicable.

Sec. 13. Section 714.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~None of the~~ The provisions of sections 714.17 to 714.22 714.21 shall not apply to the following:

Sec. 14. Section 714.19, subsections 6 through 8, Code 2011, are amended to read as follows:

6. Schools and educational programs conducted by firms, corporations, or persons ~~for the training of their own employees,~~ for which no fee is charged.

7. Seminars, refresher courses, and schools of instruction ~~sponsored~~ conducted by professional, business, or farming organizations or associations for the members and employees of members of such organizations or associations. A person who provides instruction under this subsection who is not a member or an employee of a member of the organization or association shall not be eligible for this exemption.

8. Private business schools accredited by the accrediting commission for business schools or an acknowledged accrediting agency recognized by the United States department of education or the council for higher education accreditation.

Sec. 15. Section 714.19, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 10. Private, nonprofit schools that meet the criteria established under section 261.9, subsection 1.

Sec. 16. Section 714.23, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 01. a. For the purposes of this section and section 714.25, “postsecondary educational program” means a series of postsecondary educational courses that lead to a recognized educational credential such as an academic or professional degree, diploma, or license.

b. For the purposes of this section, “school period” means the course, term, payment period, postsecondary educational program, or other period for which the school assessed tuition charges to the student. A school that assesses tuition charges to the student at the beginning of each course, term, payment period, or other period that is shorter than the postsecondary educational program’s length shall base its tuition refund on the amount of tuition costs the school charged for the course, term, or other period in which the student terminated. A school shall not base its tuition refund calculation on any portion of a postsecondary educational program that remains after a student terminates unless the student was charged for that

remaining portion of the postsecondary educational program before the student's termination and the student began attendance in the school term or course.

Sec. 17. Section 714.23, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A person offering a ~~course of instruction at the postsecondary level at least one postsecondary educational program~~, for profit, that is more than four months in length and leads to a ~~degree, diploma, or license~~ recognized educational credential, shall make a pro rata refund of ~~no less than ninety percent of the tuition for a terminating student to the appropriate agency based upon charges to an Iowa resident student who terminates from any of the school's postsecondary educational programs in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of completed number of scheduled school days to the number of calendar days remaining in the school period until the date equivalent to the completion of sixty percent of the scheduled school calendar days of in the school term or course period to the total number of calendar days in the school period until the date equivalent to the completion of sixty percent of the calendar days in the school period.~~

2. Notwithstanding the provisions of subsection 1, the following tuition refund policy shall apply:

a. If a terminating student has completed sixty percent or more of a ~~school term or course that is more than four months in length period~~, the person offering the ~~course of instruction postsecondary educational program~~ is not required to refund tuition ~~for charges to the student~~. However, if, at any time, a student terminates a ~~school term or course that is more than four months in length postsecondary educational program~~ due to the student's physical incapacity or, for a program that requires classroom instruction, due to the transfer of the student's spouse's employment to another city, the terminating student shall receive a refund of tuition ~~charges in an amount which that equals the amount of tuition charged to the student multiplied by the ratio of the remaining number of school calendar days in the school period to the total school number of calendar days of in the school term or course period.~~

b. A refund of ninety percent of the tuition for a terminating student shall be paid to the ~~appropriate agency based upon the ratio of completed number of school days to the total school days of the school term or course. A school shall provide to a terminating student a refund of tuition charges in an amount that is not less than ninety percent of the amount of tuition charged to the student multiplied by the ratio of the remaining number of calendar days in the school period to the total number of calendar days in the school period. This paragraph "b" applies to those persons offering courses of instruction at the postsecondary level at least one postsecondary educational program of more than four months in length, for profit, whose cohort default rate for students under the Stafford loan program as defined reported by the United States department of education for the most recent federal fiscal year is more than one hundred ten percent of the national average cohort default rate of all schools for that program for that period the same federal fiscal year or six percent, whichever is higher.~~

3. ~~If the financial obligations of a student are for three or fewer months duration, this section does not apply. In the case of a program in which student progress is measured only in clock hours, all occurrences of "calendar days" in subsections 1 and 2 shall be replaced with "scheduled clock hours".~~

4. ~~Refunds~~ A refund of tuition charges shall be paid provided to the ~~appropriate agency student within thirty forty-five days following the student's termination date of the school's determination that a student has terminated from a postsecondary educational program.~~

5. A student who terminates a ~~course of instruction or term postsecondary educational program~~ shall not be charged any fee or other monetary penalty for terminating a ~~course of instruction or term the postsecondary educational program~~, other than a reduction in tuition refund as specified in this section.

Sec. 18. **NEW SECTION. 714.24 Additional requirements.**

1. A required filing of evidence of financial responsibility pursuant to section 714.18 must be completed at least once every two years.



2. An entity that claims an exemption under section 714.19 or 714.22 must file an exemption claim with the commission. The commission may approve or deny the exemption claim. Except for a school that claims an exemption under section 714.19, subsection 1, 3, or 10, a filing of a claim for an exemption pursuant to section 714.19 or 714.22 must be completed at least once every two years.

3. An entity that claims an exemption under section 714.19 or 714.22 must file evidence of financial responsibility pursuant to section 714.18 within sixty calendar days following the date upon which conditions that qualify the entity for an exemption under section 714.19 no longer exist. The commission may grant an entity a longer period to file evidence of financial responsibility based on documentation the entity provides to the commission of its substantial progress to comply with section 714.18, subsection 1, paragraph "a".

4. An entity that is required to file evidence of financial responsibility under section 714.18, or an entity that files a claim of exemption under section 714.19 or 714.22, shall utilize required forms approved and supplied by the commission.

5. The commission may, at its discretion, require a proprietary school that must comply with section 714.23 to submit its tuition refund policy to the commission for its review and approval.

6. The commission and the attorney general may, individually or jointly, adopt rules pursuant to chapter 17A for the implementation of sections 714.18 through 714.25.

7. Except as provided in section 714.18, subsection 2, paragraph "a", the information submitted under sections 714.18, 714.22, 714.23, and 714.25 are public records under chapter 22.

Sec. 19. Section 714.25, Code 2011, is amended to read as follows:

**714.25 Disclosure.**

1. For purposes of this chapter section, ~~unless the context otherwise requires, "proprietary school" means a person offering a course of instruction at the postsecondary level~~ postsecondary educational program, for profit, that is more than four months in length and leads to a degree, diploma, or license recognized educational credential, such as an academic or professional degree, diploma, or license.

2. A proprietary school shall, prior to the time a student is obligated for payment of any moneys, inform the student, the college student aid commission, and in the case of a school licensed under section 157.8, the board of cosmetology arts and sciences or in the case of a school licensed under section 158.7, the board of barbering, of all of the following:

a. The total cost of the ~~course of instruction~~ postsecondary educational program as charged by the proprietary school.

b. An estimate of any fees which may be charged the student by others which would be required if the student is to successfully complete the course postsecondary educational program and, if applicable, obtain a degree, diploma, or license recognized educational credential.

c. The percentage of students who successfully complete the course postsecondary educational program, the percentage who terminate prior to completing the course postsecondary educational program, and the period of time upon which the proprietary school has based these percentages. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.

d. If claims are made by the proprietary school as to successful placement of students in jobs upon completion of the course of study proprietary school's postsecondary educational programs, the proprietary school shall provide the student with all of the following:

(1) The percentage of graduating students who were placed in jobs in fields related to the course of instruction postsecondary educational programs.

(2) The percentage of graduating students who went on to further education immediately upon graduation.

(3) The percentage of students who, ninety days after graduation, were without a job and had not gone on to further education.

(4) The period of time upon which the reports required by paragraphs "a" through "c" were based. The reporting period shall not be less than one year in length and shall not extend more than five years into the past.

e. If claims are made by the proprietary school as to income levels of students who have graduated and are working in fields related to the proprietary school's course of instruction postsecondary educational programs, the proprietary school shall inform the student of the method used to derive such information.

3. The requirements of subsection 2 shall not apply to a proprietary school that is eligible for federal student financial aid under Tit. IV of the federal Higher Education Act of 1965, as amended.

Sec. 20. REPEAL. Section 714.22, Code 2011, is repealed.

Approved April 12, 2012

## CHAPTER 1078

### DISASTER AID INDIVIDUAL ASSISTANCE GRANT PROGRAM

S.F. 2289

**AN ACT** relating to the Iowa disaster aid individual assistance grant program administered by the department of human services.

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

Section 1. Section 29C.20A, subsection 2, Code Supplement 2011, is 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 executive council shall use grant funds to reimburse the department of human services for its actual expenses associated with the administration of the grants. The department of human services may implement an ongoing contract with a provider or providers of a statewide program with local offices throughout the state to serve as the local administrative entity for the grant program so that the program can be implemented with minimal delay when a disaster occurs in a local area. The rules adopted by the department of human services for the program shall include but are not limited to all of the following:

a. If a local administrative entity is under contract with the state to provide other services or is implementing a state or federal program and the contract contains a sufficient surety bond or other adequate financial responsibility provision, the department shall accept the existing surety bond or financial responsibility provision in lieu of applying a new or additional surety bond or financial responsibility requirement.

b. If the president of the United States has declared a major disaster to exist in this state and federal aid is made available to provide assistance grants to individuals similar to that provided by the Iowa disaster aid individual assistance grant program, the Iowa program shall be discontinued.

c. Authorization for the local administrative entity to draw grant funding to pay valid claims on at least a weekly basis.<sup>1</sup>

Approved April 12, 2012

<sup>1</sup> See chapter 1138, §14, 42, 45 herein

**CHAPTER 1079****PERSONS WITH MENTAL HEALTH ILLNESSES AND SUBSTANCE-RELATED DISORDERS***S.F. 2312*

**AN ACT** relating to persons with mental health illnesses and substance-related disorders.

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

Section 1. Section 80B.11, subsection 1, paragraph c, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) In-service training under this paragraph “c” shall include the requirement that all law enforcement officers complete a course on mental health at least once every four years. In developing the requirements for this training, the director shall seek input from mental health care providers and mental health care consumers.

Sec. 2. Section 125.91, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The procedure prescribed by this section shall only be used for an intoxicated person who has threatened, attempted, or inflicted physical self-harm or harm on another, and is likely to inflict physical self-harm or harm on another unless immediately detained, or who is incapacitated by a chemical substance, if that person cannot be taken into immediate custody under sections 125.75 and 125.81 because immediate access to the court is not possible an application has not been filed naming the person as the respondent pursuant to section 125.75 and the person cannot be ordered into immediate custody and detained pursuant to section 125.81.

Sec. 3. Section 135C.3, subsection 1, Code 2011, is amended to read as follows:

1. A licensed nursing facility shall provide an organized twenty-four-hour program of services commensurate with the needs of its residents and under the immediate direction of a licensed nurse. Medical and nursing services must be provided under the direction of either a house physician or an individually selected physician. Surgery or obstetrical care shall not be provided within the facility. An admission to the nursing facility must be based on a physician’s written order certifying that the individual being admitted requires no greater degree of nursing care than the facility to which the admission is made is licensed to provide and is capable of providing. The nursing facility is not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator of the nursing facility.

Sec. 4. Section 135C.4, Code 2011, is amended to read as follows:

**135C.4 Residential care facilities.**

1. Each facility licensed as a residential care facility shall provide an organized continuous twenty-four-hour program of care commensurate with the needs of the residents of the home and under the immediate direction of a person approved and certified by the department whose combined training and supervised experience is such as to ensure adequate and competent care.

2. All admissions to residential care facilities shall be based on an order written by a physician certifying that the individual being admitted does not require nursing services or that the individual’s need for nursing services can be avoided if home and community-based services, other than nursing care, as defined by this chapter and departmental rule, are provided.

3. For the purposes of this section, the home and community-based services to be provided shall be limited to the type included under the medical assistance program provided pursuant to chapter 249A, shall be subject to cost limitations established by the department of human services under the medical assistance program, and except as otherwise provided by the department of inspections and appeals with the concurrence of the department of human

services, shall be limited in capacity to the number of licensed residential care facilities and the number of licensed residential care facility beds in the state as of December 1, 2003.

4. A residential care facility is not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator of the residential care facility.

Sec. 5. Section 228.1, subsection 6, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

6. “*Mental health professional*” means an individual who has either of the following qualifications:

a. The individual meets all of the following requirements:

(1) The individual holds at least a master’s degree in a mental health field, including but not limited to psychology, counseling and guidance, nursing, and social work, or is an advanced registered nurse practitioner, a physician assistant, or a physician and surgeon or an osteopathic physician and surgeon.

(2) The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law.

(3) The individual has at least two years of post-degree clinical experience, supervised by another mental health professional, in assessing mental health needs and problems and in providing appropriate mental health services.

b. The individual holds a current Iowa license if practicing in a field covered by an Iowa licensure law and is a psychiatrist, an advanced registered nurse practitioner who holds a national certification in psychiatric mental health care registered by the board of nursing, a physician assistant practicing under the supervision of a psychiatrist, or an individual who holds a doctorate degree in psychology and is licensed by the board of psychology.

Sec. 6. Section 229.1, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. “*Mental health professional*” means the same as defined in section 228.1.

Sec. 7. Section 229.1, subsection 14, Code Supplement 2011, is amended by striking the subsection.

Sec. 8. Section 229.1, subsection 16, Code Supplement 2011, is amended to read as follows:

16. “*Serious emotional injury*” is an injury which does not necessarily exhibit any physical characteristics, but which can be recognized and diagnosed by a licensed physician or other qualified mental health professional and which can be causally connected with the act or omission of a person who is, or is alleged to be, mentally ill.

Sec. 9. NEW SECTION. 229.5A **Preapplication screening assessment — program.**

Prior to filing an application for involuntary hospitalization pursuant to section 229.6, the clerk of the district court or the clerk’s designee shall inform the interested person referred to in section 229.6, subsection 1, about the option of requesting a preapplication screening assessment through a preapplication screening assessment program. The state court administrator shall prescribe practices and procedures for implementation of the preapplication screening assessment program.

Sec. 10. Section 229.6, Code 2011, is amended to read as follows:

**229.6 Application for order of involuntary hospitalization.**

1. Proceedings for the involuntary hospitalization of an individual may be commenced by any interested person by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent’s place of residence. The clerk, or the clerk’s designee, shall assist the applicant in completing the application. The application shall:

1. a. State the applicant’s belief that the respondent is seriously mentally impaired.

2. b. State any other pertinent facts.

- ~~3. c.~~ Be accompanied by any of the following:
- ~~a.~~ (1) A written statement of a licensed physician in support of the application; ~~or,~~
  - ~~b.~~ (2) One or more supporting affidavits otherwise corroborating the application; ~~or,~~
  - ~~e.~~ (3) Corroborative information obtained and reduced to writing by the clerk or the clerk's designee, but only when circumstances make it infeasible to comply with, or when the clerk considers it appropriate to supplement the information supplied pursuant to, either paragraph "a" or paragraph "b" of this subsection subparagraph (1) or (2).
2. Prior to the filing of an application pursuant to this section, the clerk or the clerk's designee shall inform the interested person referred to in subsection 1 about the option of requesting a preapplication screening assessment pursuant to section 229.5A.

Sec. 11. Section 229.10, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. Any licensed physician conducting an examination pursuant to this section may consult with or request the participation in the examination of any qualified mental health professional, and may include with or attach to the written report of the examination any findings or observations by any qualified mental health professional who has been so consulted or has so participated in the examination.

Sec. 12. Section 229.12, subsection 3, paragraph b, Code 2011, is amended to read as follows:

b. The licensed physician or qualified mental health professional who examined the respondent shall be present at the hearing unless the court for good cause finds that the licensed physician's or qualified mental health professional's presence or testimony is not necessary. The applicant, respondent, and the respondent's attorney may waive the presence or the telephonic appearance of the licensed physician or qualified mental health professional who examined the respondent and agree to submit as evidence the written report of the licensed physician or qualified mental health professional. The respondent's attorney shall inform the court if the respondent's attorney reasonably believes that the respondent, due to diminished capacity, cannot make an adequately considered waiver decision. "Good cause" for finding that the testimony of the licensed physician or qualified mental health professional who examined the respondent is not necessary may include but is not limited to such a waiver. If the court determines that the testimony of the licensed physician or qualified mental health professional is necessary, the court may allow the licensed physician or the qualified mental health professional to testify by telephone.

Sec. 13. Section 229.19, subsection 1, paragraph d, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (7) To utilize the related best practices for the duties identified in this paragraph "d" developed and promulgated by the judicial council.

Sec. 14. Section 229.19, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An advocate may also be appointed pursuant to this section for an individual who has been diagnosed with a co-occurring mental illness and substance-related disorder.

Sec. 15. Section 229.22, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The procedure prescribed by this section shall ~~not~~ be used unless when it appears that a person should be immediately detained due to serious mental impairment, but that person cannot be immediately detained by the procedure prescribed in sections 229.6 and 229.11 because there is no means of immediate access to the district court an application has not been filed naming the person as the respondent pursuant to section 229.6, and the person cannot be ordered into immediate custody and detained pursuant to section 229.11.

Sec. 16. Section 602.1209, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 15A. Prescribe practices and procedures for the implementation of the preapplication screening assessment program referred to in section 229.5A.

Sec. 17. CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES — PATIENT ADVOCATE. The judicial branch and department of human services shall continue the workgroup implemented pursuant to 2010 Iowa Acts, chapter 1192, section 24, subsection 2, and extended pursuant to 2011 Iowa Acts, chapter 121, section 2, to study and make recommendations relating to the consolidation of the processes for involuntary commitment for persons with substance-related disorders under chapter 125, for intellectual disability under chapter 222, and for serious mental illness under chapter 229. The workgroup shall also include representatives from the department of public health. The workgroup shall also study and make recommendations concerning the feasibility of establishing an independent statewide patient advocate program for qualified persons representing the interests of patients suffering from mental illness, intellectual disability, or a substance-related disorder and involuntarily committed by the court, in any matter relating to the patients' hospitalization or treatment under chapters 125, 222, and 229, and shall also include recommendations for a patient advocate representing the interests of patients found not guilty of a crime by reason of insanity. The workgroup shall also consider the implementation of consistent reimbursement standards for patient advocates supported by a state-funded system and shall also consider the role of the advocate for a person who has been diagnosed with a co-occurring mental illness and substance-related disorder. The workgroup shall solicit input from current mental health advocates and mental health and substance-related disorder care providers and individuals receiving services whose interests would be represented by an independent statewide advocate program and shall submit a report on the study and make recommendations to the governor and the general assembly by December 1, 2012.

Sec. 18. COMPREHENSIVE JAIL DIVERSION PROGRAM — MENTAL HEALTH COURTS — STUDY. The division of criminal and juvenile justice planning of the department of human rights shall conduct a study regarding the possible establishment of a comprehensive statewide jail diversion program, including the establishment of mental health courts, for nonviolent criminal offenders who suffer from mental illness. The division shall solicit input from the department of human services, the department of corrections, and other members of the criminal justice system including but not limited to judges, prosecutors, and defense counsel, and mental health treatment providers and consumers. The division shall establish the duties, scope, and membership of the study commission and shall also consider the feasibility of establishing a demonstration mental health court. The division shall submit a report on the study and make recommendations to the governor and the general assembly by December 1, 2012.

Sec. 19. PRIOR LAW ENFORCEMENT MENTAL HEALTH TRAINING. A law enforcement officer who has completed academy-approved mental health training within the twelve-month period prior to the effective date of this Act, either through in-service or academy-approved basic training, shall be considered to have met the first four-year mental health training requirement of section 80B.11, subsection 1, paragraph "c", subparagraph (3), as enacted in this Act.

Approved April 12, 2012

**CHAPTER 1080**

## IOWA HEALTH INFORMATION NETWORK

S.F. 2318

**AN ACT** relating to the Iowa health information network, providing for fees, and including effective date provisions.

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

Section 1. Section 135.154, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 01. “Advisory council” means the electronic health information advisory council created in section 135.156.

NEW SUBSECTION. 001. “Authorized” means having met the requirements as a participant for access to and use of the Iowa health information network.

NEW SUBSECTION. 2A. “Exchange” means the authorized electronic sharing of health information between health care professionals, payors, consumers, public health agencies, the department, and other authorized participants utilizing the Iowa health information network and Iowa health information network services.

NEW SUBSECTION. 2B. “Executive committee” means the executive committee of the electronic health information advisory council created in section 135.156.

NEW SUBSECTION. 3A. “Health information” means health information as defined in 45 C.F.R. § 160.103 that is created or received by an authorized participant.

NEW SUBSECTION. 4A. “Health Insurance Portability and Accountability Act” means the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder.

NEW SUBSECTION. 4B. “Hospital” means licensed hospital as defined in section 135B.1.

NEW SUBSECTION. 4C. “Individually identifiable health information” means individually identifiable health information as defined in 45 C.F.R. § 160.103 that is created or received by an authorized participant.

NEW SUBSECTION. 5A. “Iowa health information network” or “network” means the statewide health information technology network created in this division.

NEW SUBSECTION. 5B. “Iowa Medicaid enterprise” means the Iowa Medicaid enterprise as defined in section 249J.3.

NEW SUBSECTION. 5C. “Participant” means an authorized health care professional, payor, patient, health care organization, public health agency, or the department that has agreed to authorize, submit, access, or disclose health information through the Iowa health information network in accordance with this chapter and all applicable laws, rules, agreements, policies, and standards.

NEW SUBSECTION. 5D. “Patient” means a person who has received or is receiving health services from a health care professional.

NEW SUBSECTION. 5E. “Payor” means a person who makes payments for health services, including but not limited to an insurance company, self-insured employer, government program, individual, or other purchaser that makes such payments.

NEW SUBSECTION. 5F. “Protected health information” means protected health information as defined in 45 C.F.R. § 160.103 that is created or received by an authorized participant.

NEW SUBSECTION. 5G. “Public health agency” means an entity that is governed by or contractually responsible to a local board of health or the department to provide services focused on the health status of population groups and their environments.

NEW SUBSECTION. 5H. “Purchaser” means any individual, employer, or organization that purchases health insurance or services and includes intermediaries.

Sec. 2. Section 135.155, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

To be effective, the Iowa health information technology system network shall comply with all of the following principles:

Sec. 3. Section 135.155, subsection 3, Code 2011, is amended to read as follows:

3. Widespread adoption of health information technology is critical to a successful Iowa health information technology system network 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 network 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 network provides protocols to address critical problems.

d. The system network is financed by all who benefit from the improved quality, efficiency, savings, and other benefits that result from use of health information technology.

Sec. 4. NEW SECTION. 135.155A Findings and intent — Iowa health information network.

1. The general assembly finds all of the following:

a. Technology used to support health care-related functions is known as health information technology. Health information technology provides a mechanism to transform the delivery of health and medical care in Iowa and across the nation.

b. A health information network involves the secure electronic sharing of health information across the boundaries of individual practice and institutional health settings and with consumers. Broad use of health information technology and a health information network should improve health care quality and the overall health of the population, increase efficiencies in administrative health care, reduce unnecessary health care costs, and help prevent medical errors.

2. It is the intent of the general assembly that Iowa establish a statewide health information technology network. The Iowa health information network shall not constitute a health benefit network or a health insurance network. Nothing in this division shall be interpreted to impede or preclude the formation and operation of regional, population-specific, or local health information networks or their participation in the Iowa health information network.

Sec. 5. Section 135.156, subsection 1, paragraphs a and b, Code Supplement 2011, are amended to read as follows:

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, the Iowa health information network, and other health information technology initiatives in this state. The department shall be guided by the principles and goals specified in section 135.155 and the findings and intent specified for an Iowa health information network in section 135.155A.

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 network developed shall be consumer-driven, flexible, and expandable.

Sec. 6. Section 135.156, subsection 2, paragraph a, Code Supplement 2011, is amended to read as follows:

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 Iowa health information system network~~. 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.

Sec. 7. Section 135.156, subsection 3, paragraph a, subparagraphs (6) and (10), Code Supplement 2011, are amended to read as follows:

(6) Policies relating to governance of the various facets of the Iowa health information technology system network.

(10) Economic incentives and support to facilitate participation in an interoperable system network by health care professionals.

Sec. 8. Section 135.156, subsection 3, paragraph c, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Coordinate public and private efforts to provide the network backbone infrastructure for the Iowa health information technology system network. In coordinating these efforts, the executive committee shall do all of the following:

Sec. 9. Section 135.156, subsection 3, paragraphs h and i, Code Supplement 2011, are amended to read as follows:

*h.* Seek and apply for any federal or private funding to assist in the implementation and support of the Iowa health information technology system network and make recommendations for funding mechanisms for the ongoing development and maintenance costs of the Iowa health information technology system network.

*i.* Identify state laws and rules that present barriers to the development of the Iowa health information technology system network and recommend any changes to the governor and the general assembly.

Sec. 10. **NEW SECTION. 135.156A Iowa health information network — business and financial sustainability plan and participant fees.**

1. The board, with the support of the department and the advice of the executive committee and advisory council, shall establish and annually review and update a business and financial sustainability plan for the Iowa health information network. The plan shall include fees to be paid to the department by participants who choose to access and use the Iowa health information network. The participant fee schedule shall be structured using fair share, value-based principles.

2. The department shall update and submit a financial model, including fee schedule, revenue and expense projections, and a budget, to the executive committee and the board for approval on an annual basis.

Sec. 11. **NEW SECTION. 135.156B Iowa health information network — duties of the department.**

The department shall do all of the following:

1. Develop, implement, and enforce the following, as approved by the board:

*a.* Strategic, operational, and business and financial sustainability plans for the Iowa health information network.

*b.* Standards, requirements, policies, and procedures for access to and use, secondary use, and privacy and security of health information exchanged through the Iowa health information network, consistent with applicable federal and state standards and laws.

c. Rules, policies, and procedures for monitoring participant usage of the Iowa health information network and enforcing compliance with applicable standards, requirements, policies, rules, and procedures.

d. Policies and procedures for administering the infrastructure, technology, and associated professional services required for operation of the Iowa health information network and the provision of services through the Iowa health information network.

e. An annual budget and fiscal report for the business and technical operations of the Iowa health information network and an annual report for the Iowa health information network and the services provided through the Iowa health information network.

2. Provide human resources, budgeting, project and activity coordination, and related management functions to the Iowa health information network and the services provided through the Iowa health information network.

3. Enter into participation agreements with participants in the Iowa health information network.

4. Collect participant fees, record receipts and approvals of payments, and file required financial reports.

5. Apply for, acquire by gift or purchase, and hold, dispense, or dispose of funds and real or personal property from any person, governmental entity, or organization in the exercise of its powers or performance of its duties in accordance with this division.

6. Select and contract with vendors of goods and services in compliance with all applicable state and federal procurement laws and regulations.

7. Work to align interstate and intrastate interoperability standards in accordance with national health information exchange standards.

8. Execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under this division.

**Sec. 12. NEW SECTION. 135.156C Iowa health information network fund.**

1. The Iowa health information network fund is created as a separate fund within the state treasury under the control of the board. Revenues, donations, gifts, interest, participant fees, and other moneys received or generated relative to the operation and administration of the Iowa health information network shall be deposited in the fund.

2. Moneys in the fund are appropriated to and shall be expended by the department only for activities and operations suitable to the performance of the department's duties, subject to executive committee review and board approval. Disbursements may be made from the fund for purposes related to the administration, management, operations, functions, activities, or sustainability of the Iowa health information network.

3. Notwithstanding section 12C.7, subsection 2, earnings or interest on moneys deposited in the fund shall be credited to the fund. Moneys in the fund at the end of each fiscal year shall not revert to another fund but shall remain in the fund for expenditure in subsequent fiscal years.

4. The moneys in the fund shall be subject to financial and compliance audits by the auditor of state.

**Sec. 13. NEW SECTION. 135.156D Technical infrastructure.**

1. The Iowa health information network shall provide a mechanism to facilitate and support the secure electronic exchange of health information between participants.

2. The Iowa health information network shall not function as a central repository of all health information.

3. The Iowa health information network shall provide a mechanism for participants without an electronic health records system to access health information from the Iowa health information network.

**Sec. 14. NEW SECTION. 135.156E Legal and policy.**

1. Upon approval from the board, the department shall implement appropriate security standards, policies, and procedures to protect the transmission and receipt of protected health information exchanged through the Iowa health information network, which shall, at

a minimum, comply with the Health Insurance Portability and Accountability Act security rule pursuant to 45 C.F.R. pt. 164, subpt. C, and shall reflect all of the following:

a. Include authorization controls, including the responsibility to authorize, maintain, and terminate a participant's use of the Iowa health information network.

b. Require authentication controls to verify the identify<sup>1</sup> and role of the participant using the Iowa health information network.

c. Include role-based access controls to restrict functionality and information available through the Iowa health information network.

d. Include a secure and traceable electronic audit system to document and monitor the sender and the recipient of health information exchanged through the Iowa health information network.

e. Require standard participation agreements which define the minimum privacy and security obligations of all participants using the Iowa health information network and services available through the Iowa health information network.

f. Include controls over access to and the collection, organization, and maintenance of records and data for purposes of research or population health that protect the confidentiality of consumers who are the subject of the health information.

2. A patient shall have the opportunity to decline exchange of the patient's health information through the Iowa health information network. A patient shall not be denied care or treatment for declining to exchange the patient's health information, in whole or in part, through the Iowa health information network. The board shall provide by rule the means and process by which patients may decline participation. The means and process utilized under the rules shall minimize the burden on patients and health care professionals.

3. Unless otherwise authorized by law or rule, a patient's decision to decline participation means that none of the patient's health information shall be accessible through the record locator service function of the Iowa health information network. A patient's decision to decline having health information shared through the record locator service function shall not limit a health care professional with whom the patient has or is considering a treatment relationship from sharing health information concerning the patient through the secure messaging function of the Iowa health information network.

4. A patient who declines participation in the Iowa health information network may later decide to have health information shared through the Iowa health information network. A patient who is participating in the Iowa health information network may later decline participation in the network.

5. A participant shall not release or use protected health information exchanged through the Iowa health information network for purposes unrelated to prevention, treatment, payment, or health care operations unless otherwise authorized or required by state or federal law. Participants shall limit the use and disclosure of protected health information for payment or health care operations to the minimum amount required to accomplish the intended purpose of the use or request, in compliance with the Health Insurance Portability and Accountability Act and other applicable state or federal law. Use or distribution of the information for a marketing purpose, as defined by the Health Insurance Portability and Accountability Act, is strictly prohibited.

6. The department and all persons using the Iowa health information network are individually responsible for following breach notification policies as provided by the Health Insurance Portability and Accountability Act.

7. A participant shall not be compelled by subpoena, court order, or other process of law to access health information through the Iowa health information network in order to gather records or information not created by the participant.

8. All participants exchanging health information and data through the Iowa health information network shall grant to other participants of the network a nonexclusive license to retrieve and use that information in accordance with applicable state and federal laws, and the policies, standards, and rules established by the board.

9. The board shall establish by rule the procedures for a patient who is the subject of health information to do all of the following:

<sup>1</sup> See chapter 1138, §48, 80, 81 herein

a. Receive notice of a violation of the confidentiality provisions required under this division.  
b. Upon request to the department, view an audit report created under this division for the purpose of monitoring access to the patient's health care information.

10. A health care professional who relies reasonably and in good faith upon any health information provided through the Iowa health information network in treatment of a patient who is the subject of the health information shall be immune from criminal or civil liability arising from any damages caused by such reasonable, good-faith reliance. Such immunity shall not apply to acts or omissions constituting negligence, recklessness, or intentional misconduct.

11. A participant that has disclosed health information through the Iowa health information network in compliance with applicable law and the standards, requirements, policies, procedures, and agreements of the network shall not be subject to criminal or civil liability for the use or disclosure of the health information by another participant.

12. Notwithstanding chapter 22, the following records shall be kept confidential, unless otherwise ordered by a court or consented to by the patient or by a person duly authorized to release such information:

a. The protected health information contained in, stored in, submitted to, transferred or exchanged by, or released from the Iowa health information network.

b. Any protected health information in the possession of the department due to its administration of the Iowa health information network.

13. Unless otherwise provided in this division, when using the Iowa health information network or a private health information network maintained in this state that complies with the privacy and security requirements of this chapter for the purposes of patient treatment, a health care professional or a hospital is exempt from any other state law that is more restrictive than the Health Insurance Portability and Accountability Act that would otherwise prevent or hinder the exchange of patient information by the patient's health care professional or hospital.

**Sec. 15. NEW SECTION. 135.156F Governance review.**

1. The governance structure as provided in this division consisting of the department acting on behalf of the board subject to executive committee review and board approval shall continue during the term of the state health information exchange cooperative agreement between the department and the office of the national coordinator for health information technology to address the development of standards, policies, and procedures; dissemination of interoperability standards; the installation, testing, and operation of the Iowa health information network infrastructure; and the evolution of Iowa health information network services to improve patient care for the population.

2. During the final year of the term of the cooperative agreement, the executive committee and the department shall review the governance structure, operations of the Iowa health information network, and the business and financial sustainability plan and make recommendations to the board regarding the future governance of the Iowa health information network.

**Sec. 16. DETERMINATION OF USE, RELEASE, OR DISCLOSURE OF PROTECTED HEALTH INFORMATION.** The department of public health shall review the potential of the use, release, or disclosure of protected health information under this Act for the purposes of research, and shall submit its findings and recommendations to the general assembly within twelve months of the effective date of this Act.

**Sec. 17. EFFECTIVE UPON ENACTMENT.** This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 12, 2012

**CHAPTER 1081**

## ADMINISTRATION OF SPECIAL APPRAISER'S AND ASSESSMENT EXPENSE FUNDS

## H.F. 524

**AN ACT** relating to the administration of the special appraiser's fund and the assessment expense fund.

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

Section 1. Section 421.30, subsection 6, Code 2011, is amended to read as follows:

6. Upon the director's approval of the advancement of funds from the reassessment expense fund, the director shall certify to the appropriate conference board and assessor a schedule for disbursing the loan to the assessing jurisdiction's ~~appraiser~~ assessment expense fund authorized by section ~~441.50~~ 441.16. The schedule shall provide for the disbursement of funds over the period of the reassessment project, except that ten percent of the funds shall not be disbursed until the project is completed. The conference board shall at its next opportunity levy pursuant to section ~~441.50~~ 441.16 sufficient funds for purposes of repaying the loan made from the reassessment expense fund. The amount levied shall be sufficient to repay the loan in semiannual installments during the course of the reappraisal project as specified by a repayment schedule established by the director. The repayment schedule shall provide for repayment of the loan not later than one year following the completion of the reassessment. Semiannual repayments of the proceeds of the loan shall be made on or before December 1 and May 1 of each year.

Sec. 2. Section 441.16, Code Supplement 2011, is amended to read as follows:

**441.16 Budget.**

1. All expenditures under this chapter shall be paid as ~~hereinafter~~ provided in this section.

2. a. Not later than January 1 of each year the assessor, the examining board, and the board of review shall each prepare a proposed budget of all expenses for the ensuing fiscal year. The assessor shall include in the proposed budget the probable expenses for defending assessment appeals. Said budgets shall be combined by the assessor and ~~copies thereof~~ the budgets forthwith filed by the assessor in triplicate with the chairperson of the conference board.

~~3.~~ b. The combined budgets shall contain an itemized list of the proposed salaries of the assessor and each deputy, the amount required for field personnel and other personnel, their number and their compensation; the estimated amount needed for expenses, printing, mileage, and other expenses necessary to operate the assessor's office, the estimated expenses of the examining board, and the salaries and expenses of the local board of review.

~~4.~~ 3. a. Each fiscal year the chairperson of the conference board shall, by written notice, call a meeting of the conference board to consider the proposed budget and to comply with section 24.9.

~~5.~~ b. At such meeting the conference board shall authorize:

~~a.~~ (1) The number of deputies, field personnel, and other personnel of the assessor's office.

~~b.~~ (2) The salaries and compensation of members of the board of review, the assessor, chief deputy, other deputies, field personnel, and other personnel, and determine the time and manner of payment.

~~c.~~ (3) The miscellaneous expenses of the assessor's office, the board of review, and the examining board, including office equipment, records, supplies, and other required items.

~~d.~~ (4) The estimated expense of assessment appeals. All such expense items shall be included in the budget adopted for the ensuing year.

~~6.~~ 4. All tax levies and expenditures provided for herein shall be subject to the provisions of chapter 24 and the conference board is hereby declared to be the certifying board.

~~7.~~ 5. a. Any tax for the maintenance of the office of assessor and other assessment procedure shall be levied only upon the property in the area assessed by ~~said the~~ assessor, and such tax levy shall not exceed ~~forty and one-half~~ sixty-seven and one-half cents per thousand dollars of assessed value in the assessing areas ~~where the valuation upon which the tax is levied does not exceed ninety-two million, six hundred thousand dollars; thirty-three~~

~~and three-fourths cents per thousand dollars of assessed value in assessing areas where the valuation upon which the tax is levied exceeds ninety-two million, six hundred thousand dollars and does not exceed one hundred eleven million, one hundred twenty thousand dollars; twenty-seven cents per thousand dollars of assessed value in assessing areas where the valuation upon which the tax is levied exceeds one hundred eleven million, one hundred twenty thousand dollars area.~~ The county treasurer shall credit the sums received from such levy to a separate fund to be known as the ~~“assessment expense fund”~~ assessment expense fund and from which fund all expenses incurred under this chapter shall be paid. In the case of a county where there is more than one assessor the treasurer shall maintain separate assessment expense funds for each assessor.

8. ~~b.~~ The county auditor shall keep a complete record of said funds and shall issue warrants thereon only on requisition of the assessor.

9. ~~6.~~ The assessor shall not issue requisitions so as to increase the total expenditures budgeted for the operation of the assessor's office. However, for purposes of promoting operational efficiency, the assessor shall have authority to transfer funds budgeted for specific items for the operation of the assessor's office from one unexpended balance to another; such transfer shall not be made so as to increase the total amount budgeted for the operation of the office of assessor, and no funds shall be used to increase the salary of the assessor or the salaries of permanent deputy assessors. The assessor shall issue requisitions for the examining board and for the board of review on order of the chairperson of each board and for costs and expenses incident to assessment appeals, only on order of the city legal department, in the case of cities and of the county attorney in the case of counties.

10. ~~7.~~ Unexpended funds remaining in the assessment expense fund at the end of a year shall be carried forward into the next year.

Sec. 3. Section 441.50, Code 2011, is amended to read as follows:

**441.50 Appraisers employed.**

The conference board shall have power to employ appraisers or other technical or expert help to assist in the valuation of property, the cost thereof to be paid in the same manner as other expenses of the assessor's office. ~~The conference board may certify for levy annually an amount not to exceed forty and one-half cents per thousand dollars of assessed value of taxable property for the purpose of establishing a special appraiser's fund, to be used only for such purposes. From time to time the conference board may direct the transfer of any unexpended balance in the special appraiser's fund to the assessment expense fund.~~

Sec. 4. TRANSFER OF FUNDS. On or within ten days following the effective date of this Act, the conference board of each county and city established pursuant to section 441.2 shall transfer all moneys remaining in the county's or city's special appraiser's fund, as applicable, to that county's or city's assessment expense fund.

Approved April 12, 2012

## CHAPTER 1082

### CHILD ABUSE REPORTS AND DISPOSITION DATA

H.F. 2226

**AN ACT** relating to child abuse reports and disposition data.

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

Section 1. Section 232.71D, subsection 2, Code Supplement 2011, is amended to read as follows:

2. Except as otherwise provided in subsections 3 and 4, and section 235A.19, subsection 2, if the department issues a finding that the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, the names of the child and the alleged perpetrator of the alleged child abuse and any other child abuse information shall be placed in the central registry as a case of founded child abuse.

Sec. 2. Section 235A.18, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. Report and disposition data relating to a particular case of alleged child abuse shall be sealed ten years after the initial placement of the data in the registry unless good cause be shown why the data should remain open to authorized access. If a subsequent report of an alleged case of child abuse involving the child named in the initial data placed in the registry as the victim of abuse or a person named in the data as having abused a child is received by the department within this ten-year period, the data shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the data should remain open to authorized access. However, such report and a person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry if that person has not had a subsequent case of alleged abuse which resulted in the person's name being placed in the registry as the person responsible for the abuse within the ten-year period. Report and disposition data shall be made available to the department of justice if the department requests access to the alleged child abuse records for purposes of review by the prosecutor's review committee or commitment of sexually violent predators under chapter 229A.

Sec. 3. Section 235A.19, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine report data and disposition data which refers to the subject. The department may prescribe reasonable hours and places of examination. A subject of a child abuse report may provide additional information to the department that is relevant to the report data and disposition data and may request that the department revise the report data and disposition data.

Sec. 4. Section 235A.19, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. At the time the notice of the results of an assessment performed in accordance with section 232.71B is issued, the department shall provide notice to a person named in the report as having abused a child of the right to a contested case hearing and shall provide notice to subjects other than the person named in the report as having abused a child of the right to intervene in a contested case proceeding, as provided in subsection 2.

Sec. 5. Section 235A.19, subsections 2 and 3, Code Supplement 2011, are amended to read as follows:

2. a. A subject of a child abuse report may file with the department within ninety days of the date of the notice of the results of an assessment performed in accordance with section 232.71B, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the assessment report.

b. The department shall provide the subject a person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, with an opportunity for a contested case hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested.

c. The department shall provide a subject of a child abuse report, other than the person named in the report as having abused a child, with an opportunity to file a motion to intervene in the contested case proceeding.

d. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. Upon request of any party to the contested case proceeding, the presiding officer may stay the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings. An adjudication of a child in need of assistance or a criminal conviction in a district court case relating to the child abuse data or findings may be determinative in a contested case proceeding.

e. A party to a contested case proceeding shall file an appeal of the presiding officer's proposed decision to the director within ten days of the presiding officer's proposed decision. If an appeal is not filed within ten days from the date of a proposed decision, the proposed decision shall be the final agency action. If a party files an appeal within ten days from the date of the proposed decision, the director has forty-five days from the date of the proposed decision to issue a ruling. Upon the director's failure to issue a ruling within forty-five days of the date of the proposed decision, the proposed decision shall be the final agency action.

b. f. The department shall not disclose any report data or disposition data until the conclusion of the proceeding to correct the data or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an assessment or a report.
- (6) For the care or treatment of a child named in a report as a victim of abuse.
- (7) To persons involved in an assessment of child abuse.
- (8) For statutorily authorized record checks for employment of an individual by a provider of adult home care, adult health facility care, or other adult placement facility care.
- (9) For others identified in section 235A.15, subsection 2, paragraph "d", subparagraph (7), and paragraph "e", subparagraphs (9) and (16).

3. The subject of a A person named in a child abuse report as having abused a child, who has been adversely affected by a founded child abuse disposition, notwithstanding the placement of the report data in the central registry pursuant to section 232.71D, may appeal the decision resulting from a hearing held pursuant to subsection 2 to the district court of Polk county or to the district court of the district in which the subject of the child abuse person named in the report as having abused a child resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

#### Sec. 6. CHILD ABUSE REPORTS — DIFFERENTIAL RESPONSE REVIEW.

1. The department of human services shall conduct a comprehensive review to determine whether to recommend implementation of a differential response to child abuse reports when the initial report is received by the department pursuant to section 232.70. The department of human services shall also review and recommend the length of time a person named in a child abuse report as having abused a child should remain on the child abuse registry and the circumstances under which the department may remove the name of a person named in the report as having abused a child from the report and disposition data prior to the expiration of a ten-year period.

2. "Differential response", as used in this section, means at least two discrete response options for the screening of cases constituting a child abuse allegation pursuant to the department's assessment process. One of the options shall include a voluntary, noninvestigative response.

3. The department shall, by December 1, 2012, submit a report of its review including findings and recommendations to the governor and general assembly.

Sec. 7. REPORT ON CHILD ABUSE ASSESSMENTS ADMINISTRATIVE APPEALS. The department of human services and the department of inspections and appeals shall, by December 1, 2012, submit a preliminary report to the governor and general assembly regarding the length of time for appeals of placement on the child abuse registry within the last five years. The department of human services and the department of



inspections and appeals shall submit a final report to the governor and the general assembly by December 1, 2013. The preliminary and final reports shall include information on the number of persons appealing, the alleged reason for the placement, the length of time for an appeal including the time between a request for a contested case hearing and the occurrence of the contested case hearing, the proposed decision of the presiding officer, and, if the proposed decision was appealed, the review of the director, and the reasons for outliers in the length of time for an appeal.

Approved April 12, 2012

## CHAPTER 1083

### OPERATING A MOTOR VEHICLE — SPEED, CONTROL, AND ACCIDENTS

*H.F. 2228*

**AN ACT** relating to requirements for a motor vehicle operator to have control of the vehicle at all times and to change lanes or reduce speed in specific situations, and providing penalties.

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

Section 1. Section 321.285, subsection 2, paragraph a, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Unless otherwise provided by this section, or except as posted pursuant to sections 262.68, 321.236, subsection 5, section 321.288, subsection 6 2, paragraph “f”, sections 321.289, 321.290, 321.293, 321.295, and 461A.36, the following shall be the lawful speed and any speed in excess thereof shall be unlawful:

Sec. 2. Section 321.288, Code 2011, is amended to read as follows:

**321.288 Control of vehicle — reduced speed.**

1. A person operating a motor vehicle shall have the vehicle under control at all times and  
2. A person operating a motor vehicle shall reduce the speed to a reasonable and proper  
rate:

1. a. When approaching and passing a person walking in the traveled portion of the public highway.

2. b. When approaching and passing an animal which is being led, ridden, or driven upon a public highway.

3. c. When approaching and traversing a crossing or intersection of public highways, or a bridge, sharp turn, curve, or steep descent, in a public highway.

4. d. When approaching and passing an emergency warning device displayed in accordance with rules adopted under section 321.449, or an emergency vehicle displaying a revolving or flashing light.

5. e. When approaching and passing a slow moving vehicle displaying a reflective device or alternative reflective device as provided by section 321.383.

6. f. When approaching and passing through a ~~sign-posted~~ road work zone ~~upon the public highway~~.

Sec. 3. Section 321.323A, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 3. a. A person convicted of a violation of this section commits a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 11.

b. A person convicted of a violation of this section which resulted in an accident causing bodily injury to or the death of another person may be subject to the following penalties in

addition to the penalty provided for a scheduled violation in section 805.8A, subsection 11, or any other penalty provided by law:

(1) For a violation causing bodily injury to another person, a fine of five hundred dollars.

(2) For a violation causing death, a fine of one thousand dollars.

c. Upon receiving a record of a person's conviction for a violation under paragraph "a" which resulted in an accident causing damage to the property of another person or bodily injury to or death of another person, the department shall suspend the person's driver's license or operating privileges, upon thirty days' notice and without preliminary hearing, as follows:

(1) For a violation causing damage to the property of another person, but not resulting in bodily injury or death of to another person, the department shall suspend the violator's driver's license or operating privileges for ninety days.<sup>1</sup>

(2) For a violation causing bodily injury to another person, the department shall suspend the violator's driver's license or operating privileges for one hundred eighty days.

(3) For a violation causing death, the department shall suspend the violator's driver's license or operating privileges for one year.

Sec. 4. Section 321.482A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Notwithstanding section 321.482, a person who is convicted of operating a motor vehicle in violation of section 321.178, subsection 2, paragraph "a", subparagraph (2), section 321.180B, subsection 6, section 321.194, subsection 1, paragraph "c", section 321.256, section 321.257, section 321.275, subsection 4, section 321.276, 321.297, 321.298, 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307, 321.308, section 321.309, subsection 2, or section 321.311, 321.319, 321.320, 321.321, 321.322, 321.323, ~~321.323A~~, 321.324, 321.324A, 321.327, 321.329, or 321.333 causing serious injury to or the death of another person may be subject to the following penalties in addition to the penalty provided for a scheduled violation in section 805.8A or any other penalty provided by law:

Sec. 5. PUBLIC AWARENESS AND COMPLIANCE PROGRAMS. The department of transportation, in conjunction with the department of public safety, shall establish programs to foster public awareness of and compliance with the requirements of section 321.323A.

Approved April 12, 2012

## CHAPTER 1084

### MEMORIAL HOSPITAL COMMISSIONER QUALIFICATIONS — RESIDENCY

*H.F. 2231*

**AN ACT** relating to residency qualifications for memorial hospital commissioners.

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

Section 1. Section 37.10, Code 2011, is amended to read as follows:

**37.10 Qualification — appointment.**

1. Each commissioner, except for a memorial hospital commissioner, shall be a veteran, as defined in section 35.1, and be a resident of the county in which the memorial hall or monument is located. Each commissioner for a memorial hospital shall be a resident of ~~the county in which the memorial hospital is located~~ this state and reside within the memorial hospital's service area.

<sup>1</sup> See chapter 1138, §63 herein

2. Each commission member shall be appointed by the mayor with approval of the council or by the chairperson of the county board of supervisors in the case of a county or joint memorial building or monument.

Approved April 12, 2012

**CHAPTER 1085**

**CONFINEMENT FEEDING OPERATIONS — FISH — WASTE DISPOSAL PERMITTING**

*H.F. 2292*

**AN ACT** relating to confinement feeding operations confining fish, and making penalties applicable.

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

Section 1. Section 459.102, subsection 3, Code 2011, is amended to read as follows:

3. “Animal” means a species classified as cattle, swine, horses, sheep, chickens, or turkeys, or fish.

Sec. 2. Section 459.102, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. Fish ..... 0.001

Sec. 3. NEW SECTION. **459.320 Exception from regulation — election for confinement feeding operations confining fish.**

A person who exclusively confines fish as part of a confinement feeding operation may elect to comply with the permitting requirements of section 455B.183 in lieu of the permitting requirements of this subchapter.

Sec. 4. FEDERAL LAW. A person who confines fish as provided in this Act shall comply with applicable national pollutant discharge elimination system permit requirements as provided in the federal Water Pollution Control Act, 33 U.S.C. ch. 26, as amended, and 40 C.F.R. pts. 122 and 451.

Approved April 12, 2012

**CHAPTER 1086**

**DEPARTMENT ON AGING**

*H.F. 2305*

**AN ACT** relating to the powers and duties of the department on aging.

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

Section 1. Section 22.7, subsection 62, Code Supplement 2011, is amended to read as follows:

62. Records of the department on aging pertaining to clients served by the prevention of elder abuse prevention initiative, neglect, and exploitation program.

Sec. 2. Section 231.4, subsection 1, paragraph n, Code Supplement 2011, is amended to read as follows:

n. “Unit of general purpose local government” means the governing body of a city, county, township, metropolitan area, or region within the state that has a population of one hundred thousand or more, that is recognized for areawide planning, and that functions as a political subdivision of the state whose authority is general and not limited to only one function or combination of related functions, or a tribal organization.

Sec. 3. Section 231.4, subsection 2, Code Supplement 2011, is amended to read as follows:

2. For the purposes of this chapter, “aging and disability resource center”, “area agency on aging”, “focal point”, “greatest economic need”, and “greatest social need”, “planning and service area”, and “tribal organization” mean as those terms are defined in the federal Act.

Sec. 4. Section 231.14, subsection 1, paragraphs e, g, and h, Code 2011, are amended to read as follows:

e. Designate for each planning and service area a public or private nonprofit agency or organization as the area agency on aging for that area. The commission may revoke the designation of an area agency on aging pursuant to section 231.32.

g. ~~Adopt a formula for the distribution of federal Act, and state services for older individuals, and senior living program funds taking into account, to the maximum extent feasible, the best available data on the geographic distribution of older individuals in the state, and publish the formula for review and comment.~~

h. Adopt policies and measures to assure that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.

Sec. 5. Section 231.14, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Adopt policies and administrative rules pursuant to chapter 17A that support the capabilities of the area agencies on aging and the aging and disabilities resource centers to serve older individuals and persons with disabilities experiencing Alzheimer’s disease or related dementias.

Sec. 6. Section 231.22, Code 2011, is amended to read as follows:

**231.22 Director — assistant director.**

1. The governor, subject to confirmation by the senate, shall appoint a director of the department on aging 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 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:

a. Training in the field of gerontology, social work, public health, public administration, or other related fields.

b. Direct experience or extensive knowledge of programs and services related to older individuals.

c. Demonstrated understanding and concern for the welfare of older individuals.

d. Demonstrated competency and recent working experience in an administrative, supervisory, or management position.

3. The director may appoint an assistant director who shall be in charge of the department in the absence of the director. The appointment shall be based on the appointee’s training, experience, and capabilities.

Sec. 7. Section 231.23, Code 2011, is amended to read as follows:

**231.23 Department on aging — duties and authority.**

The department on aging director shall:

1. Develop and administer a state plan on aging.

2. Assist the commission in the review and approval of area plans.
3. Pursuant to commission policy, coordinate state activities related to the purposes of this chapter and all other chapters under the department's jurisdiction.
4. Advocate for older individuals by reviewing and commenting upon all state plans, budgets, laws, rules, regulations, and policies which affect older individuals and by providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals.
5. Assist the commission in dividing the state into distinct planning and service areas.
6. Assist the commission in designating for each area a public or private nonprofit agency or organization as the area agency on aging for that area.
7. Pursuant to commission policy, take into account the views of older Iowans.
8. Assist the commission in adopting a formula for the distribution of funds available from the federal Act and state appropriations and allocations.
9. Assist the commission in assuring that preference will be given to providing services to older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.
10. Assist the commission in developing, adopting, and enforcing administrative rules, by issuing necessary forms and procedures.
11. Apply for, receive, and administer grants, devises, donations, gifts, or bequests of real or personal property from any source to conduct projects consistent with the purposes of the department. Notwithstanding section 8.33, moneys received by the department pursuant to this section are not subject to reversion to the general fund of the state.
12. Administer state authorized programs.
- ~~13. Provide annual training for area agency on aging board of directors members.~~
14. ~~13.~~ Establish a procedure for an area agency on aging to use in selection of members of the agency's board of directors. The selection procedure shall be incorporated into the bylaws of the board of directors.
- ~~15. Provide oversight to ensure that the composition of the area agency on aging board of directors complies with the rules of the department.~~

Sec. 8. Section 231.23A, subsections 1 and 6, Code 2011, are amended to read as follows:

1. Services for older individuals including but not limited to home and community-based services such as adult day, assessment and intervention, transportation, chore, counseling, homemaker, material aid, personal care, reassurance, respite, visitation, caregiver support, emergency response system, mental health outreach, and home repair as defined by the department in the most current version of the department's reporting manual and pursuant to the federal Act and regulations.
6. The nutrition and health promotion program.

Sec. 9. Section 231.33, subsections 7 and 11, Code 2011, are amended to read as follows:

7. Give preference in the delivery of services under the area plan to older individuals with the greatest economic or social need, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas.
11. ~~Contact~~ Conduct outreach efforts, ~~with special emphasis on rural older individuals,~~ to identify older individuals with the greatest economic or social needs, with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas, and inform them of the availability of services under the area plan.

Sec. 10. Section 231.52, subsection 3, Code 2011, is amended to read as follows:

3. The department shall require such uniform reporting and financial accounting by ~~contractors~~ subgrantees as may be necessary to fulfill the purposes of this section.

Sec. 11. Section 231.56, Code 2011, is amended to read as follows:

**231.56 Services and programs.**

The department shall administer services and programs ~~to reduce institutionalization and~~

~~encourage community involvement to help older individuals remain in their own homes that allow older individuals to secure and maintain maximum independence and dignity in a home environment that provides for self-care with appropriate supportive services, assist in removing individual and social barriers to economic and personal independence for older individuals, provide a continuum of care for older individuals and individuals with disabilities, and secure the opportunity for older individuals to receive managed in-home and community-based long-term care services. Funds appropriated for this purpose shall be instituted based on administrative rules adopted by the commission. The department shall require such records as needed to administer this section.~~

Sec. 12. Section 231.56A, Code 2011, is amended to read as follows:

**231.56A Elder Prevention of elder abuse initiative, emergency shelter, and support services projects, neglect, and exploitation program.**

~~1. Through the state's service contract process adopted pursuant to section 8.47, the department shall identify entities that have demonstrated the ability to provide a collaborative response to the immediate needs of older individuals for the purpose of implementing elder abuse initiative, emergency shelter, and support services projects. The projects shall be coordinated in service areas that have a multidisciplinary team established pursuant to section 235B.1, where available. The department shall administer the prevention of elder abuse, neglect, and exploitation program in accordance with the requirements of the federal Act. The purpose of the program is to carry out activities for intervention in, investigation of, and response to elder abuse, neglect, and exploitation including financial exploitation.~~

~~2. The target population of the projects program shall be any older individual residing in Iowa who is at risk of or who is experiencing abuse, neglect, or exploitation which may include but is not limited to an older individual who is the subject of a report of suspected dependent adult abuse pursuant to chapter 235B. This subsection shall not apply to an older individual who is receiving assistance under a county management plan approved pursuant to section 331.439 including financial exploitation.~~

~~3. The contractor implementing the projects program shall identify allowable emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained under the projects.~~

~~4. The contractor shall implement the projects program and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to older individuals.~~

~~5. The department shall award funds to the contractor in accordance with the state's service contract process and department rule. Receipt and expenditures of moneys under the projects are subject to examination, including audit, by the department. The department shall adopt rules to implement this section.~~

~~6. This section shall not be construed and is not intended as, and shall not imply, a grant of entitlement for services to individuals who are not otherwise eligible for the services or for utilization of services that do not currently exist or are not otherwise available.~~

Sec. 13. Section 231.62, Code Supplement 2011, is amended by striking the section and inserting in lieu thereof the following:

**231.62 Alzheimer's disease services and assistance.**

Pursuant to the federal Act, the department shall direct the area agencies on aging to use outreach efforts to identify older individuals with Alzheimer's disease and related disorders and to establish supportive services for those individuals and their families. 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 related disorders can be appropriately met.

Sec. 14. Section 231.64, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**231.64 Aging and disability resource center program.**

1. The aging and disability resource center program shall be administered by the department consistent with the federal Act. The department shall designate participating entities to establish a coordinated system for providing all of the following:

a. Comprehensive information, referral, and assistance regarding the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care.

b. Personal counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances. The plan for long-term care may include support with person-centered care transitions to assist consumers and family caregivers with transitions between home and care settings.

c. Consumer access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

2. The aging and disability resource center program shall assist older individuals, persons with disabilities age eighteen or older, family caregivers, and people who inquire about or request assistance on behalf of members of these groups, as they seek long-term care services and supports.

Sec. 15. Section 231.66, Code 2011, is amended to read as follows:

**231.66 Nutrition and health promotion program.**

A nutrition and health promotion program shall be administered by the department, in accordance with the requirements of the federal Act, including congregate and home-delivered nutrition programs, nutrition screening, nutrition education, nutrition counseling, and evidence-based health promotion programs to promote health and well-being, reduce food insecurity, promote socialization, and maximize independence of older individuals.

Sec. 16. REPEAL. Sections 231.24 and 231.63, Code 2011, are repealed.

Approved April 12, 2012

## CHAPTER 1087

### CITY UTILITIES AND ENTERPRISES — RENTAL PROPERTY

*H.F. 2323*

**AN ACT** relating to city utilities and city enterprises by making changes to requirements related to residential rental property.

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

Section 1. Section 384.84, subsection 3, paragraph c, Code Supplement 2011, is 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 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 or premises has made a written request for notice, the notice shall also be given to the owner or landlord. If the account holder is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

Sec. 2. Section 384.84, subsection 4, paragraph d, Code Supplement 2011, is amended to read as follows:

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 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~~ thirty 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.

Sec. 3. Section 384.84, subsection 4, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Residential rental property where a charge for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such services 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 the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal 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 the charges, the 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 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 charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal 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 thirty business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

Approved April 12, 2012



**CHAPTER 1088****DISPROPORTIONATE SHARE HOSPITAL PAYMENTS***H.F. 2388*

**AN ACT** relating to maximizing hospital-specific disproportionate share hospital payments, and providing for contingent implementation.

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

**Section 1. DEPARTMENT OF HUMAN SERVICES — DIRECTIVE REGARDING DISPROPORTIONATE SHARE HOSPITAL PAYMENTS.**

1. The department of human services shall recalculate the hospital-specific disproportionate share hospital limits for the fiscal year beginning July 1, 2012, during the hospital rebasing and recalibration process, and shall utilize the federal disproportionate share hospital allotment for the state to the maximum extent possible, utilizing appropriate local government sources for the nonfederal match, to create a new disproportionate share hospital pool. The new pool shall be used to provide payments to rural prospective payment hospitals that are not designated as critical access hospitals and that otherwise qualify to receive a medical assistance disproportionate share hospital payment.

2. The source of funds for the required nonfederal share shall be funds generated from tax levy collections of the county or city in which the hospital is located, and subject to the conditions specified in this section and applicable federal law and regulation.

3. All of the following shall apply to the nonfederal share funds and disproportionate share hospital payments under this section:

a. The qualifying hospital shall annually provide a disproportionate share hospitals survey to the department in accordance with the time frame specified by the department, for the purpose of calculating the hospital specific limit.

b. The disproportionate share hospital payment shall not exceed the hospital-specific limit as specified pursuant to federal regulations.

c. The nonfederal share funds shall be distributed to the department of human services prior to any disproportionate share hospital payment to a qualifying hospital.

d. The qualifying hospital shall retain one hundred percent of the disproportionate share hospital payment.

e. The city or county providing the nonfederal share funds shall annually document and certify that the funds provided as the nonfederal share were generated from tax proceeds, and not from any other source including federal grants or another federal funding source.

f. The applicable federal matching rate for the fiscal year shall apply.

4. The department shall amend the medical assistance state plan as necessary to implement this directive. The state plan shall identify the specific source and amount of city or county funds that will be provided as the nonfederal share funds for the qualifying hospital.

5. Implementation of this section is contingent upon receipt of approval from the centers for Medicare and Medicaid services of the United States department of health and human services.

Approved April 12, 2012

**CHAPTER 1089****ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES***H.F. 2427*

**AN ACT** relating to electrical and mechanical amusement devices concerning liability for device distributors and penalties for awarding cash prizes for the use of, or for failing to include a security mechanism on, electrical or mechanical amusement devices.

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

Section 1. Section 99B.10, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding any provision of this section to the contrary, a distributor shall not be liable for a violation of this section unless the distributor, or an employee of the distributor, intentionally violates a provision of this section.

Sec. 2. Section 99B.10B, subsection 1, Code 2011, is amended to read as follows:

1. a. The department may deny, suspend, or revoke a registration issued pursuant to section 99B.10 or 99B.10A, if the department finds that an applicant, registrant, or an agent of a registrant violated or permitted a violation of a provision of section 99B.10, 99B.10A, or 99B.10C, 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 registration, or upon the conviction of a person of a violation of this chapter or a rule adopted under this chapter which occurred on the premises where the registered amusement device is or is to be located. However, the denial, suspension, or revocation of a registration for one amusement device does not require, but may result in, the denial, suspension, or revocation of the registration for a different amusement device held by the same distributor or owner.

b. However, a person who commits an offense of failing to include a security mechanism on an amusement device as required pursuant to section 99B.10, subsection 1, paragraph "m", shall be subject to a civil penalty in the amount of two hundred fifty dollars. A person who commits, within two years, a second offense of failing to include a security mechanism on an amusement device shall be subject to the provisions of paragraph "a".

Sec. 3. Section 99B.10B, subsection 2, Code 2011, 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 who commits an offense of awarding a cash prize of fifty dollars or less in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, shall be subject to a civil penalty in the amount of two hundred fifty dollars.~~

b. A person who commits, within two years, a second offense of awarding a cash prize of fifty dollars or less in violation of section 99B.10, subsection 1, paragraph "b", or a person who commits an offense of awarding a cash prize of more than fifty dollars in violation of section 99B.10, subsection 1, paragraph "b", pursuant to rules adopted by the department, shall be subject to revocation of the person's registration and the following:

(1) If the person whose registration is revoked under this subsection who paragraph "b", 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 shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". A

(2) If the person whose registration is revoked under this subsection who paragraph "b", 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 shall be suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

~~b.~~ (3) 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 as provided in this paragraph "b", 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".

(4) 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 commits an offense as provided in this paragraph "b", the beer permit 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".

Approved April 12, 2012

## CHAPTER 1090

### TRANSPORTATION OF GOODS OR PRODUCTS WITHIN ECONOMIC EXPORT CORRIDORS

*H.F. 2428*

**AN ACT** relating to the movement of certain combinations of vehicles on economic export corridors established by the department of transportation.

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

Section 1. Section 321.457, subsection 2, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** *n.* (1) Notwithstanding paragraph "g" or any other provision of this chapter, the department is authorized to adopt rules providing for economic export corridors for the transportation of goods or products manufactured in Iowa to or through the state of South Dakota and for the return of unladen semitrailers or unladen full trailers used for the transportation of those goods or products. The rules may authorize the operation of the following combinations of vehicles on an economic export corridor:

(a) A truck tractor-semitrailer-semitrailer converted to a full trailer by use of a dolly equipped with a fifth wheel which is considered a part of the trailer for all purposes, and not a separate unit.

(b) A truck tractor-semitrailer-full trailer.

(c) A truck tractor-semitrailer-semitrailer combination, where the semitrailers are connected by a rigid frame extension including a fifth wheel connection point attached to the rear frame of the first semitrailer. The length of the frame extension shall not be included when determining the overall length of the first semitrailer.

(2) Rules adopted pursuant to this paragraph "n" shall provide that combinations of vehicles authorized to operate on an economic export corridor shall meet all of the following requirements:

(a) The length of the combination of vehicles, excluding the length of the truck tractor, shall not exceed eighty-one and one-half feet.

(b) The length of either semitrailer or full trailer shall not exceed forty-five feet.

(c) The weight of the second semitrailer or full trailer shall not exceed the weight of the first semitrailer by more than three thousand pounds.

(d) The gross weight of the combination of vehicles shall not exceed eighty thousand pounds and the combination of vehicles shall not exceed the gross axle weight limits of section 321.463, subsection 2.

(e) The load on each semitrailer or full trailer in the combination shall be an indivisible load. For the purpose of issuing permits for height or width under chapter 321E, the combination of vehicles shall be considered an indivisible load so long as the load on each semitrailer or full trailer in the combination remains an indivisible load.

(3) An economic export corridor established by the department shall not include any segment of the interstate system or any part of the national network of highways identified pursuant to 23 C.F.R. pt. 658. This subparagraph does not prohibit operation on any segment of the interstate system or part of the national network of highways that is permitted under paragraph “e”.

(4) For purposes of this paragraph “n”, “full trailer” means as defined in 49 C.F.R. § 390.<sup>1</sup>

Approved April 12, 2012

## CHAPTER 1091

### MILITARY VEHICLE REGISTRATION AND TITLING AND VETERAN DESIGNATION ON DRIVER'S LICENSES AND NONOPERATOR'S IDENTIFICATION CARDS

S.F. 2112

**AN ACT** relating to transportation, including by providing for the registration and titling of military vehicles and allowing a veteran to request that the veteran's driver's license or nonoperator's identification card be marked with the word “VETERAN” to indicate veteran status and allowing the commission of veterans affairs to allocate certain funds.

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

Section 1. Section 321.30, subsection 2, Code 2011, is amended to read as follows:

2. *a.* Unless otherwise provided for in this chapter, the department or the county treasurer shall refuse registration and issuance of a certificate of title unless the vehicle bears a manufacturer's label pursuant to 49 C.F.R. pt. 567 certifying that the vehicle meets federal motor vehicle safety standards.

*b.* A military vehicle, other than a vehicle that runs on continuous tracks or wheels and tracks, that was originally manufactured for and sold directly to the armed forces of the United States in conformity with contractual specifications, as provided in 49 C.F.R. § 571.7, may be registered and issued a certificate of title if the owner provides satisfactory evidence to the department that the vehicle is substantially in compliance with federal motor vehicle safety standards. The department may adopt rules as necessary concerning the registration and titling of military vehicles in accordance with this chapter.

Sec. 2. Section 321.189, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. *Veterans status.* Beginning no later than July 1, 2013, a licensee who is an honorably discharged veteran of the armed forces of the United States seeking to obtain a license, other than a replacement license, pursuant to this section may request that such a license be marked to reflect the licensee's veteran status. Upon such a request the word “VETERAN” shall be marked prominently on the face of the license. Such a license shall be issued only upon receipt of satisfactory proof of veteran status pursuant to procedures established by the department in consultation with the department of veterans affairs. This subsection shall not apply to duplicate or substitute licenses or nonoperator identification cards obtained pursuant to section 321.195.

<sup>1</sup> See chapter 1138, §64 herein

Sec. 3. Section 321.190, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

b. (1) The department shall not issue a card to a person holding a driver's license. However, a card may be issued to a person holding a temporary permit under section 321.181. The card shall be identical in form to a driver's license issued under section 321.189 except the word "nonoperator" shall appear prominently on the face of the card.

(2) A nonoperator's identification card issued to a person under eighteen years of age shall contain the same information as any other nonoperator's identification card except that the words "under eighteen" shall appear prominently on the face of the card.

(3) A nonoperator's identification card issued to a person eighteen years of age or older but under twenty-one years of age shall contain the same information as any other nonoperator's identification card except that the words "under twenty-one" shall appear prominently on the face of the card.

(4) A nonoperator's identification card issued to an honorably discharged veteran of the armed forces of the United States who satisfies the requirements of section 321.189, subsection 8, shall contain the same information as any other nonoperator's identification card except the word "VETERAN" shall appear prominently on the face of the card.

Sec. 4. VETERAN IDENTIFICATION — ALLOCATION. Notwithstanding section 35A.11, the commission of veterans affairs may allocate up to fifty thousand dollars from the veterans license fee fund created in section 35A.11 to the department of transportation for the fiscal year beginning July 1, 2012, and ending June 30, 2013, or so much thereof as is necessary, to be used for the implementation of this Act. Any moneys allocated pursuant to this section that remain unencumbered or unobligated at the close of the fiscal year shall revert to the veterans license fee fund created in section 35A.11.

Approved April 19, 2012

## CHAPTER 1092

### MEDICAL ASSISTANCE — SPEECH PATHOLOGY SERVICES

*S.F. 2158*

**AN ACT** relating to reimbursement of speech pathology services under the medical assistance program.

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

Section 1. **NEW SECTION. 249A.15B Speech pathologists eligible for payment.**

The department shall adopt rules pursuant to chapter 17A entitling speech pathologists who are licensed pursuant to chapter 154F, including those certified in independent practice, to payment for speech pathology services provided to recipients of medical assistance, subject to limitations and exclusions the department finds necessary on the basis of federal laws and regulations.

Approved April 19, 2012

**CHAPTER 1093****APPORTIONED REGISTRATION OF COMMERCIAL MOTOR VEHICLES***S.F. 2216*

**AN ACT** relating to apportioned registration of commercial motor vehicles under the international registration plan, and including implementation provisions.

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

Section 1. Section 321.1, subsection 60, Code Supplement 2011, is amended to read as follows:

60. “*Registration year*” means the period of twelve consecutive months beginning on the first day of the month following the month of the birth of the owner of the vehicle for vehicles registered by the county treasurer ~~and, except that “*registration year*” means the calendar year for vehicles registered by the department or~~ motor trucks and truck tractors with a combined gross weight exceeding five tons which are registered by the county treasurer. For leased vehicles registered by the county treasurer, except for motor trucks and truck tractors with a combined gross weight exceeding five tons, “*registration year*” means the period of twelve consecutive months beginning on the first day of the month following the month in which the lease expires. For vehicles registered under chapter 326, “*registration year*” means the twelve-month period determined by the department pursuant to section 326.14.

Sec. 2. Section 321.20, subsection 1, unnumbered paragraph 1, Code 2011, 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~~ apportioned 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 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. 3. Section 321.20A, Code 2011, 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~~ apportioned 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 twenty dollar title fee and the appropriate 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~~ apportioned 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. 4. Section 321.34, subsection 4, Code Supplement 2011, is amended to read as follows:

4. ~~Multiyear~~ Permanent plates. In lieu of issuing annual registration plates for trailers, semitrailers, motor trucks, and truck tractors, the department may issue a ~~multiyear registration plate for a three-year period or a permanent registration plate for trailers, and semitrailers, licensed under chapter 326, and a permanent registration plate for motor trucks, and truck tractors licensed under chapter 326,~~ upon payment of the appropriate registration fee. Payment of fees for trailers and semitrailers for a permanent registration plate shall, at the option of the registrant, be made at five-year intervals or on an annual basis. Fees from ~~three-year and five-year~~ payments shall not be reduced or prorated. Payment of fees for motor trucks and truck tractors shall be made on an annual basis.

Sec. 5. Section 321.39, subsection 1, Code 2011, is amended by striking the subsection.

Sec. 6. Section 321.40, subsection 1, Code 2011, is amended to read as follows:

1. Application for renewal of for a vehicle registration registered under this chapter 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 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~~.

Sec. 7. Section 321.46A, Code 2011, is amended to read as follows:

**321.46A Change from ~~proportional apportioned~~ registration — credit.**

An owner changing a vehicle's registration from ~~proportional apportioned~~ 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~~ may be allowed when the owner surrenders to the county treasurer proof of ~~proportional apportioned~~ 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. 8. Section 321.105, subsection 4, Code 2011, is amended to read as follows:

4. In addition to the payment of an annual registration fee for each trailer and semitrailer to be issued ~~an annual~~ a registration plate under chapter 326, an additional registration fee may be paid for a period of ~~two or~~ four subsequent registration years.

Sec. 9. Section 321.106, Code 2011, is amended to read as follows:

**321.106 Registration for fractional part of year.**

1. When a ~~vehicle is registered under chapter 326 or a~~ motor truck, truck tractor, or road tractor is registered by the county treasurer 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 under chapter 326 and there is no delinquency and the registration is made in the second through eleventh month of the registration year, the annual registration fee shall be prorated for the remaining unexpired months of the registration year. However, when such a vehicle is registered in the eleventh month of the registration year, the

vehicle may be registered for the remaining unexpired months of the registration year and for the next registration year, upon payment of the applicable registration fees.

~~2.~~ 3. 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.

~~3.~~ 4. If a fee computed under this section contains a fractional part of a dollar, the fee shall be computed to the nearest whole dollar. A fee computed under this section shall not be less than five dollars. The fee so computed shall be deemed to be the annual registration fee for the remainder of the registration year. This subsection does not apply to vehicles registered under chapter 326.

~~4.~~ 5. 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. 10. Section 321.126, subsection 1, paragraphs d and e, Code 2011, are amended to read as follows:

d. If the vehicle is registered by the county treasurer during the current registration year and the owner or lessee registers the vehicle for ~~proportional~~ apportioned 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~~ apportioned registration fees upon the surrender of the county plates and registration.

e. A refund for trailers and semitrailers issued a ~~multiyear~~ permanent registration plate pursuant to chapter 326 shall be paid by the department upon application.

Sec. 11. Section 321.126, subsection 2, Code 2011, is amended to read as follows:

2. Notwithstanding any provision of this section to the contrary, there shall be no refund of ~~proportional~~ apportioned registration fees unless the state which issued the base plate for the vehicle allows such refund. If an owner subject to ~~proportional~~ apportioned 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. 12. Section 321.127, subsections 3 and 4, Code 2011, are amended to read as follows:

3. For trailers or semitrailers issued a ~~multiyear~~ permanent registration plate, a refund shall be paid equal to the annual fee for twelve months times the remaining number of complete registration years.

4. Refunds for vehicles registered for ~~proportional~~ apportioned registration under chapter 326 shall be paid on the basis of unexpired complete calendar months remaining in the registration year from the date the claim for refund, and the license plate, and registration receipt are received by the department.

Sec. 13. Section 321.134, subsections 1 and 2, Code 2011, are amended to read as follows:

1. On the first day of the second month following the beginning of each registration year a penalty of five percent of the annual registration fee shall be added to the 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 becoming delinquent, to the county treasurer of the county where the vehicle is registered, or



to the department if the vehicle is registered under chapter 326, the owner may register the vehicle any time thereafter upon payment of the 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 through a county treasurer, 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 registered by the county treasurer, 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.~~

Sec. 14. Section 321.466, subsections 2 and 6, Code 2011, are amended to read as follows:

2. During or after the seventh month of a current registration year, the owner of a motor truck, truck tractor, or road tractor, ~~semitrailer or trailer may~~, if the owner's operation has not resulted in a conviction or action pending under this section, may increase the gross weight registration of the vehicle to a higher gross weight ~~classification~~ registration by payment of one-twelfth of the difference between the annual fee for the higher gross weight and the amount of the fee for the gross weight at which it the vehicle is registered, multiplied by the number of unexpired months of the registration year.

6. For the purposes of this section cracked or ground soybeans, ~~sargø~~ sorgo, corn, wheat, rye, oats, or other grain shall be deemed to be raw farm products, provided that such products are being directly delivered to a farm, from the place where the whole grain had been delivered from a farm for the purpose of cracking or grinding and immediate delivery to the farm to which such cracked or ground products are being delivered.

Sec. 15. Section 321F8, Code 2011, is amended to read as follows:

**321F8 Registration of vehicle required.**

All motor vehicles which are primarily garaged or located in this state and which are the subject of a lease shall be registered in this state. This section shall not be construed to exempt any motor vehicle from registration which is otherwise subject to registration under the provisions of chapter 321, provided, however, that the provisions of this section shall not apply to motor vehicles in fleets whose registrations are apportioned under the provisions of ~~section 326.2~~ chapter 326.

Sec. 16. Section 326.1, Code 2011, is amended to read as follows:

**326.1 Policy.**

It is the policy of this state to promote and encourage the fullest possible use of ~~its~~ the state's highway system by authorizing the negotiation and execution of motor vehicle reciprocal or proportional registration agreements, arrangements and declarations with ~~other jurisdictions~~ reciprocity agreements. Apportioned registration shall be conducted in accordance with the international registration plan with respect to vehicles registered in this and ~~such~~ other jurisdictions, thus contributing to the economic and social development and growth of this state.

Sec. 17. Section 326.2, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**326.2 Definitions.**

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

1. “*Commercial vehicle*” means any vehicle which is operated in interstate commerce or combined intrastate and interstate commerce and used for the transportation of persons for hire, compensation or profit, or designed or used primarily for the transportation of property.
2. “*Department*” means the department of transportation.
3. “*Director*” means the director of transportation or the director’s designee.
4. “*International registration plan*” or “*plan*” means the registration reciprocity agreement among states of the United States, the District of Columbia, and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions, in effect on January 1, 2011, or as later amended, published by international registration plan, inc., and available on the plan’s internet site.
5. “*Registration fee*” means the annual motor vehicle registration fee imposed pursuant to section 321.105, unless otherwise specified.
6. “*Trip*” for purposes of section 326.23 means:
  - a. A one-way movement from one point originating outside this state and destined to another point outside this state.
  - b. A round-trip movement between two points within this state.
  - c. A round-trip movement originating in this state or destined for a point within this state.
7. The terms “*combination*” or “*combination of vehicles*”, “*gross weight*”, “*highway*”, “*motor vehicle*”, “*nonresident*”, “*owner*”, “*person*”, “*semitrailer*”, “*trailer*”, “*truck tractor*”, and “*vehicle*” mean as defined in section 321.1.

Sec. 18. **NEW SECTION. 326.3 Additional definitions.**

As used in this chapter, unless the context otherwise requires, the following terms have the following meaning, as provided in the international registration plan, or the meaning ascribed in the international registration plan as it may exist at the time of its applicability to the provisions of this chapter:

1. “*Applicant*” means a person in whose name an application is filed for registration under the plan.
2. “*Apportionable fee*” means any periodic recurring fee or tax required for registering vehicles, such as registration, license, or weight fees.
3. a. “*Apportionable vehicle*” means any power unit that is used or intended for use in two or more member jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property if one of the following applies:
  - (1) The power unit has two axles and a gross vehicle weight or registered gross vehicle weight in excess of twenty-six thousand pounds.
  - (2) The power unit has three or more axles, regardless of weight.
  - (3) The power unit is used in combination, when the gross vehicle weight of such combination exceeds twenty-six thousand pounds.
- b. A recreational vehicle, a vehicle displaying restricted plates, a bus used in the transportation of chartered parties, or a government-owned vehicle is not an apportionable vehicle; except that a truck or truck tractor, or the power unit in a combination of vehicles having a gross vehicle weight of twenty-six thousand pounds or less, or a bus used in the transportation of chartered parties may be registered under the plan at the option of the registrant.
4. “*Apportioned vehicle*” means an apportionable vehicle that has been registered under the plan.
5. “*Audit*” means the physical examination of a registrant’s operational records, including source documents, to verify the distances reported in the registrant’s application for apportioned registration and the accuracy of the registrant’s record-keeping system for its fleet. Such an examination may be of multiple fleets for multiple years.
6. “*Audit procedures manual*” or “*APM*” means the audit procedures manual required to be maintained in the plan.

7. “*Auxiliary axle*” means an auxiliary undercarriage assembly with a fifth wheel and tow bar used to convert a semitrailer to a trailer.

8. “*Axle*” means an assembly of a vehicle consisting of two or more wheels whose centers are in one horizontal plane, by means of which a portion of the weight of a vehicle and its load, if any, is continually transmitted to the roadway. For purposes of registration under the plan, an “axle” is any such assembly whether or not it is load-bearing only part of the time.

9. “*Base jurisdiction*” means the member jurisdiction, selected in accordance with the plan, to which an applicant applies for apportioned registration under the plan or the member jurisdiction that issues apportioned registration to a registrant under the plan.

10. “*Cab card*” means an evidence of registration, other than a plate, issued for an apportioned vehicle registered under the plan by the base jurisdiction and carried in or on the identified vehicle.

11. “*Chartered party*” means a group of persons who, pursuant to a common purpose and under a single contract, have acquired the exclusive use of a passenger-carrying motor vehicle to travel together as a group to a specified destination or for a particular itinerary, either agreed upon in advance or modified by the group after leaving the place of origin. “*Chartered party*” includes services rendered to a number of passengers that a passenger carrier or its agent has assembled into a travel group through sales of a ticket to each individual passenger covering a round trip from one or more points of origin to a single advertised destination.

12. “*Credentials*” means the cab card and plate issued in accordance with the plan.

13. “*Fleet*” means one or more apportionable vehicles designated by a registrant for distance reporting under the plan.

14. “*Jurisdiction*” means a country or a state, province, territory, possession, or federal district of a country.

15. “*Lease*” means a transaction evidenced by a written document in which a lessor vests exclusive possession, control, and responsibility for the operation of a vehicle in a lessee for a specific term. A long-term lease is for a period of thirty calendar days or more. A short-term lease is for a period of less than thirty calendar days.

16. “*Lessee*” means a person that is authorized to have exclusive possession and control of a vehicle owned by another person under terms of a lease agreement.

17. “*Lessor*” means a person that, under the terms of a lease agreement, authorizes another person to have exclusive possession of, control of, and responsibility for the operation of a vehicle.

18. “*Member jurisdiction*” means a jurisdiction that has applied and has been approved for membership in the plan in accordance with the plan.

19. “*Operational records*” means source documents that evidence distance traveled by a fleet in each member jurisdiction, such as furl<sup>1</sup> reports, trip sheets, and driver logs, including those which may be generated through on-board devices and maintained electronically, as required by the audit procedures manual.

20. “*Plate*” means the license plate, including renewal decals, if any, issued for a vehicle registered under the plan by the base jurisdiction.

21. “*Power unit*” means a motor vehicle as distinguished from a trailer, semitrailer, or auxiliary axle, but not including an automobile or a motorcycle.

22. “*Properly registered vehicle*” means a vehicle which has been registered in full compliance with the laws of all jurisdictions in which it is intended to operate.

23. “*Reciprocity*” means the reciprocal grant by one jurisdiction of operating rights or privileges in properly registered vehicles registered by another jurisdiction, especially but not exclusively including privileges generally conferred by vehicle registration.

24. “*Reciprocity agreement*” means an agreement, arrangement, or understanding between two or more jurisdictions under which each of the participating jurisdictions grants reciprocal rights or privileges to properly registered vehicles that are registered under the laws of other participating jurisdictions.

25. “*Recreational vehicle*” means a vehicle used for personal pleasure or personal travel and not in connection with any commercial endeavor.

26. “*Registrant*” means a person in whose name a properly registered vehicle is registered.

<sup>1</sup> See chapter 1138, §67 herein

27. “*Registration year*” means the twelve-month period during which, under the laws of the base jurisdiction, the registration issued to a registrant by the base jurisdiction is valid.

28. “*Reporting period*” means the period of twelve consecutive months immediately prior to July 1 of the calendar year immediately preceding the beginning of the registration year for which apportioned registration is sought. However, if the registration year begins on any date in July, August, or September, the reporting period shall be the previous such twelve-month period.

29. “*Restricted plate*” means a plate that has a time, geographic area, distance, or commodity restriction or a mass transit or other special plate issued for a bus leased or owned by a municipal government, a state or provincial transportation authority, or a private party, and operated as part of an urban mass transit system, as defined by the jurisdiction that issues the plate.

30. “*Total distance*” means all distance, including that accrued on trip permits, operated by a fleet of apportioned vehicles in all member jurisdictions during the reporting period.

31. “*Trip permit*” means a permit issued by a member jurisdiction in lieu of apportioned or full registration.

32. “*Truck*” means a power unit designed, used, or maintained primarily for the transportation of property.

Sec. 19. Section 326.6, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**326.6 Apportionable registration fees.**

The department may determine the sum total amount of registration fees necessary to register each and every vehicle in a fleet based on the annual registration fees prescribed in chapter 321.

Sec. 20. Section 326.10A, Code 2011, is amended to read as follows:

**326.10A Payment by check.**

The department shall accept payment of fees under this chapter by personal or corporate check, cash, wire transfer, or other means allowed by the department. ~~The A fee shall be deemed to have been paid upon receipt of the check payment in full. If the check payment is not honored, all fees and penalties shall accumulate as if the fee was not paid. After appropriate warning from the department, the registration account shall be suspended, collection pursued, and the delinquent registration fees shall become a debt due the state of Iowa. After a dishonored check payment has been received from an applicant, payments submitted by the applicant during the following year must be made with guaranteed funds. However, the department may instead accept payment in the form of a corporate check made on behalf of the applicant from an approved company with a satisfactory payment history.~~

Sec. 21. Section 326.11, Code 2011, is amended to read as follows:

**326.11 Subsequently acquired vehicles.**

~~Vehicles acquired by a fleet owner registrant after the commencement of the registration year and subsequently added to the fleet shall be prorated by applying the mileage percentage used in the original application for such fleet for such registration period to registration fees due under chapter 321. An application for registration shall be filed with the department apportioned pursuant to the provisions of chapter 321 and the international registration plan.~~

~~The director may issue temporary written authorization to carriers for vehicles acquired by a fleet owner and added to the fleet owner’s prorate fleet after the beginning of the registration year. The temporary authority shall permit the operation of a commercial vehicle until permanent identification is issued, except that the temporary authority shall expire after sixty days.~~

Sec. 22. Section 326.12, Code 2011, is amended to read as follows:

**326.12 Vehicles deleted — registration transferred.**

~~Fleet owners Registrants who delete commercial vehicles displaying Iowa base plates from the fleet after the commencement of the registration year shall be allowed to transfer registration credit to a replacement vehicle in accordance with this section. Iowa shall allow credit for non-Iowa based deleted vehicles only if the state jurisdiction designated by the~~

~~fleet owner registrant~~ as the base state jurisdiction of the deleted vehicle permits transfer of registration credit to the replacement vehicle. Allowance of credit for deleted vehicles shall be subject to the following conditions:

~~1. The fee for reissuance or issuance of registration credentials or for transfer of credentials a replacement vehicle shall be seven dollars.~~

~~2. No deletion shall be made nor credit allowed toward registration of a replacement vehicle unless the vehicle to be removed from service has been sold, junked, repossessed, foreclosed by mechanic's lien, title transferred by operation of law, or cancellation or expiration of a lease arrangement. The deleted vehicle shall have been disposed of on or before the date the replacement vehicle was acquired or in the possession of the applicant.~~

~~3. 2. If a leased vehicle is to be deleted from the fleet and unexpired registration fees applied to the replacement vehicle, the lessee shall refund any unexpired registration fees paid by the lessor to the lessee on the transferred vehicle.~~

~~4. 3. Credit shall be given for unexpired months.~~

~~5. 4. The registration of the vehicle being added to the fleet is not delinquent under chapter 321.~~

Sec. 23. Section 326.13, Code 2011, is amended to read as follows:

**326.13 Information under oath.**

The department shall require ~~fleet owners registrants~~ to submit under oath any information deemed necessary ~~by the department~~ to carry out the provisions of this chapter. ~~Information furnished under this chapter shall be forwarded to the director of the department by each fleet owner no later than January 1 of the current registration year.~~

Sec. 24. Section 326.14, Code 2011, is amended to read as follows:

**326.14 Plates and receipts Credentials — registration period year and renewal — penalty.**

1. The department shall issue a single registration plate and registration receipt for each vehicle pursuant to apportionment agreements or provisions authorized under this chapter. ~~The registration period for a vehicle registered pursuant to this chapter is from January 1 through December 31 of each year.~~

~~2. a. Each registration year for a vehicle registered pursuant to this chapter is a twelve-month period commencing on the first day of a calendar month and ending on the last day of the twelfth month in that twelve-month period. Vehicles subject to registration shall be registered for a registration year as determined by the department. The department may adjust the renewal or expiration date of a vehicle's registration when deemed necessary to equalize the number of vehicles registered in each twelve-month period or for the administrative efficiency of the department.~~

~~b. The department may establish a procedure for the implementation of a staggered registration system for vehicles registered pursuant to the international registration plan. Procedures established under this section may provide for a one-time collection of fewer than twelve or up to eighteen months of registration fees.~~

~~2. 3. An application for renewal of registration shall be postmarked or received in the office of motor carrier services of the department no later than January 31 the last day of the registration expiration month. A five percent late filing penalty shall be assessed to an application for renewal postmarked or received on or after February 1 the first day following the last day of the registration expiration month, with an additional five percent penalty assessed the first of each month thereafter until the application is filed. The enforcement deadline for failure to display a registration plate and registration is March 15 at 12:01 a.m. of the first day following the last day of the registration expiration month.~~

Sec. 25. Section 326.15, Code 2011, is amended to read as follows:

**326.15 Refunds of registration fees.**

1. Refunds of registration fees paid for motor vehicles under this chapter shall be in accordance with section 321.126. In addition, if a motor vehicle is removed from an apportioned fleet, the ~~owner in whose name the motor vehicle was registered~~ registrant shall return the registration plate to the department and make a claim for refund. A refund shall not be allowed without documentation of the subsequent registration of the motor vehicle.

2. A qualified ~~fleet owner~~ registrant may certify to the department that the registration plate has been destroyed in lieu of surrendering the plate. The department shall adopt rules to define a qualified ~~fleet owner~~ registrant.

Sec. 26. Section 326.16, subsections 1 and 2, Code 2011, are amended to read as follows:

1. If the fees for ~~proportional~~ apportioned registration are not paid to each ~~contracting member~~ jurisdiction entitled thereto on the basis of the ~~proportional~~ apportioned registration application and supporting documents filed with the department by the ~~fleet owner~~ registrant within a reasonable amount of time as determined by the department, the department shall calculate late payment penalties. The ~~fleet owner~~ registrant shall be notified by regular mail that fees and penalties are due and must be paid within thirty days of the invoice date. If fees and penalties are not received, the ~~fleet owner~~ registrant shall be notified by certified regular mail that the ~~owner's~~ registration has been suspended.

2. A five percent late payment penalty shall be assessed if an invoice is not paid within thirty days of the invoice date ~~or within thirty days of January 31 of the registration year, whichever is later~~, with an additional five percent penalty assessed the first of each month thereafter until all fees and penalties are paid. In addition, the fees due for registration in this state shall be a debt due to the state of Iowa.

Sec. 27. Section 326.19A, Code 2011, is amended to read as follows:

**326.19A Failure to maintain operational records — penalty.**

1. The department may assess a penalty in an amount equal to twenty percent of the ~~amount calculated under section 326.6, subsection 2, paragraph "b", if the audit of the apportioned fleet owner under section 326.19 apportioned fees if an audit conducted pursuant to the international registration plan~~ confirms that the ~~fleet owner~~ registrant has failed to maintain operational records on all of the following:

- a. Verification of miles distance for the preceding year.
- ~~b. Jurisdictional percentages claimed pursuant to section 326.6, subsection 1.~~
- e. b. Reciprocity agreements to which the department may be a party.

2. The department shall adopt rules specifying the records and other information required for an audit ~~under section 326.19~~ the international registration plan.

Sec. 28. Section 326.21, Code 2011, is amended to read as follows:

**326.21 Laws of other states jurisdictions — Iowa interests.**

In the absence of an agreement with another jurisdiction, the department may examine the laws and requirements of such jurisdiction and declare the extent and nature of exemptions, benefits, and privileges to be extended to vehicles or owners of vehicles properly registered or licensed in such other jurisdiction. The department shall consider the interests of the state of Iowa and ~~the its citizens thereof~~, the interests of the other jurisdictions and ~~the their citizens thereof~~, and the benefits which will accrue to the economy of the state of Iowa from the uninterrupted flow of commerce in declarations made ~~under~~ pursuant to this section. Each declaration shall specify that the extent of exemptions, benefits, and privileges is subject to revision without notice upon adoption by the general assembly of legislation in conflict with the terms of any such declaration.

Sec. 29. Section 326.22, Code 2011, is amended to read as follows:

**326.22 Operational laws of Iowa applicable.**

A nonresident registered vehicle is subject to all laws and rules governing the operation of such vehicle on the highways of this state. The registration ~~plates, stickers, or other identification~~ credentials assigned and furnished to any vehicle for the current registration year by the ~~state~~ jurisdiction in which the vehicle is registered shall be displayed on the vehicle substantially as provided in chapter 321 for vehicles registered pursuant to the provisions of this chapter. In addition, a fee set by the department to cover actual cost shall be charged for each plate, sticker, or other identification furnished for each vehicle registered in accordance with the provisions of this section or extended reciprocity in accordance with the provisions of this section. A charge shall not be made for the initial ~~registration receipt~~ credentials issued for each vehicle registered pursuant to an apportionment apportioned registration agreement. A fee set by the department to cover actual costs shall be charged for

issuance of duplicate plates, stickers, other required identification, or ~~registration receipts~~ other credentials.

Sec. 30. Section 326.25, Code 2011, is amended to read as follows:

**326.25 Applications — investigations.**

1. The department shall examine and determine the genuineness, regularity, and legality of every application lawfully made pursuant to this chapter, and may in all cases make investigations as may be deemed necessary or require additional information. The department shall reject any such application if not satisfied of the genuineness, regularity, or legality ~~thereof~~ of the application or the truth of any statement contained ~~therein~~ in the application, or for any other reason, when authorized by law. The department is hereby authorized to take possession of any indicia of ~~proportional apportioned~~ registration or reciprocity upon expiration, revocation, cancellation, or suspension ~~thereof~~ of the registration, or which is fictitious, or which has been unlawfully or erroneously issued.

2. The department may suspend or revoke the registration indicia of a vehicle registered on a ~~pro-rated~~ apportioned basis in any one of the following events:

a. When the department is satisfied that such registration indicia was issued upon fraudulent application. Bona fide errors shall be corrected within fifteen days after notification by the department.

b. When the department determines that the required fee has not been paid and ~~same~~ the fee is not paid upon reasonable notice and demand.

c. When the registration indicia is knowingly displayed on a vehicle which is not in the ~~prorate~~ apportioned fleet of the registrant.

d. Upon a determination that the motor vehicle does not have financial liability coverage as required under section 321.20B.

Sec. 31. Section 326.26, Code 2011, is amended to read as follows:

**326.26 Forms.**

The department shall prescribe and provide suitable forms of application, ~~registration receipts~~ credentials, and all other forms requisite or deemed necessary to carry out the provisions of this chapter.

Sec. 32. Section 326.27, Code 2011, is amended to read as follows:

**326.27 Violations to negate agreements.**

Operation of a commercial vehicle or vehicles in violation of the requirements of this chapter, the motor vehicle registration laws of this state, or the terms of any agreement negotiated by the department pursuant to this chapter may, after due notice and hearing, be grounds for denial of reciprocal or ~~proportional apportioned~~ registration privileges ~~on~~ for the vehicle or vehicles of an owner so operated. ~~Any An~~ owner denied such reciprocal or ~~proportional apportioned~~ registration privileges shall be subject to payment of full annual Iowa registration fees ~~on for~~ any such vehicle operated on Iowa highways. In addition to denial of reciprocal or ~~proportional apportioned~~ registration privileges, it shall be a simple misdemeanor, unless such act is declared under Iowa law to be a felony, for any person to operate under reciprocity or ~~proportional apportioned~~ registration in violation of any requirements of this chapter.

Sec. 33. Section 326.28, Code 2011, is amended to read as follows:

**326.28 Copies of records — fee.**

A fee shall be charged for copies of ~~such records as may be provided from the office of by~~ the department or the director. ~~Such fee shall be one dollar for the first page and fifty cents for each additional page of copy received at any one time.~~

Sec. 34. Section 326.29, Code 2011, is amended to read as follows:

**326.29 Fees to road use tax fund.**

Fees collected by the department pursuant to this chapter shall be remitted to the treasurer of state for deposit in the road use tax fund except that fees collected for other states jurisdictions shall be placed in a special fund known as the “reciprocity fund”. The department, at least monthly, shall order the disbursement of such fees collected to the

appropriate ~~states~~ jurisdictions. Interest earned on the “reciprocity fund” shall be retained by the state and shall be credited to the road use tax fund.

Sec. 35. Section 326.30, Code 2011, is amended to read as follows:

**326.30 Motor vehicle law applicable.**

All provisions of chapter 321, insofar as applicable, are extended to include owners who register and title vehicles in this state on a ~~proportional~~ an apportioned registration basis or who operate interstate on Iowa highways under reciprocity.

Sec. 36. Section 326.31, Code 2011, is amended to read as follows:

**326.31 Filing incorrect information — effect.**

1. If the director has reason to believe that a ~~fleet-owner registrant~~ has filed incorrect information with the department, for the purpose of reducing the ~~fleet-owner's registrant's~~ obligation for registration fees or fuel taxes, the director may revoke the apportioned registration privileges on all of the vehicles owned by the person. A person who has such privileges revoked shall be required to register all of the vehicles owned by the person with the appropriate county treasurer for a period of no less than one year and no more than five years thereafter. The department may use all reports pertaining to the registration fees and motor fuel taxes in ascertaining the accuracy of reports filed pertaining to registration fees and motor fuel taxes.

2. A person whose privileges are revoked may request an administrative hearing of said the action in accordance with chapter 17A, and during the period pending the hearing, the apportioned registration privileges shall be reinstated if the ~~fleet-owner registrant~~ posts security with the department in an amount sufficient to pay the full annual fees if an adverse decision is rendered at the hearing. At ~~such~~ the hearing, the ~~fleet-owner registrant~~ shall have the burden of proof as to the accuracy of any report filed by the ~~fleet-owner registrant~~ with the department. Judicial review of any decision reached at the administrative hearing may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 37. Section 326.32, Code 2011, is amended to read as follows:

**326.32 Additional fees or restrictions by other states jurisdictions — effect.**

If the laws of any other ~~state or country~~ jurisdiction impose any taxes, fees, charges, penalties, obligations, prohibitions, or limitations of any kind upon the vehicles of residents of Iowa, in addition to those imposed upon the vehicles of residents of such other ~~state or country~~ jurisdiction by the state of Iowa, the department may impose and collect fees and charges in the same amount and impose the same obligations, prohibitions, or limitations upon the owner or operator of a vehicle registered in such other ~~state or country~~ jurisdiction.

Sec. 38. Section 326.46, Code 2011, is amended to read as follows:

**326.46 Temporary unladen weight registration.**

The department may issue temporary registration for unregistered vehicles subject to registration under this chapter upon application by the owner and payment of a fee of ten dollars for each vehicle. The registration shall be valid for fifteen days and for one trip between specified points of origin and destination, with intermediate points authorized by the department. Property or passengers shall not be transported while the vehicle is subject to temporary registration.

Sec. 39. REPEAL. Sections 326.7, 326.8, 326.9, 326.17, 326.18, 326.19, and 326.20, Code 2011, are repealed.

Sec. 40. IMPLEMENTATION. The section of this Act amending section 321.134, subsection 2, to eliminate semiannual installment payments for certain registration fees, and the section of this Act amending section 321.106, relating to proration of certain registration fees, shall be implemented on and after January 1, 2013, for vehicles with a registration expiration date after December 31, 2012. However, the department of transportation may



begin implementation before January 1, 2013, to the extent necessary to transition to full implementation of those provisions.

Approved April 19, 2012

**CHAPTER 1094**  
**FLOOD MITIGATION**  
*S.F. 2217*

**AN ACT** relating to flood mitigation by establishing a flood mitigation program, establishing a flood mitigation board, authorizing the use of certain sales tax revenue and other financial assistance for flood mitigation projects, establishing a flood mitigation fund, authorizing the issuance of bonds for certain flood mitigation projects, providing for appropriations, and including effective date provisions.

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

Section 1. Section 29C.8, subsection 3, Code Supplement 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH. h.** Carry out duties related to the flood mitigation program and the flood mitigation board under chapter 418.

Sec. 2. Section 331.430, subsection 2, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH. d.** Payments authorized to be made from the debt service fund to a flood project fund under section 418.14, subsection 4.

Sec. 3. Section 384.4, subsection 1, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH. e.** Payments authorized to be made from the debt service fund to a flood project fund under section 418.14, subsection 4.

Sec. 4. **NEW SECTION. 418.1 Definitions.**

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

1. “*Base year*” means the fiscal year ending during the calendar year in which the governmental entity’s project is approved by the board under section 418.9.
2. “*Board*” means the flood mitigation board as created in section 418.5.
3. “*Division*” means the homeland security and emergency management division of the department of public defense.
4. “*Governmental entity*” means any of the following:
  - a. A county.
  - b. A city.
  - c. A joint board or other legal or administrative entity established or designated in an agreement pursuant to chapter 28E between any of the following:
    - (1) Two or more cities located in whole or in part within the same county.
    - (2) A county and one or more cities that are located in whole or in part within the county.
    - (3) A county, one or more cities that are located in whole or in part within the county, and a drainage district formed by mutual agreement under section 468.142 located in whole or in part within the county.
5. “*Project*” means the construction and reconstruction of levees, embankments, impounding reservoirs, or conduits that are necessary for the protection of property from the effects of floodwaters and may include the deepening, widening, alteration, change, diversion, or other improvement of watercourses if necessary for the protection of such

property from the effects of floodwaters. A project may consist of one or more phases of construction or reconstruction that are contracted for separately if the larger project, of which the project is a part, otherwise meets the requirements of this subsection.

6. “Retail establishment” means a business operated by a retailer as defined in section 423.1.

7. “Sales tax” means the sales and services tax imposed pursuant to section 423.2.

**Sec. 5. NEW SECTION. 418.4 Projects.**

1. a. A governmental entity may use the moneys in its flood project fund established pursuant to section 418.13 to fund projects that meet the requirements of this section.

b. A governmental entity as defined in section 418.1, subsection 4, paragraph “c”, shall have the power to construct, acquire, own, repair, improve, operate, and maintain a project, may sue and be sued, contract, and acquire and hold real and personal property, subject to the limitation in paragraph “c”, and <sup>1</sup> such other powers as may be included in the chapter 28E agreement. Such a governmental entity may contract with a city or the county participating in the chapter 28E agreement to perform any governmental service, activity, or undertaking that the city or county is authorized by law to perform, including but not limited to contracts for administrative services.

c. A governmental entity’s authority, established under paragraph “b” or other provision of law, to acquire or hold real and personal property shall for the purposes of undertaking a project under this chapter be limited to acquiring and holding that portion of such property which is necessary for infrastructure related to flood mitigation.

2. Prior to undertaking a project, the governmental entity shall adopt a project plan. The project plan shall include a detailed description of the project, including all phases of construction or reconstruction included in the project, state the estimated cost of the project and the maximum amount of debt to be incurred for purposes of funding the project, and include a detailed description of all anticipated funding sources for the project, including information relating to either the proposed use of financial assistance from the flood mitigation fund under section 418.10 or the proposed use of sales tax increment revenues received under section 418.12. The project plan shall also include information related to the approval criteria in section 418.9, subsection 2.

3. A governmental entity shall not award a contract for the construction or reconstruction of or otherwise undertake construction or reconstruction of a project under this chapter unless all of the following conditions are met:

a. Bidding for the project has been completed. A governmental entity shall comply with the competitive bid procedures in chapter 26 for the bidding and construction of the project and shall comply with the provisions of chapter 573.

b. For projects proposing to use sales tax increment revenues or approved by the board to use sales tax increment revenues, the project, or an earlier phase of the project, has been approved to receive financial assistance in an amount equal to at least twenty percent of the total project cost or thirty million dollars, whichever is less, under the federal Water Resources Development Act or other federal program providing assistance specifically for hazard mitigation. <sup>2</sup>

c. The project plan has been approved by the board under section 418.9.

d. Following approval of the project plan by the board, the governmental entity has adopted a resolution authorizing the use of sales tax increment revenue from the governmental entity’s flood project fund, if sales tax increment revenue was approved by the board as a funding source for the project. Within ten days of adoption, the governmental entity shall provide a copy of the resolution to the department of revenue.

4. A governmental entity shall not seek approval from the board for a project if the governmental entity previously had a project approved pursuant to section 418.9 or if the governmental entity previously was part of a governmental entity as defined in section 418.1, subsection 4, paragraph “c”, that had a project approved pursuant to section 418.9.

<sup>1</sup> See chapter 1138, §68, 84, 85 herein

<sup>2</sup> See chapter 1138, §30, 42, 44 herein

5. If a project is eligible for state financial assistance under section 29C.6, subsection 17, such project is ineligible for approval by the board under this chapter.

6. Following approval of a project under section 418.9, the governmental entity shall on or before December 15 of each year submit a report to the board detailing all of the following:

- a. The current status of the project.
- b. Total expenditures and the types of expenditures that have been made related to the project.
- c. The amount of the total project cost remaining as of the date the report is submitted.
- d. The amounts, types, and sources of funding being used.
- e. The amount of bonds issued or other indebtedness incurred for the project, including information related to the rate of interest, length of term, costs of issuance, and net proceeds. The report shall also include the amounts and types of moneys used for payment of such bonds or indebtedness.

7. A governmental entity may contract with a council of governments to perform any duty or power authorized under this chapter or for the completion of a project.

**Sec. 6. NEW SECTION. 418.5 Flood mitigation board.**

1. The flood mitigation board is established consisting of nine voting members and four ex officio, nonvoting members, and is located for administrative purposes within the division. The administrator of the division shall provide office space, staff assistance, and necessary supplies and equipment for the board. The administrator shall budget funds to pay the necessary expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

2. The voting membership of the board shall include all of the following:

a. Four members of the general public. Two general public members shall have demonstrable experience or expertise in the field of natural disaster recovery and two general public members shall have demonstrable experience or expertise in the field of flood mitigation.

b. The director of the department of natural resources or the director's designee.

c. The secretary of agriculture or the secretary's designee.

d. The treasurer of state or the treasurer's designee.

e. The administrator of the division or the administrator's designee.

f. The executive director of the Iowa finance authority or the executive director's designee.

3. The general public members shall be appointed by the governor, subject to confirmation by the senate. The appointments shall comply with sections 69.16 and 69.16A.

4. The chairperson and vice chairperson of the board shall be designated by the governor from the board members listed in subsection 2. In case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting.

5. The members appointed under subsection 2, paragraph "a", shall be appointed to three-year staggered terms and the terms shall commence and end as provided by section 69.19. 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.

6. The board's ex officio membership shall include four members of the general assembly with one each appointed 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. 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.

7. A majority of the board<sup>3</sup> constitutes a quorum.

**Sec. 7. NEW SECTION. 418.6 Expenses of board members.**

The voting members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A member of the board is not

<sup>3</sup> See chapter 1138, §69, 84, 85 herein

eligible to receive the additional expense allowance provided in section 7E.6, subsection 2.

**Sec. 8. NEW SECTION. 418.7 Division duties.**

The division, subject to approval by the board, shall adopt administrative rules pursuant to chapter 17A necessary to administer the flood mitigation program. The division shall provide the board with assistance in implementing administrative functions and providing technical assistance and application assistance to applicants under the program.

**Sec. 9. NEW SECTION. 418.8 Flood mitigation program.**

1. The board shall establish and the division, subject to direction and approval by the board, shall administer a flood mitigation program to assist governmental entities in undertaking projects approved under this chapter. The flood mitigation program shall include projects approved by the board to utilize either financial assistance from the flood mitigation fund created under section 418.10 or sales tax revenues remitted to the governmental entity under section 418.12. A governmental entity shall not be approved by the board to utilize both financial assistance from the flood mitigation fund and sales tax revenues remitted to the governmental entity.

2. The board shall, by rules adopted under section 418.7, prescribe application instructions, forms, and other requirements deemed necessary to operate the flood mitigation program.

3. The board may contract with or otherwise consult with the Iowa flood center, established under section 466C.1, to assist the board in administering the flood mitigation program.

4. The board shall submit a written report to the governor and the general assembly on or before January 15 of each year. The report shall include information relating to all projects approved by the board for inclusion in the flood mitigation program, the status of such projects, summaries of each report submitted to the board under section 418.4, subsection 6, information relating to the types of funding being used for each approved project, including all indebtedness incurred by the applicable governmental entities, and any recommendations for legislative action to modify the provisions of this chapter.

**Sec. 10. NEW SECTION. 418.9 Project application review.**

1. a. A governmental entity shall submit an application to the board for approval of a project plan. The board shall not approve a project for inclusion in the program if the application is submitted after January 1, 2016.

b. The application shall specify whether the governmental entity is requesting financial assistance from the flood mitigation fund or approval for the use of sales tax revenues. Applications for financial assistance from the flood mitigation fund shall describe the type and amount of assistance requested. Applications for the use of sales tax revenues shall state the amount of sales tax revenues necessary for completion of the project.

2. Each application shall include or have attached to the application, the governmental entity's project plan adopted under section 418.4, subsection 2. When reviewing applications, in addition to the project plan, the board shall consider, at a minimum, all of the following:

a. Whether the project is designed to mitigate future flooding of property that has sustained significant flood damage and is likely to sustain significant flood damage in the future.

b. Whether the project plan addresses the impact of flooding both upstream and downstream from the area where the project is to be undertaken and whether the project conforms to any applicable floodplain ordinance.

c. Whether the area that would benefit from the project's flood mitigation efforts is sufficiently valuable to the economic viability of the state or is of sufficient historic value to the state to justify the cost of the project.

d. The extent to which the project would utilize local matching funds. The board shall not approve a project unless at least fifty percent of the total cost of the project, less any federal financial assistance for the project, is funded using local matching funds, and unless the project will result in nonpublic investment in the governmental entity's area as defined in section 418.11, subsection 3, of an amount equal to fifty percent of the total cost of the project. For purposes of this paragraph, "nonpublic investment" means investment by nonpublic entities consisting of capital investment or infrastructure improvements occurring

in anticipation of or as a result of the project during the period of time between July 1, 2008, and ten years after the board approved the project.

e. The extent of nonfinancial support committed to the project from public and nonpublic sources.

f. Whether the project is designed in coordination with other watershed management measures adopted by the governmental entity or adopted by the participating jurisdictions of the governmental entity, as applicable.

g. Whether the project plan is consistent with the applicable comprehensive, countywide emergency operations plan in effect and other applicable local hazard mitigation plans.<sup>4</sup>

h. Whether financial assistance through the flood mitigation program is essential to meet the necessary expenses or serious needs of the governmental entity related to flood mitigation.

3. If requested by the board during consideration of an application, the governmental entity shall pay for an independent engineering review of the project to determine the technical feasibility, engineering standards, and total estimated cost of the project. An engineering review required by the board under this subsection may be completed by the United States army corps of engineers.

4. Upon review of the applications, the board, following consultation with the economic development authority, shall approve, defer, or deny the applications. If a project plan is denied, the board shall state the reasons for the denial and the governmental entity may resubmit the application so long as the application is filed on or before January 1, 2016. If a project plan application is approved, the board shall specify whether the governmental entity is approved for the use of sales tax revenues under section 418.12 or whether the governmental entity is approved to receive financial assistance from the flood mitigation fund under section 418.10. If the board approves a project plan application that includes financial assistance from the flood mitigation fund, the board shall negotiate and execute on behalf of the division all necessary agreements to provide such financial assistance. If the board approves a project plan application that includes the use of sales tax increment revenues, the board shall establish the annual maximum amount of such revenues that may be remitted to the governmental entity not to exceed the limitations in section 418.12, subsection 4. The board may, however, establish remittance limitations for the project lower than the individual project remittance limitations specified for projects under section 418.12, subsection 4.

5. The board shall not approve a project plan application that includes financial assistance from the flood mitigation fund or the use of sales tax revenue to pay principal and interest on or to refinance any debt or other obligation existing prior to the approval of the project.

6. The board shall not approve a project plan application for which the amount of sales tax increment revenue remitted to the governmental entity would exceed fifteen million dollars in any one fiscal year or if approval of the project would result in total remittances in any one fiscal year for all approved projects to exceed, in the aggregate, thirty million dollars.

7. Upon approval of an application for financial assistance under the program, the board shall notify the treasurer of state regarding the amount of moneys needed to satisfy the award of financial assistance and the terms of the award. The treasurer of state shall notify the division any time moneys are disbursed to a recipient of financial assistance under the program.

8. If, following approval of a project application under the program, it is determined that the amount of federal financial assistance exceeds the amount of federal financial assistance specified in the application, the board shall reduce the award of financial assistance from the flood mitigation fund or reduce the amount of sales tax revenue to be received for the project by a corresponding amount.

**Sec. 11. NEW SECTION. 418.10 Flood mitigation fund.**

1. A flood mitigation fund is created as a separate and distinct fund in the state treasury under the control of the board and consists of moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the board for placement in the fund. Moneys in the fund shall only be used for the purposes of this section.

<sup>4</sup> See chapter 1138, §70, 84, 85 herein

2. Payments of interest, repayments of moneys loaned pursuant to this chapter, and recaptures of grants, if provided for in the financial assistance agreements, shall be deposited in the fund.

3. The moneys in the fund shall be used to provide assistance in the form of grants, loans, and forgivable loans. The board may only provide financial assistance from moneys in the fund.

4. Moneys credited to the fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this chapter. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

5. If any portion of the moneys appropriated for deposit in the fund have not been awarded during the fiscal year for which the appropriation is made, the portion which has not been awarded may be utilized by the board to provide financial assistance under the program in subsequent fiscal years.

6. The board may make a multiyear commitment to a governmental entity of up to four million dollars in any one fiscal year.

7. Moneys received by a governmental entity from the fund shall be deposited in the governmental entity's flood project fund under section 418.13.

8. The board is not required to award financial assistance pursuant to this section unless moneys are appropriated to and available from the fund.

9. Following completion of all projects approved to utilize financial assistance from the fund and upon a determination by the board that remaining moneys in the fund are no longer needed for the program, all moneys remaining in the fund or subsequently deposited in the fund shall be credited for deposit in the general fund of the state.

**Sec. 12. NEW SECTION. 418.11 Sales tax increment calculation.**

1. The department of revenue shall calculate quarterly the amount of increased sales tax revenues for each governmental entity approved to use sales tax increment revenues and the amount of such revenues to be transferred to the sales tax increment fund pursuant to section 423.2, subsection 11, paragraph "b".

2. The department of revenue shall calculate the amount of the increase for purposes of subsection 1 as follows:

a. Determine the amount of sales subject to the tax under section 423.2 in each applicable area specified in subsection 3, during the corresponding quarter in the base year from retail establishments in such areas.

b. Determine the amount of sales subject to the tax under section 423.2 in each applicable area specified in subsection 3, during the corresponding quarter in each subsequent calendar year from retail establishments in such areas.

c. Subtract the base year quarterly amount determined under paragraph "a" from the subsequent calendar year quarterly amount in paragraph "b".

d. If the amount determined under paragraph "c" is positive, the product of the amount determined under paragraph "c" times the tax rate imposed under section 423.2 shall constitute the amount of increased sales tax revenue pursuant to subsection 1.

3. a. For projects approved for a governmental entity as defined in section 418.1, subsection 4, paragraph "a", the area used to determine the sales tax increment shall include only the unincorporated areas of the county.

b. For projects approved for a governmental entity as defined in section 418.1, subsection 4, paragraph "b", the area used to determine the sales tax increment shall include only the incorporated areas of the city.

c. For projects approved for a governmental entity as defined in section 418.1, subsection 4, paragraph "c", the area used to determine the sales tax increment shall include the incorporated areas of each city that is participating in the chapter 28E agreement, the unincorporated areas of the participating county, and the area of any participating drainage district not otherwise included in the areas of the participating cities or county, as applicable.

4. Each governmental entity shall assist the department of revenue in identifying retail establishments in the governmental entity's applicable area that are collecting sales tax. This

process shall be ongoing until the governmental entity ceases to utilize sales tax revenue under this chapter.

**Sec. 13. NEW SECTION. 418.12 Sales tax increment fund.**

1. A sales tax increment fund is established as a separate and distinct fund in the state treasury under the control of the department of revenue consisting of the amount of the increased state sales and services tax revenues collected by the department of revenue within each applicable area specified in section 418.11, subsection 3, and deposited in the fund pursuant to section 423.2, subsection 11, paragraph "b". Moneys deposited in the fund are appropriated to the department of revenue for the purposes of this section. Moneys in the fund shall only be used for the purposes of this section.

2. An account is created within the fund for each governmental entity that has adopted a resolution under section 418.4, subsection 3, paragraph "d".

3. The department of revenue shall deposit in the fund the moneys described in subsection 1 beginning the first day of the quarter following receipt of a resolution under section 418.4, subsection 3, paragraph "d". However, in no case shall a sales tax increment be calculated under section 418.11 or such moneys be deposited in the fund under this section prior to January 1, 2014.

4. *a.* Upon request of a governmental entity, the department of revenue shall remit the moneys in the governmental entity's account within the fund to the governmental entity for deposit in the governmental entity's flood project fund. Such requests shall be made not more than quarterly. Requests for remittance shall be submitted on forms prescribed by the department of revenue. In lieu of quarterly requests, a governmental entity may submit a certified schedule of principal and interest payments on bonds issued under section 418.14. If such a certified schedule is submitted, the department of revenue shall, subject to the remittance limitations of this chapter, remit from the governmental entity's account to the governmental entity for deposit in the governmental entity's flood project fund the amounts necessary for such principal and interest payments in accordance with the certified schedule. Requests for remittance shall be made for the amount of moneys in the governmental entity's account necessary to pay the governmental entity's costs or obligations related to the project, according to the sales tax revenue funding needs specified in the approved project plan. A governmental entity shall not, however, during any fiscal year receive remittances under this section exceeding fifteen million dollars or seventy percent of the total yearly amount of increased sales tax increment revenue in the governmental entity's applicable area and deposited in the governmental entity's account, whichever is less. The total amount of remittances during any fiscal year for all governmental entities approved to use sales tax revenues under this chapter shall not exceed, in the aggregate, thirty million dollars. Remittances from the department of revenue shall be deposited in the governmental entity's flood project fund under section 418.13.

*b.* The department of revenue shall adopt rules for the remittance of moneys to governmental entities.

5. If the department of revenue determines that the revenue accruing to the fund or accounts within the fund exceeds thirty million dollars or exceeds the amount necessary for the purposes of this chapter if the amount necessary is less than thirty million dollars, then those excess moneys shall be credited by the department of revenue for deposit in the general fund of the state.

6. *a.* Each governmental entity approved by the board to use sales tax increment revenues for a project under this chapter shall submit two reports to the board certifying the total amount of nonpublic investment, as defined in section 418.9, subsection 2, paragraph "d", that has occurred in the governmental entity's area as defined in section 418.11, subsection 3. The first report shall be submitted not later than five years after the board approved the project. The second report shall be submitted to the board not later than ten years after the board approved the project.

*b.* If the nonpublic investment requirements of section 418.9, subsection 2, paragraph "d", are not satisfied, the board shall reduce the governmental entity's amount of sales tax increment revenues eligible to be remitted during the remaining period of time for receiving

remittances by an amount equal to the shortfall in nonpublic investment. However, such a reduction shall not be to an amount less than zero.

**Sec. 14. NEW SECTION. 418.13 Flood project fund.**

1. Sales tax revenue remitted by the department of revenue to a governmental entity under section 418.12 or financial assistance received by a governmental entity pursuant to section 418.10 shall be deposited in the governmental entity's flood project fund created for purposes of this chapter and shall be used to fund the costs of the governmental entity's approved project and to pay principal and interest on bonds issued pursuant to section 418.14, if applicable.

2. In addition to the moneys received pursuant to section 418.10 or 418.12, a governmental entity may deposit in the flood project fund any other moneys lawfully received by the governmental entity, including but not limited to local sales and services tax receipts collected under chapter 423B.

**Sec. 15. NEW SECTION. 418.14 Bond issuance.**

1. *a.* A governmental entity receiving sales tax revenues pursuant to this chapter is authorized to issue bonds that are payable from revenues deposited in the governmental entity's flood project fund created pursuant to section 418.13 for the purpose of funding a project in the area from which sales tax revenues will be collected.

*b.* A governmental entity shall have the authority to pledge irrevocably to the payment of the bonds an amount of revenue derived from the sales tax revenue received by the governmental entity pursuant to section 418.12 for each of the years the bonds remain outstanding, together with other amounts held in the flood project fund of the governmental entity.

*c.* The costs of a project may include but are not limited to administrative expenses, construction and reconstruction costs, engineering, fiscal, financial and legal expenses, surveys, plans and specifications, interest during construction or reconstruction and for one year after completion of the project, initial reserve funds, acquisition of real or personal property necessary for the construction or reconstruction of the project, subject to the limitation in section 418.4, subsection 1, paragraph "c", and such other costs as are necessary and incidental to the construction or reconstruction of the project and the financing thereof. The governmental entity shall have the power to retain and enter into agreements with engineers, fiscal agents, financial advisers, attorneys, architects, and other consultants or advisers for planning, supervision, and financing of a project upon such terms and conditions as shall be deemed by the governing body of the governmental entity as advisable and in the best interest of the governmental entity. Bonds issued under the provisions of this chapter are declared to be investment securities under the laws of the state of Iowa.

2. *a.* If a governmental entity elects to authorize the issuance of bonds payable as provided in this section, the governmental entity shall follow the authorization procedures for cities set forth in section 384.83.

*b.* A governmental entity shall have the authority to issue bonds for the purpose of refunding outstanding bonds issued under this section without otherwise complying with the notice and hearing provisions of section 384.83.

3. *a.* Except as otherwise provided in this section, bonds issued pursuant to this section shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this section shall not limit or restrict the authority of a governmental entity as defined in section 418.1, subsection 4, paragraphs "a" and "b", or a city, county, or drainage district participating in a governmental entity as defined in section 418.1, subsection 4, paragraph "c", to issue bonds for the project under other provisions of the Code.

*b.* The bonds may be issued in one or more series and shall comply with all of the following:

(1) The bonds shall bear the date of issuance.

(2) The bonds shall specify whether they are payable on demand or the time of maturity.

(3) The bonds shall bear interest at a rate not exceeding that permitted by chapter 74A.

(4) The bonds shall be in a denomination or denominations, be in the form, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the



place or places, be subject to the terms of redemption, with or without premium, be secured in the manner, and have the other characteristics, as may be provided by the resolution authorizing their issuance. The resolution authorizing the issuance of the bonds may also prescribe additional provisions, terms, conditions, and covenants which the governmental entity deems advisable, including provisions for creating and maintaining reserve funds and the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds.

c. The bonds may be sold at public or private sale at a price as may be determined by the governmental entity.

d. The principal and interest on the bonds issued by a governmental entity under this section shall be payable solely and only from and secured by the revenue derived from the sales tax revenues received by the governmental entity pursuant to section 418.12 and from other funds of the governmental entity lawfully available from the governmental entity's flood project fund established under section 418.13.

4. a. Bonds, notes, or other obligations issued by a governmental entity for purposes of financing a project under this chapter are not an obligation of this state. Except to the extent a debt service levy is authorized for the payment of a governmental entity's costs related to bonds, notes, or other obligations as provided in paragraph "b", bonds, notes, or other obligations issued by a governmental entity for purposes of financing a project under this chapter are not an obligation of any political subdivision of this state other than the governmental entity, and such bonds, notes, or other obligations shall not constitute an indebtedness of any political subdivision of this state within the meaning of any constitutional or statutory debt limitation or restriction. A governmental entity shall not pledge the credit or taxing power of this state. Except as provided in paragraph "b", a governmental entity shall not pledge the credit or taxing power of any political subdivision of this state other than the governmental entity or make its bonds issued under this section payable out of any moneys except those in the governmental entity's flood project fund.

b. If the moneys in the governmental entity's flood project fund are insufficient to pay the governmental entity's costs related to bonds, notes, or other obligations issued under this chapter, the amounts necessary to pay such costs may be levied and transferred for deposit in the governmental entity's flood project fund from the debt service fund of the governmental entity or, if applicable, the debt service fund of a participating city or county for a governmental entity as defined in section 418.1, subsection 4, paragraph "c", but only if and to the extent provided in the resolution authorizing the issuance of bonds and, if applicable, the chapter 28E agreement.

c. The sole remedy for a breach or default of a term of a bond issued under this section is a proceeding in law or in equity by suit, action, or mandamus to enforce and compel performance of the duties required by this chapter and of the terms of the resolution authorizing the issuance of the bonds.

**Sec. 16. NEW SECTION. 418.15 Durational limitation on use of revenues — property disposition.**

1. A governmental entity shall not receive remittances of sales tax revenue under this chapter after twenty years from the date the governmental entity's project was approved by the board.

2. If the governmental entity ceases to need the sales tax revenues prior to the expiration of the limitation under subsection 1, the governmental entity shall notify the director of revenue.

3. Upon the receipt of a notification pursuant to subsection 2, or the expiration of the limitation under subsection 1, the department of revenue shall cease to deposit revenues into the governmental entity's account in the sales tax increment fund.

4. All property and improvements acquired by a governmental entity as defined in section 418.1, subsection 4, paragraph "c", relating to a project shall be transferred to the county, city, or drainage district designated in the chapter 28E agreement to receive such property and improvements. The county, city, or drainage district to which such property or improvements are transferred shall, unless otherwise provided in the chapter 28E agreement, be solely responsible for the ongoing maintenance and support of such property and improvements.

Sec. 17. Section 423.2, subsection 11, Code Supplement 2011, 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 pursuant to paragraph "a", the department shall do the following in the order prescribed:~~

(1) Transfer the revenues collected under chapter 423B, the department shall transfer.

(2) Transfer one-sixth of such the remaining revenues to the secure an advanced vision for education fund created in section 423F.2. This paragraph subparagraph (2) is repealed December 31, 2029.

(3) Subject to the limitation on the calculation and deposit of sales tax increment revenues in section 418.12, beginning the first day of the quarter following adoption of the resolution pursuant to section 418.4, subsection 3, paragraph "d", transfer to the account created in the sales tax increment fund for each governmental entity approved to use sales tax increment revenues under chapter 418, that portion of the increase in sales tax revenue, determined in section 418.11, subsection 2, paragraph "d", in the applicable area of the governmental entity, that remains after the transfer required under subparagraph (2) of this paragraph "b".

Sec. 18. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 19, 2012

## CHAPTER 1095

### DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP — MISCELLANEOUS CHANGES

*S.F. 2311*

**AN ACT** revising provisions affecting the administration of the department of agriculture and land stewardship, including associated regulations and licensing, as it relates to biofuels, weather and market information, internet publications, soil and water conservation, feed, vaccinations, tuberculosis, brucellosis, classical swine fever, Johne's disease, treatment for sheep, branding, manufactured articles, grain, pesticides, coal mining, and weights and measures, making penalties applicable, and including applicability provisions.

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

#### DIVISION I GENERAL

Section 1. Section 159.2, subsection 1, Code 2011, is amended to read as follows:

1. To encourage, promote, and advance the interests of agriculture, including horticulture, livestock industry, dairying, cheese making, poultry raising, biofuels, beekeeping, production of wool, production of domesticated fur-bearing animals, and other kindred and allied industries.

Sec. 2. Section 159.5, subsection 4, Code 2011, is amended to read as follows:

4. Maintain a weather ~~division~~ bureau which shall, in cooperation with the national weather service, collect and disseminate weather and phenological statistics and meteorological data, and promote knowledge of meteorology, phenology, and climatology of the state. The ~~division~~ bureau shall be headed by the state climatologist who shall be appointed by the secretary of

agriculture, and shall be an officer of the national weather service, if one is detailed for that purpose by the federal government.

Sec. 3. Section 159.5, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 4. Section 159.5, subsection 7, Code 2011, is amended to read as follows:

~~7. Maintain a division of agricultural statistics, which shall, in cooperation~~ Cooperate with the United States department of agriculture statistical reporting service, to gather, compile, and publish statistical information concerning the condition and progress of crops, the production of crops, livestock, livestock products, poultry, and other such related agricultural statistics, as will generally promote knowledge of the agricultural industry in the state of Iowa. The statistics, when published, constitute official agricultural statistics for the state of Iowa. ~~The division is in the charge of an administrator, who shall be appointed by the secretary of agriculture and who shall be an officer of the United States department of agriculture statistical reporting service, if one is detailed for that purpose by the federal government.~~

Sec. 5. Section 159.5, subsection 8, Code 2011, is amended to read as follows:

8. Establish and maintain a marketing news service ~~division~~ bureau in the department which shall, in cooperation with the federal market news and grading division of the United States department of agriculture, collect and disseminate data and information relative to the market prices and conditions of agricultural products raised, produced, and handled in the state. ~~The division is in the charge of an administrator, who shall be appointed by the secretary of agriculture and shall be an officer of the federal market news and grading division of the United States department of agriculture, if one is detailed for that purpose by the federal government.~~

Sec. 6. Section 159.9, Code 2011, is amended to read as follows:

**159.9 Publication and distribution of rules Internet access to statutes and rules.**

~~A sufficient number of pamphlets setting forth the~~ The statutes relating to and rules of adopted by the department shall be published from time to time to supply the various needs for the same and shall be furnished to any resident of the state upon request shall be made available on the internet.

Sec. 7. REPEAL. Section 159.14, Code 2011, is repealed.

DIVISION II  
SOIL AND WATER CONSERVATION

Sec. 8. Section 159.8, Code 2011, is amended to read as follows:

**159.8 Comprehensive management plan — highly erodible acres.**

1. The department shall request cooperation from the federal government, including the United States department of agriculture consolidated farm service agency and the United States department of agriculture natural resources conservation service, to investigate methods to preserve land which is highly erodible, as provided in the federal Food Security Act of 1985, 16 U.S.C. § 3801 et seq., for the purpose of developing with owners of the land a comprehensive management plan for the land. The plan may be based on the soil conservation plan of the natural resources conservation service and may include a farm unit conservation plan and a comprehensive agreement as provided in chapter 161A. The extension services at Iowa state university of science and technology shall cooperate with the department in developing the comprehensive plan.

2. The investigation shall include methods which help to preserve highly erodible land from row crop production through production of alternative commodities, and financial incentives. ~~The department shall report to the governor and the general assembly not later than January 15, 1990, of the department's progress in the investigation. The department shall report to the governor and the general assembly not later than January 15, 1991, on the department's recommendation for programs necessary to preserve highly erodible land from injury or destruction.~~

Sec. 9. Section 161A.7, subsection 3, Code 2011, is amended to read as follows:

3. The commissioners shall, as a condition for the receipt of any state cost-sharing funds for permanent soil conservation practices, shall require the owner of the land on which the practices are to be established to covenant and file, in the office of the soil and water conservation district of the county in which the land is located, an agreement identifying the particular lands upon which the practices for which state cost-sharing funds are to be received will be established, and providing that the project will not be removed, altered, or modified so as to lessen its effectiveness without the consent of the commissioners, obtained in advance and based on guidelines drawn up by the state soil conservation committee, for a period of not to exceed twenty years after the date of receiving payment. The commissioners shall assist the division in the enforcement of this subsection. The agreement does not create a lien on the land, but is a charge personally against the owner of the land at the time of removal, alteration, or modification if an administrative order is made under section 161A.61, subsection 3.

Sec. 10. Section 161A.12, Code 2011, is amended to read as follows:

**161A.12 Statement to department of management.**

On or before October 1 next preceding each annual legislative session, the ~~division~~ department shall submit to the department of management, on official estimate blanks furnished for those purposes, statements and estimates of the expenditure requirements for each fiscal year, and a statement of the balance of funds, if any, available to the division, and the estimates of the division as to the sums needed for the administrative and other expenses of the division for the purposes of this chapter.

Sec. 11. Section 161A.42, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 12. Section 161A.42, subsection 7, Code 2011, is amended to read as follows:

7. “*Farm unit soil conservation plan*” means a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the commissioners of the soil and water conservation district within which that farm unit is located, ~~based on the conservation folder for that farm unit and~~ identifying those permanent soil and water conservation practices and temporary soil and water conservation practices the use of which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil loss limit or limits. The plan shall if practicable identify alternative practices by which this objective may be attained.

Sec. 13. Section 161A.61, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~Beginning January 1, 1985, or five years after the completion of the conservation folder for a particular farm unit pursuant to this section, whichever date is later, the~~ The commissioners of the soil and water conservation district in which that farm unit is located may petition the district court for an appropriate order with respect to that farm unit if its owner or occupant has been sent a notice by the commissioners under subsection 1, paragraph “b”, for three or more consecutive years. The commissioners’ petition shall seek a court order which states a time not more than six months after the date of the order when the owner or occupant must commence, and a time when the owner or occupant must complete the steps necessary to comply with the order. The time allowed to complete the establishment of a temporary soil and water conservation practice employed to comply or advance toward compliance with the court’s order shall be not more than one year after the date of that order, and the time allowed to complete the establishment of a permanent soil and water conservation practice employed to comply with the court’s order shall be not more than five years after the date of that order. Section 161A.48 applies to a court order issued under this subsection. The steps required of the farm unit owner or operator by the court order are those which are necessary to do one of the following:

Sec. 14. Section 161A.62, subsection 1, Code 2011, is amended by striking the subsection.

Sec. 15. Section 161A.62, subsection 2, Code 2011, is amended to read as follows:

2. The commissioners of each soil and water conservation district shall complete preparation of a farm unit soil conservation plan for each farm unit within the district, ~~not later than January 1, 1985, or five years after completion of the conservation folder for that farm unit, whichever date is later,~~ or as soon thereafter as adequate funding is available to permit compliance with this requirement.

a. Technical assistance in the development of the farm unit soil conservation plan may be provided by the United States department of agriculture natural resources conservation service through the memorandum of understanding with the district or by the department. The commissioners shall make every reasonable effort to consult with the owner and, if appropriate, with the operator of that farm unit, and to prepare the plan in a form which is acceptable to that person or those persons.

b. The farm unit soil conservation plan shall be drawn up and completed without expense to the owner or operator of the farm unit, except that the owner or operator shall not be reimbursed for the value of the owner's or occupant's own time devoted to participation in the preparation of the plan.

c. If the commissioners' farm unit soil conservation plan is unacceptable to the owner or operator of the farm unit, that person or those persons may prepare an alternative farm unit soil conservation plan identifying permanent or temporary soil and water conservation practices which may be expected to achieve compliance with the soil loss limit or limits applicable to that farm unit, and submit that plan to the soil and water conservation district commissioners for their review.

Sec. 16. Section 161A.63, Code 2011, is amended to read as follows:

**161A.63 Right of purchaser of agricultural land to obtain information.**

A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain from the seller, or from the office of the soil and water conservation district in which the land is located, a copy of the most recently updated ~~conservation folder and of any~~ farm unit soil conservation plan, developed pursuant to section 161A.62, subsection 2, which are applicable to the agricultural land proposed to be purchased. A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain additional copies of either or both of the documents referred to in this section from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 161A.76.<sup>1</sup>

Sec. 17. Section 161A.73, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. The allocation of cost-share moneys as financial incentives to encourage summer construction of permanent soil and water conservation practices. The practices must be constructed on or after June ~~1~~ 15 but not later than ~~September~~ October 15. The commissioners may also provide for the payment of moneys on a prorated basis to compensate persons for the production loss on an area disturbed by construction, according to rules which shall be adopted by the division. ~~The commissioners shall not allocate cost-share moneys to support summer construction during a fiscal year in which applications for cost-share moneys required to establish permanent soil and water conservation practices, other than established by summer construction, equal the total amount available to support the nonsummer construction practices. The financial incentives shall not exceed sixty percent of the estimated cost of establishing the practice as determined by the commissioners, or sixty percent of the actual cost of establishing the practice, whichever is less.~~

<sup>1</sup> See chapter 1138, §55 herein

Sec. 18. Section 161A.76, subsection 1, Code 2011, is amended to read as follows:

1. It is the intent of this chapter that, ~~effective January 1, 1981~~, each tract of agricultural land which has not been plowed or used for growing row crops at any time within the prior fifteen years prior to that date, shall for purposes of this section be considered classified as agricultural land under conservation cover. If a tract of land so classified is thereafter plowed or used for growing row crops, the commissioners of the soil and water conservation district in which the land is located shall not approve use of state cost-sharing funds for establishing permanent or temporary soil and water conservation practices on that tract of land in an amount greater than one-half the amount of cost-sharing funds which would be available for that land if it were not considered classified as agricultural land under conservation cover. The restriction imposed by this section applies even if an administrative order or court order has been issued requiring establishment of soil and water conservation practices on that land. The commissioners may waive the restriction imposed by this section if they determine in advance that the purpose of plowing or row cropping land classified as land under conservation cover is to revitalize permanent pasture and that the land will revert to permanent pasture within two years after it is plowed.

DIVISION III  
ANIMAL HEALTH — GENERAL

Sec. 19. Section 163.7, Code 2011, is amended to read as follows:

**163.7 State and federal rules.**

The rules adopted by the department regarding interstate shipments of animals shall not be in conflict with the rules of the ~~federal United States~~ department of agriculture, unless there is an outbreak of a malignant contagious disease in any locality, state, or territory, in which event the department ~~shall have the right to~~ of agriculture and land stewardship may place an embargo on such locality, state, or territory.

Sec. 20. Section 163.25, Code 2011, is amended to read as follows:

**163.25 Altering certificate.**

1. A person shall not remove or alter a tag or mark of identification appearing on an animal, tested or being tested for disease, if the tag or mark of identification is authorized by the department or inserted by any qualified veterinarian.

2. A person shall not ~~alter a falsify~~ any of the following:

- a. A certificate of vaccination, issued by a person authorized to vaccinate the animal.
- b. A certificate of veterinary inspection.

Sec. 21. Section 163.26, Code 2011, is amended to read as follows:

**163.26 Definition.**

For the purposes of this subchapter, "garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of foods, including animal carcasses or parts, ~~and~~. "Garbage" includes all waste material, by-products of a kitchen, restaurant, hotel, or slaughterhouse, every refuse accumulation of animal, fruit, or vegetable matter, liquids or otherwise, ~~except or~~ grain not consumed, that is collected from hog sales pen floors in public stockyards ~~and fed under the control of the department of agriculture and land stewardship~~. Animals or parts of animals, which are processed by slaughterhouses or rendering establishments, and which as part of the processing are heated to not less than 212 degrees F. for thirty minutes, are not garbage for purposes of this chapter.

Sec. 22. Section 163.27, Code 2011, is amended to read as follows:

**163.27 Boiling garbage.**

1. ~~It shall be unlawful for any person, firm, partnership, or corporation to feed garbage~~ Garbage shall not be fed to animals an animal unless such garbage has been heated to a temperature of two hundred twelve degrees Fahrenheit for thirty minutes, or other acceptable method, as provided by rules ~~promulgated~~ adopted by the department, ~~provided~~. However, this requirement shall not apply to an individual who feeds to the individual's own animals only the garbage obtained from the individual's own household. ~~It shall be unlawful for any~~

2. ~~A person, firm, partnership, or corporation to~~ shall not feed any public or commercial garbage to swine after September 1, 1970.

Sec. 23. Section 163.28, unnumbered paragraph 4, Code 2011, is amended to read as follows:

The license fee for each processing plant shall be fifty dollars, except that the first license fee may be prorated on a monthly basis as prescribed by the department. The secretary shall not issue a license which would permit the processing of any garbage for swine feeding after ~~September 1, 1970.~~

Sec. 24. Section 163.30, subsection 11, Code Supplement 2011, is amended to read as follows:

11. ~~All~~ Any swine found by a registered veterinarian to have any infectious or contagious disease after delivery to ~~any~~ a livestock sale barn or auction market for resale, other than for slaughter, shall be immediately returned to the consignor's premises to be quarantined separate and apart for fifteen days. Such swine shall not be moved from such premises for any purpose unless a certificate of veterinary inspection accompanies the swine's movement or unless ~~they~~ the swine are sent to slaughter. ~~This subsection shall in no way supersede the requirements of sections 163A.2 and 163A.3.~~

Sec. 25. Section 163.61, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. A person who falsifies a certificate of vaccination or certificate of veterinary inspection shall be subject to a civil penalty of not more than five thousand dollars for each reference to an animal falsified on the certificate. However, a person who falsifies a certificate issued pursuant to chapter 166D shall be subject to a civil penalty as provided in this section or section 166D.16, but not both. A person shall not be subject to a civil penalty totaling more than twenty-five thousand dollars for falsifying a certificate, regardless of the number of animals falsified on the certificate.

#### DIVISION IV ANIMAL HEALTH — BOVINE TUBERCULOSIS

Sec. 26. Section 165.1, Code 2011, is amended to read as follows:

##### **165.1 Cooperation.**

The ~~state department of agriculture and land stewardship~~ is ~~hereby~~ authorized to cooperate with the federal United States department of agriculture for the purpose of eradicating tuberculosis from the dairy and beef breeds of cattle in the state.

Sec. 27. Section 165.2, Code 2011, is amended to read as follows:

##### **165.2 State as accredited area.**

1. The state of Iowa is ~~hereby~~ declared to be and is ~~hereby~~ established as an accredited area for the eradication of bovine tuberculosis from the dairy and breeding cattle of the state. It shall be the duty of the department of ~~agriculture and land stewardship~~ to eradicate bovine tuberculosis in all of the counties of the state in the manner provided by law as it appears in this chapter. ~~Said~~ The department shall proceed with the examination, including the tuberculin test, of all such cattle as rapidly as practicable and as is consistent with efficient work, and as funds are available for paying the indemnities as provided by law.

2. An owner of dairy or breeding cattle in the state shall conform to and abide by the rules ~~laid down~~ adopted by the department and rules promulgated by the federal United States department of agriculture and ~~The owner shall follow their instructions of the department of agriculture and land stewardship and the United States department of agriculture~~ designed to suppress the disease, prevent its spread, and avoid reinfection of the herd.

Sec. 28. Section 165.3, Code 2011, is amended to read as follows:

##### **165.3 Appraisal.**

Before being tested, such animals shall be appraised at their cash value for breeding, dairy, or beef purposes by the owner and a representative of the department, or a representative

of the federal United States department of agriculture, or by the owner and both of such representatives. If these parties cannot agree as to the amount of the appraisal, there shall be appointed three competent and disinterested persons, one by the department, one by the owner, and the third by the first two appointed, to appraise such animals, which appraisal shall be final. Every appraisal shall be under oath or affirmation and the expense of the same shall be paid by the state, except as provided in this chapter.

Sec. 29. Section 165.12, Code 2011, is amended to read as follows:

**165.12 Tuberculosis-free herds.**

The department shall establish rules for determining when a herd of cattle, tested and maintained under the provisions of this chapter, the laws of the United States, and the rules of the state department of agriculture and land stewardship and regulations of the federal United States department of agriculture, shall be considered as tuberculosis-free. When any herd meets such requirements, the owner shall be entitled to a certificate from the department of agriculture and land stewardship showing that the herd is a tuberculosis-free accredited herd. Such certificate shall be revoked whenever the herd no longer meets the necessary requirements for an accredited herd, but the herd may be reinstated as an accredited herd upon subsequent compliance with such requirements.

Sec. 30. Section 165.15, Code 2011, is amended to read as follows:

**165.15 Accredited veterinarian.**

An accredited veterinarian is one who has successfully passed an examination set by the department and the federal United States department of agriculture and may make tuberculin tests of accredited herds of cattle under the uniform methods and rules governing accredited herd work which are approved by the United States department of agriculture.

DIVISION V  
ANIMAL HEALTH — BRUCELLOSIS  
CONTROL IN SWINE

Sec. 31. Section 163A.6, Code 2011, is amended to read as follows:

**163A.6 Exhibition swine.**

~~All Iowa~~ Any breeding swine four months of age and over for exhibition within ~~the this~~ state of Iowa shall meet all requirements for exhibition purposes ~~and shall also be accompanied by an official brucellosis test report showing the swine to have been negative to the brucellosis test conducted within sixty days of date of exhibition unless such swine are from validated brucellosis-free herds.~~

Sec. 32. REPEAL. Sections 163A.2, 163A.3, 163A.4, and 163A.11, Code 2011, are repealed.

DIVISION VI  
ANIMAL HEALTH — CLASSICAL SWINE FEVER

Sec. 33. Section 159.6, subsection 4, Code 2011, is amended to read as follows:

4. ~~Hog-cholera~~ Classical-swine-fever virus and classical-swine-fever serum, chapter 166.

Sec. 34. Section 163.2, subsection 5, Code Supplement 2011, is amended to read as follows:

5. "*Infectious or contagious disease*" means glanders, farcy, maladie du coit (dourine), anthrax, foot and mouth disease, scabies, ~~hog-cholera~~, classical swine fever, tuberculosis, brucellosis, vesicular exanthema, scrapie, rinderpest, avian influenza or Newcastle disease as provided in chapter 165B, pseudorabies as provided in chapter 166D, or any other transmissible, transferable, or communicable disease so designated by the department.



Sec. 35. Section 163.30, subsections 7 and 10, Code Supplement 2011, are amended to read as follows:

7. The department may require issuance of movement permits on certain categories of swine moved, prior to their movement, pursuant to ~~departmental rule~~ rules adopted by the department. The ~~rule~~ rules shall be ~~promulgated~~ adopted when in the judgment of the secretary, such ~~movements~~ movement would otherwise threaten or imperil the eradication of ~~hog cholera~~ classical swine fever in Iowa.

10. The use of ~~anti-hog cholera~~ anti-classical-swine-fever serum or antibody concentrate shall be in accordance with rules ~~issued~~ adopted by the department.

Sec. 36. Section 166.1, subsection 1, Code 2011, is amended to read as follows:

1. ~~The words "biological~~ "Biological products" shall include and be deemed to embrace only ~~anti-hog cholera~~ anti-classical-swine-fever serum and viruses which are either virulent or nonvirulent, alive or dead.

Sec. 37. Section 166.16, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~No~~ A person shall ~~not~~ sell, distribute, use, or offer to sell, distribute, or use virulent blood or virus from ~~cholera-infected hogs~~ classical-swine-fever-infected swine except for one or more of the following purposes:

Sec. 38. Section 166.16, subsection 4, Code 2011, is amended to read as follows:

4. For the purpose of manufacturing any biological products or for the purpose of producing immune ~~hogs~~ swine to be used in the production of ~~hog cholera~~ anti-classical-swine-fever serum.

Sec. 39. Section 166.41, Code 2011, is amended to read as follows:

**166.41 Hog cholera Classical-swine-fever vaccine prohibited — emergency.**

The sale or use of ~~hog cholera~~ classical-swine-fever vaccine, except as provided in section 166.16, is prohibited and it ~~a person shall be unlawful to not~~ use such products ~~a product in the this state of Iowa, except that.~~ However, in the case of an emergency as defined in section 166.42, a special permit for the use of vaccines may be issued by the secretary.

Sec. 40. Section 166.42, Code 2011, is amended to read as follows:

**166.42 Biological products reserve — use.**

1. The secretary may establish a reserve supply of biological products of approved modified live virus ~~hog cholera~~ classical-swine-fever vaccine and of ~~anti-hog cholera~~ anti-classical-swine-fever serum or its equivalent in antibody concentrate to be used as directed by the secretary in the event of an emergency resulting from a ~~hog cholera~~ classical-swine-fever outbreak. Vaccine and serum or antibody concentrate from the reserve supply, if used for such an emergency, shall be made available to swine producers at a price which will not result in a profit. Payment shall be made by the producer to the department and such vaccine shall be administered by a licensed practicing veterinarian. The secretary may cooperate with other states in the accumulation, maintenance and disbursement of such reserve supply of biological products. The secretary, with the advice and written consent of the state veterinarian, and the advice and written consent of the veterinarian-in-charge for Iowa of the animal and plant health inspection service — veterinary services, United States department of agriculture, shall determine when an emergency resulting from a ~~hog cholera~~ classical-swine-fever outbreak exists.

2. The secretary is authorized to sell or otherwise dispose of ~~such~~ classical-swine-fever vaccine and serum at such time as the state is declared a ~~hog cholera-free~~ classical-swine-fever-free state by the United States department of agriculture, or if the potency of such vaccine and serum is in doubt. Money received under provisions of this section shall be paid into the state treasury.

Sec. 41. Section 166B.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 01. "Classical swine fever" means the contagious, infectious, and communicable disease of swine commonly known as hog cholera.

Sec. 42. Section 166B.1, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 43. Section 166B.2, Code 2011, is amended to read as follows:

**166B.2 General authority.**

The department may destroy or require the destruction of any swine which the state veterinarian knows to be, or suspects is, affected with or exposed to ~~hog cholera~~ classical swine fever, whenever the department finds such destruction to be necessary to prevent or reduce the danger of the spread of ~~hog cholera~~ classical swine fever. Disposal of condemned swine shall be under the supervision of a regulatory employee. Salvage of apparently healthy marketable swine is permissible as a minimum provision and may be discontinued in favor of total herd disposition with indemnification as necessary and without such salvage in any case or at any time when it is determined by the department and the United States department of agriculture that the procedure would constitute an undue threat to the eradication program. Before being condemned and ordered to be destroyed, a positive diagnosis of ~~hog cholera~~ classical swine fever affecting the herd must be confirmed by a state or federal laboratory or personnel approved by the department and the United States department of agriculture.

Sec. 44. Section 166B.4, Code 2011, is amended to read as follows:

**166B.4 Institution of indemnification.**

It is hereby recognized and declared that indemnification for destruction of swine infected with or exposed to ~~hog cholera~~ classical swine fever is an expression of the public policy of this state but employed only in the final stages of eradication of the disease, or as a means of preventing or minimizing its recurrence. The department of ~~agriculture and land stewardship~~ shall not therefore institute an initial program of indemnification pursuant to the chapter until it is mutually agreed between the state department of ~~agriculture and land stewardship~~ and the United States department of agriculture that such action is necessary in order to carry out the ~~hog cholera~~ classical-swine-fever eradication program.

Sec. 45. Section 166B.5, Code 2011, is amended to read as follows:

**166B.5 Cooperation with United States.**

The department may cooperate with the United States, or any department, agency or officer thereof, in the control and eradication of ~~hog cholera~~ classical swine fever, including the sharing in payment of indemnities for swine destroyed.

DIVISION VII  
ANIMAL HEALTH — DAIRY CATTLE  
AFFECTED WITH JOHNE'S DISEASE

Sec. 46. Section 165A.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Infected*" means infected with ~~paratuberculosis~~ Johne's disease as provided in section 165A.3.

Sec. 47. Section 165A.1, subsection 4, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

4. "*Johne's disease*" means a disease caused by the bacterium mycobacterium paratuberculosis, and which is also referred to as paratuberculosis disease.

Sec. 48. Section 165A.3, Code 2011, is amended to read as follows:

**165A.3 Determination of infection.**

The department shall adopt rules providing methods and procedures to determine whether cattle are infected, which may include detection and analysis of ~~paratuberculosis~~ Johne's disease using techniques approved by the United States department of agriculture.

Sec. 49. Section 165A.4, Code 2011, is amended to read as follows:

**165A.4 Infected cattle.**

~~The owner of infected cattle shall mark the cattle by punching the letter "C" through the right ears of the cattle as required by the department. Cattle infected with Johne's disease shall be accompanied by an owner-shipper statement. A person shall not sell infected cattle~~

other than directly to a slaughtering establishment, or to a concentration point for sale directly to a slaughtering establishment, for immediate slaughter. Cattle ~~marked with a letter "C" infected with Johne's disease~~ that are kept at a concentration point shall be kept separate and apart.

DIVISION VIII  
ANIMAL HEALTH — TREATMENT FOR SHEEP

Sec. 50. Section 166A.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 10. "Treatment" includes but is not limited to administering medication.

Sec. 51. Section 166A.4, Code 2011, is amended to read as follows:

**166A.4 Dipping Treatment.**

All breeding and feeding sheep offered for sale or exchange or otherwise moved or released from any premises, vehicle, or conveyance, shall, within ten days prior to exchange, release, or movement, be ~~dipped~~ treated in an approved ~~dip~~ manner under the supervision of the department or the animal and plant health inspection service of the United States department of agriculture. When sheep are moved within or from a certified scabies-free area in this state, the sheep must be accompanied by a certificate of veterinary inspection as provided in chapter 163. The dipping treatment shall not be required prior to such movement. Sheep may be moved from a premises to an approved facility for the purpose of dipping treatment under such conditions as may be required by the rules of the department or the regulations of the animal and plant health inspection service of the United States department of agriculture. In addition, sheep are not required to be ~~dipped~~ treated if moved to a livestock auction market until after sale. Sheep are not required to be ~~dipped~~ treated if consigned directly for slaughter.

Sec. 52. Section 166A.6, Code 2011, is amended to read as follows:

**166A.6 Records kept.**

Market operators and dealers in sheep shall use satisfactory dipping facilities treatment, approved by the department ~~and~~. Market operators and dealers shall maintain records which show the true origin of the sheep including name and address of the seller or consignor, number, date of receipt, date of dipping treatment, and including all certificates, permits, waybills, and bills of lading for each consignment of sheep consigned to and leaving the market or dealer's premises. All records shall be retained for a period of one year and made available upon demand by a representative of the department.

Sec. 53. Section 166A.7, Code 2011, is amended to read as follows:

**166A.7 Slaughter without dipping treatment.**

Animals may be sold for slaughter without dipping treatment. Sheep when inspected at the market or dealer's premises and found free of scabies or no known exposure thereto, may be sold for slaughter purposes without dipping treatment if consigned directly and immediately on a slaughter affidavit to a slaughtering establishment operating under federal, state or municipal meat inspection service. ~~Such sheep shall be identified with the letter "K" in red branding paint at least four inches high on their back except those consigned to such slaughtering establishment by the original owner.~~

Sec. 54. Section 166A.8, Code 2011, is amended to read as follows:

**166A.8 Quarantine of infected sheep.**

1. Sheep found to be infected with or exposed to scabies shall be immediately ~~dipped~~ treated, as directed by and under the supervision of the department, at owner's expense. Such sheep shall remain under quarantine until released by the department, except that sheep infected with or exposed to scabies may be moved, without dipping treatment, directly to a slaughter establishment under federal inspection, under permit from the department. No sheep shall be moved into or within the state of Iowa for any purpose except as provided in this chapter and the regulations rules of the department, provided sheep may be moved without dipping treatment between properties owned or rented by the owner of said the sheep, if not moved from a noncertified scabies-free area to a certified scabies-free area.

2. Any person may sell or exchange sheep on the farm between November 1 and April 1 without dipping treatment if accompanied by a certificate from a licensed veterinarian that ~~they the sheep~~ are free from scabies issued within ten days prior to such sale or exchange until such time as the county is declared a scabies-free area.

Sec. 55. Section 166A.10, Code 2011, is amended to read as follows:

**166A.10 Restraint of movement.**

Sheep from noncertified scabies-free areas within this state shall not enter certified scabies-free areas unless they have been ~~dipped treated~~ in an approved ~~dip manner~~ under supervision within ten days preceding movement and satisfactory evidence of ~~dipping treatment~~ accompanies the shipment. However, such sheep may be moved into certified scabies-free areas if consigned directly to a stockyard market, auction market, or slaughter establishment, under federal inspection, provided the sheep are accompanied by a certificate of veterinary inspection stating number, description, consignor, and consignee.

Sec. 56. Section 166A.11, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. ~~Dipped Treated~~ in an approved ~~dip manner~~ within ten days prior to movement.

Sec. 57. REPEAL. Section 166A.5, Code 2011, is repealed.

DIVISION IX  
ANIMAL HEALTH — CHRONIC WASTING  
DISEASE AFFECTING FARM DEER

Sec. 58. Section 170.1, subsection 1, Code 2011, is amended to read as follows:

1. “*Chronic wasting disease*” means the animal disease afflicting deer, ~~and elk, or moose~~ that is a transmissible disease of the nervous system resulting in distinctive lesions in the brain and that belongs to the group of diseases that is known as transmissible spongiform encephalopathies (TSE).

Sec. 59. Section 170.1, subsection 4, paragraph a, Code 2011, is amended to read as follows:

a. “*Farm deer*” means an animal belonging to the cervidae family and classified as part of the dama species of the dama genus, commonly referred to as fallow deer; part of the elaphus species of the cervus genus, commonly referred to as red deer or elk; part of the virginianus species of the odocoileus genus, commonly referred to as whitetail; part of the hemionus species of the odocoileus genus, commonly referred to as mule deer; ~~or part of the nippon species of the cervus genus, commonly referred to as sika; or part of the alces species of the alces genus, commonly referred to as moose.~~

DIVISION X  
ANIMAL INDUSTRY

Sec. 60. Section 169A.11, Code 2011, is amended to read as follows:

**169A.11 Publication of brands list.**

The secretary from time to time shall ~~cause to be published in book form~~ publish on the internet a list of all brands on record at the time of the publication. ~~The secretary may supplement the lists from time to time.~~ The publication shall contain a facsimile of all brands recorded and the owner’s name and post office address. The records shall be arranged in convenient form for reference. ~~The secretary shall deliver one copy of the brand book and supplements to the sheriff of each county. The books and supplements shall be delivered without cost to the county. The books and supplements shall be public records as provided in chapter 22. The secretary may sell the books and supplements to the general public at the cost of printing and mailing each book.~~

Sec. 61. Section 172A.1, subsection 2, Code 2011, is amended to read as follows:

2. “Animals” or “livestock” includes cattle, calves, swine, ~~or sheep, goats, turkeys, chickens, or horses.~~

DIVISION XI  
AGRICULTURAL MARKETING — GENERAL

Sec. 62. Section 189.1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

For the purpose of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ unless the context otherwise requires:

Sec. 63. Section 189.1, subsections 1, 4, and 6, Code 2011, are amended to read as follows:

1. “Article” ~~includes means~~ means food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, pesticide, and paint, ~~linseed oil, turpentine, and illuminating oil,~~ in the sense in which they are defined in the various provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~

4. “Package” or “container”, unless otherwise defined, includes wrapper, box, carton, case, basket, ~~hamper,~~ can, bottle, jar, tube, cask, vessel, tub, ~~firkin,~~ keg, jug, barrel, tank, tank car, and other receptacles of a like nature; and the expression “*offered or exposed for sale or sold in package or wrapped form*” means the offering or exposing for sale, or selling of an article which is contained in a package or container as defined in this section.

6. “Person” includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~

Sec. 64. Section 189.2, Code 2011, is amended to read as follows:

**189.2 Duties.**

The department shall do all of the following:

1. Execute and enforce this subtitle, ~~except chapter 205.~~
2. ~~Make and publish~~ Adopt all necessary rules, not inconsistent with law, for enforcing the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~
3. Provide educational measures and exhibits, and conduct educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ in accordance with the rules adopted pursuant to this subtitle.
4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~ These bulletins shall be ~~printed in such numbers as may be approved by the director of the department of administrative services and shall be distributed to the newspapers of the state and to all interested persons~~ posted on the department’s internet site.

Sec. 65. Section 189.3, Code 2011, is amended to read as follows:

**189.3 Procuring samples.**

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever the department has occasion to believe any of the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

Sec. 66. Section 189.4, Code 2011, is amended to read as follows:

**189.4 Access to factories and buildings.**

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~

Sec. 67. Section 189.5, Code 2011, is amended to read as follows:

**189.5 Dealer to furnish samples.**

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

Sec. 68. Section 189.6, Code 2011, is amended to read as follows:

**189.6 Taking of samples.**

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ in order to secure a sample for analysis or examination, and the sample and damage to container shall be paid for at the current market price out of the contingent fund of the department.

Sec. 69. Section 189.7, Code 2011, is amended to read as follows:

**189.7 Preservation of sample.**

After the sample is taken, it shall be carefully sealed ~~with the seal of the department~~ and labeled with the name or brand of the article, the name of the party from whose stock it was taken, and the date and place of taking such sample. Upon request a duplicate sample, sealed and labeled in the same manner, shall be delivered to the person from whose stock the sample was taken. The label and duplicate shall be signed by the person taking the same. The method of taking samples of particular articles may be prescribed by the rules of the department.

Sec. 70. Section 189.8, Code 2011, is amended to read as follows:

**189.8 Witnesses.**

In the enforcement of the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ the department shall have power to issue subpoenas for witnesses, enforce their attendance, and examine them under oath. The witnesses shall be allowed the same fees as witnesses in district court. The fees shall be paid out of the contingent fund of the department.

Sec. 71. Section 189.9, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

All articles in package or wrapped form which are required by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of ~~not less than eight point heavy gothic caps~~ on the principal label with the following items:

Sec. 72. Section 189.11, Code 2011, is amended to read as follows:

**189.11 Labeling of mixtures — federal requirements.**

1. In addition to the requirements of section 189.9, unless otherwise provided, articles which are mixtures, compounds, combinations, blends, or imitations shall be marked as such and immediately followed, without any intervening matter and in the same size and style of type, by the names of all the ingredients contained therein, beginning with the one present in the largest proportion.

2. Notwithstanding any other requirements of this chapter or of chapter 190, ~~foods and food or food products, or pesticides,~~ labeled in conformance with the labeling requirements of the government of the United States shall be deemed to be labeled in conformance with the laws of the state of Iowa.

Sec. 73. Section 189.13, Code 2011, is amended to read as follows:

**189.13 False labels — defacement.**

A person shall not use any label required by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly

printed or marked, nor shall any person erase or deface any label required by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~

Sec. 74. Section 189.14, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ for the label of the article when offered or exposed for sale, or sold in package or wrapped form in this state.

Sec. 75. Section 189.15, Code 2011, is amended to read as follows:

**189.15 Adulterated articles.**

A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208.~~

Sec. 76. Section 189.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The following provisions apply to all licenses issued or authorized under this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208:~~

Sec. 77. Section 189.19, subsection 2, Code 2011, is amended to read as follows:

2. *Refusal and revocation.* For good and sufficient grounds the department may refuse to grant a license to any applicant; and ~~if the department~~ may revoke a license for a violation of any provision of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ or for the refusal or failure of any licensee to obey the lawful directions of the department.

Sec. 78. Section 189.20, Code 2011, is amended to read as follows:

**189.20 Injunction.**

Any person engaging in any business for which a license is required by this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

Sec. 79. Section 189.21, Code 2011, is amended to read as follows:

**189.21 Penalty.**

Unless otherwise provided, any person violating any provision of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ or any rule adopted by the department pursuant to such a provision, is guilty of a simple misdemeanor.

Sec. 80. Section 189.23, Code 2011, is amended to read as follows:

**189.23 Common carrier.**

The penalties provided in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ when the same was received by the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

Sec. 81. Section 189.24, Code 2011, is amended to read as follows:

**189.24 Report of violations.**

When it appears that any of the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ have been violated, the department ~~shall at once~~ may certify the facts to the proper county attorney, The certification shall be accompanied with a copy of the results of any analysis, examination, or inspection the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of the department.

Sec. 82. Section 189.28, Code 2011, is amended to read as follows:

**189.28 Goods for sale in other states.**

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ as to standards, purity, or labeling.

Sec. 83. Section 189.29, Code 2011, is amended to read as follows:

**189.29 Reports by dealers.**

Every person who deals in or manufactures any of the articles dealt with in this subtitle, ~~excluding chapters 203, 203C, 203D, 207, and 208,~~ shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by the department and certify to the correctness of the same.

Sec. 84. CODE EDITOR DIRECTIVE. The Iowa Code editor shall eliminate footnotes in Code chapter 189 which refer to the movement of chapters 203, 203C, 203D, 207, and 208 to title V, subtitle 4.

## DIVISION XII

### AGRICULTURAL MARKETING — GRAIN DEALER REGULATION

Sec. 85. Section 203.1, subsection 9, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

9. "Grain" means any grain for which the United States department of agriculture has established standards pursuant to the United States Grain Standards Act, 7 U.S.C. ch. 3.

Sec. 86. Section 203.1, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 13A. "United States Warehouse Act" means the United States Warehouse Act, 7 U.S.C. ch. 10.

Sec. 87. Section 203.2A, Code 2011, is amended to read as follows:

**203.2A Notice requirement for grain Grain purchasers who are not licensed grain dealers — special notice requirements.**

1. ~~A~~ This section applies to a person ~~shall not purchase~~ who is not required to be issued a license as a grain dealer pursuant to section 203.3. ~~The person shall not purchase grain from a producer for purposes of resale, milling, feeding, or processing, unless one of the following applies:~~

~~1. 2. The person is a grain dealer licensed pursuant to section 203.3. Subsection 1 does not apply to any of the following:~~

~~2. a. The A person has purchased who purchases less than fifty thousand bushels of grain from all producers in the twelve months prior to purchasing grain from the producer.~~

~~3. a. b. The A person provides who provides notice to the producer as provided in subsection 3.~~

3. a. The notice ~~shall~~ must be in the following form:

**ATTENTION TO PRODUCERS:**

~~THE PERSON PURCHASING THIS GRAIN IS NOT A LICENSED GRAIN DEALER AND THIS IS NOT A COVERED TRANSACTION ELIGIBLE FOR INDEMNIFICATION FROM THE GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND AS PROVIDED IN IOWA CODE SECTION 203D.3~~

Attention to Producers:

The person purchasing this grain is not a licensed grain dealer and this is not a covered transaction eligible for indemnification from the grain dealers and sellers indemnity fund as provided in Iowa Code section 203D.3

b. The notice ~~shall~~ must be provided to the producer prior to or at the time of the purchase. The notice may appear on a separate statement or as part of a document received by the producer, including a contract or receipt, as required by the department.

c. ~~The form of the notice shall be prescribed by the department.~~ The notice ~~shall~~ must appear in a printed boldface font in at least ten point type.



Sec. 88. Section 203.5, subsection 7, Code 2011, is amended to read as follows:

7. ~~If the department may deny a license to an applicant, if the applicant has had a license issued under this chapter or chapter 203C revoked for cause within the past three years, or the applicant has been convicted of a felony involving violations a violation of this chapter or chapter 203C, or is the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.~~

Sec. 89. Section 203.9, Code 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 4. The department may suspend or revoke the license of a grain dealer for failing to consent to a departmental inspection or cooperate with the department during an inspection as provided in this chapter.

Sec. 90. Section 203.10, Code 2011, is amended to read as follows:

**203.10 Suspension or revocation of Action affecting a license.**

1. The cessation of a grain dealer's license occurs from any of the following:

a. The revocation of the license by the department as provided in subsection 2.

b. The cancellation of the license as provided in section 203.5.

c. The expiration of the license according to the terms of the license as provided in this chapter, including a rule adopted in accordance with this chapter, pursuant to chapter 17A.

2. ~~The department may issue an order to suspend or revoke the license of a grain dealer who violates a provision of this chapter, including a rule adopted under in accordance with this chapter, as provided in pursuant to chapter 17A. If a grain dealer fails to consent to a departmental inspection or cooperate with the department during an inspection as provided in section 203.9, the department may issue an order to immediately suspend or revoke the grain dealer's license pursuant to section 17A.18.~~

Sec. 91. Section 203.12, Code 2011, is amended to read as follows:

**203.12 Claims — cessation of a license and notice of license revocation.**

1. ~~Upon revocation, termination, or the cessation of a grain dealer license by revocation, cancellation, of a grain dealer license or expiration, any claim for the purchase price of grain against the grain dealer shall be made in writing and filed with the grain dealer and with the issuer of a deficiency bond or of an irrevocable letter of credit and with the department within one hundred twenty days after revocation, termination, or cancellation the date of the cessation. Failure~~ A failure to make this timely claim relieves the issuer and the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

2. Upon the revocation of a grain dealer license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation within the state of Iowa and in a newspaper of general circulation within the county of the grain dealer's principal place of business when that dealer's principal place of business is located in the state of Iowa. The notice shall state the name and address of the grain dealer and the effective date of revocation. The notice shall also state that any claims against the grain dealer shall be made in writing and sent by ordinary mail or delivered personally within one hundred twenty days after revocation to the grain dealer, to the issuer of a deficiency bond or of an irrevocable letter of credit, and to the department, and the notice shall state that the failure to make a timely claim does not relieve the grain dealer from liability to the claimant.

Sec. 92. Section 203.12A, subsection 5, Code 2011, is amended to read as follows:

5. ~~The Iowa grain indemnity fund board, shall upon written demand of the grain dealer, shall file a termination statement with the secretary of state, if the license of the grain dealer is not revoked, terminated, or canceled after one hundred eighty days from the date that the lien is perfected the grain dealer's license has not ceased by revocation, cancellation, or expiration. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the grain dealer.~~

Sec. 93. Section 203.12B, subsection 7, paragraph c, Code 2011, is amended to read as follows:

c. Not have had a grain dealer's license issued pursuant to section 203.3 suspended or revoked as provided in section 203.10.

Sec. 94. Section 203.15, subsection 3, Code 2011, is amended to read as follows:

3. Title to all grain sold by a credit-sale contract is in the purchasing grain dealer as of the time the contract is executed, unless the contract provides otherwise. The contract must be signed and dated by both parties and executed in duplicate. One copy shall be retained by the grain dealer and one copy shall be delivered to the seller. Upon ~~revocation, termination, or cancellation~~ the cessation of the grain dealer's license ~~by revocation, cancellation, or expiration~~, the payment date for all credit-sale contracts shall be advanced to a date not later than thirty days after the effective date of the ~~revocation, termination, or cancellation~~ cessation, and the purchase price for all unpriced grain shall be determined as of the effective date of ~~revocation, termination, or cancellation~~ the cessation in accordance with all other provisions of the contract. However, if the business of the grain dealer is sold to another licensed grain dealer, credit-sale contracts may be assigned to the purchaser of the business.

Sec. 95. Section 203.15, subsection 4, paragraph b, Code 2011, is amended to read as follows:

b. A grain dealer 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. 96. Section 203.15, subsection 4, paragraph c, subparagraph (2), subparagraph division (c), Code 2011, is amended to read as follows:

(c) If an adequate replacement bond is not received by the department within sixty days of the issuance of the notice of cancellation, the department shall ~~automatically~~ suspend the grain dealer's license. The department shall cause an inspection of the licensed grain dealer immediately at the end of the sixty-day period. If a replacement bond is not filed within another thirty days following the suspension, the department shall revoke the grain dealer dealer's license ~~shall be automatically revoked~~.

Sec. 97. Section 203.15, subsection 5, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The department may ~~adopt rules to~~ suspend the right of a grain dealer to purchase grain by credit-sale contract based on any of the following conditions:

Sec. 98. Section 203.15, subsection 5, paragraphs a and b, Code 2011, are amended to read as follows:

a. The grain dealer 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 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.

DIVISION XIII  
AGRICULTURAL MARKETING — WAREHOUSE OPERATOR REGULATION

Sec. 99. Section 203C.1, subsection 11, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

11. “Grain” means the same as defined in section 203.1.

Sec. 100. Section 203C.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 25A. “United States Warehouse Act” means the same as defined in section 203.1.

Sec. 101. Section 203C.1, subsection 26, Code 2011, is amended to read as follows:

26. “Unlicensed warehouse operator” means a warehouse operator who retains grain in the warehouse not to exceed thirty days and is not licensed under the provisions of this chapter or ~~Tit. VII, U.S.C.~~ the United States Warehouse Act.

Sec. 102. Section 203C.6, subsection 7, Code 2011, is amended to read as follows:

7. ~~If The department may deny a license to an applicant, if the applicant has had a license issued under chapter 203 or this chapter revoked for cause within the past three years, or the applicant has been convicted of a felony involving violations of chapter 203 or this chapter, or the applicant is owned or controlled by a person who has had a license so revoked or who has been so convicted, the department may deny a license to the applicant.~~

Sec. 103. Section 203C.10, Code 2011, is amended to read as follows:

**203C.10 Suspension or revocation of Action affecting a license.**

1. The cessation of a warehouse operator’s license occurs from any of the following:

a. The revocation of the license by the department as provided in subsection 2.

b. The cancellation of the license as provided in section 203C.37.

c. The expiration of the license according to the terms of the license as provided in this chapter, including a rule adopted in accordance with this chapter, pursuant to chapter 17A.

2. The department may issue an order to suspend or revoke the license of a warehouse operator who violates a provision of this chapter, including a rule adopted under in accordance with this chapter, as provided in pursuant to chapter 17A.

3. ~~If The department may suspend or revoke the license of a warehouse operator fails for failing to consent to a departmental inspection during an inspection as provided in section 203C.2, the department may issue an order to immediately suspend or revoke the grain dealer’s license pursuant to section 17A.18 or cooperate with the department during an inspection as provided by this chapter.~~

Sec. 104. Section 203C.11, subsection 1, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

1. The department shall proceed under section 203C.15 if it has cause to believe that a licensed warehouse operator does not provide for and carry an insurance policy as required in that section.

Sec. 105. Section 203C.12A, subsection 5, Code 2011, is amended to read as follows:

5. The Iowa grain indemnity fund board shall upon written demand of the warehouse operator file a termination statement with the secretary of state, if ~~the license of the warehouse operator is not revoked, terminated, or canceled~~ after one hundred eighty days from the date that the lien is perfected the warehouse operator’s license has not ceased by revocation, cancellation, or expiration. Upon filing the termination statement, the lien becomes unperfected. The board shall also deliver a copy of the termination statement to the warehouse operator.

Sec. 106. Section 203C.13, subsection 3, Code 2011, is amended to read as follows:

3. A bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain shall not be canceled by the issuer on less than one hundred twenty days’ notice by certified mail to the department and the principal. When the department receives

notice from an issuer that it has canceled the bond, deficiency bond, or irrevocable letter of credit on agricultural products other than bulk grain of a warehouse operator, the department shall automatically suspend the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain if a new bond, deficiency bond, or irrevocable letter of credit is not received by the department within sixty days of the issuance of the notice of cancellation. The department shall conduct an inspection of the licensee's warehouse immediately at the end of the sixty-day period. If a new bond, deficiency bond, or irrevocable letter of credit is not provided within ninety days of the issuance of the notice of cancellation, the department shall revoke the warehouse operator's authorization to store or accept for storage agricultural products other than bulk grain. The department shall conduct a further inspection of the licensee's warehouse after the ninety-day period. When an authorization to store or accept for storage agricultural products other than bulk grain is revoked, the department shall give notice of the revocation to all known persons who have agricultural products other than bulk grain in storage, and shall notify them that the agricultural products other than bulk grain must be removed from the warehouse not later than one hundred twenty days after the issuance of the notice of cancellation. The revocation notice shall be sent by ordinary mail to the last known address of each person having agricultural products other than bulk grain in storage. The department shall cause a final inspection of the licensee's warehouse after the end of the one hundred twenty-day period.

Sec. 107. Section 203C.14, Code 2011, is amended to read as follows:

**203C.14 Suit — claims — notice of revocation.**

1. A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

2. ~~Upon revocation, termination, or cancellation of a warehouse license, a~~ the cessation of a warehouse operator's license due to revocation, cancellation, or expiration, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department. The claim must be made within one hundred twenty days after revocation, termination, or cancellation the cessation of the license. ~~Failure~~ The failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

3. Upon revocation of a warehouse license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain, deficiency bond, or an irrevocable letter of credit, and to the department within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant. This paragraph does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the department prior to the expiration of one hundred twenty days after revocation, termination, or cancellation of the license.<sup>2</sup>

Sec. 108. Section 203C.15, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

All A warehouse operator shall maintain insurance coverage as provided in this section. In order to maintain insurance coverage, all agricultural products in storage in a licensed

<sup>2</sup> See chapter 1138, §56 herein

warehouse and all agricultural products which have been deposited temporarily in a licensed warehouse pending storage or for purposes other than storage, shall be kept fully insured by the warehouse operator as provided in this section for the current value of the agricultural products against loss by fire, inherent explosion, or windstorm, or any other similar catastrophe designated by rules which may be adopted by the department.

Sec. 109. Section 203C.15, subsection 1, paragraphs a and b, Code 2011, are amended by striking the paragraphs.

Sec. 110. Section 203C.15, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. The insurance coverage required in subsection 1 shall be carried by one or more insurance companies. Such an insurance company must be all of the following:

a. Organized or operating under the laws of this state or authorized by the laws of this state to do business in this state.

b. An insurer of agricultural products in this state as provided in subsection 1.

NEW SUBSECTION. 1B. Insurance coverage may be terminated by its expiration without renewal, or canceled by the insurance company on its own volition or as a result of an action or inaction by the insured licensed warehouse operator.

NEW SUBSECTION. 1C. A licensed warehouse operator shall be responsible for providing the department with all of the following:

a. Evidence of insurance coverage as required in subsection 1A that is an insurance policy or other document approved by the department which evidences property and casualty insurance.

b. Proof of insurance which verifies that evidence of insurance coverage submitted by a licensed warehouse operator complies with subsection 1.

NEW SUBSECTION. 1D. A warehouse operator must submit evidence of insurance coverage with the department as required by the department. The department must approve the evidence of insurance coverage before the department files it. A warehouse operator shall not be issued a license or retain a license unless evidence of insurance coverage is on file with the department.

NEW SUBSECTION. 1E. The department may demand proof of insurance coverage by the licensed warehouse operator, regardless of whether the department has previously approved proof of insurance or approved or filed evidence of insurance coverage. The demand must be in writing and must explain the department's enforcement action resulting from the warehouse operator's noncompliance.

a. The licensed warehouse operator may comply to the demand by doing any of the following:

(1) Assuring the department that existing evidence of insurance coverage filed with the department complies with the requirements of this section.

(2) Obtaining additional or new insurance coverage. The licensed warehouse operator must submit and the department must approve and file the supplemental or new evidence of insurance coverage necessary to comply with the requirements of this section.

b. If the licensed warehouse operator fails to comply with the requirements of the demand letter as set out in paragraph "a", the department shall take enforcement action as follows:

(1) Thirty days after delivering the demand letter to the licensed warehouse operator, the department shall suspend the warehouse license.

(2) Forty days after delivering the demand letter to the licensed warehouse operator, the department shall revoke the warehouse license.

c. The department may inspect a licensed warehouse at any time.

d. The department shall terminate an enforcement action as provided in paragraph "b", if the licensed warehouse operator submits any proof of insurance or supplemental or new evidence of insurance which the department approves. However, this paragraph "d" applies only if the licensed warehouse operator submits the proof of insurance or evidence of insurance prior to the effective date of the revocation.

NEW SUBSECTION. 1F. An insurance company shall not cancel insurance coverage unless any of the following applies:

a. The insurance company provides the department and the licensed warehouse operator with at least ninety days' notice of cancellation by mail.

b. The insurance coverage is renewed or replaced by the licensed warehouse operator, and the department has approved and filed the evidence of insurance coverage at the time that the department would have received the mailed notice of cancellation.

NEW SUBSECTION. 1G. The department shall take enforcement action against a licensed warehouse whose insurance coverage has been terminated by cancellation or expiration.

a. The department shall suspend the warehouse license. The suspension shall take effect on the date that the insurance coverage terminates. However, the department shall terminate the suspension if the licensed warehouse operator submits proof of insurance or any renewed or new evidence of insurance coverage to the department. In addition, all of the following requirements apply:

(1) The department must receive the proof of insurance or evidence of insurance coverage within ten days after the effective date of the suspension.

(2) The department must approve the proof of insurance or evidence of insurance coverage.

b. The department shall revoke the warehouse license. The revocation shall take effect eleven days after the effective date of the suspension, unless the suspension is terminated as provided in paragraph "a".

Sec. 111. Section 203C.16, subsection 1, Code 2011, is amended to read as follows:

1. ~~The acceptance and storage of bulk grain by a person bonded and licensed under the provisions of a federal law, to the extent that the person is authorized under federal law to accept and store bulk grain~~ United States Warehouse Act. However, the person shall comply with all other provisions of this chapter which do not conflict with such federal law.

Sec. 112. Section 203C.17, subsection 8, paragraphs a and c, Code 2011, are amended to read as follows:

a. ~~Every~~ At least once each year, a licensed warehouse operator shall, on or before July 1 of each year, send a statement for to each holder of a warehouse receipt covering grain held stored at the licensed warehouse operator's licensed warehouse for more than one year at that warehouse to. The statement shall be delivered in person or mailed to the holder's last known address. The statement shall show the amount of all grain held stored pursuant to a warehouse receipt for such warehouse receipt holder and the amount of any storage charges held by the licensed warehouse operator against that grain. However, a licensed warehouse operator need not prepare this annual statement for a holder of a warehouse receipt, if the licensed warehouse operator prepares such statements monthly, quarterly or for any other period more frequent than annually.

c. ~~Violation~~ A violation of this section shall not constitute grounds for the suspension, or revocation, or modification of the a warehouse operator's license of anyone licensed under this chapter.

Sec. 113. Section 203C.18, subsection 1, paragraph c, Code 2011, is amended to read as follows:

c. A statement that the receipt is issued subject to ~~the Iowa warehouse Act and the rules and regulations prescribed pursuant to this chapter.~~

Sec. 114. Section 203C.18, subsection 3, Code 2011, is amended to read as follows:

3. ~~Forms~~ A form for a warehouse receipts receipt shall only be printed by a person approved by the department. A form for a warehouse receipt shall be printed in accordance with specifications set forth by the department. A form warehouse operator shall surrender to the department all forms for a warehouse receipt receipts that is are unused at the time that a the warehouse operator's license is canceled, suspended, revoked, or terminated shall be surrendered to the department or ceases due to revocation, cancellation, or expiration. The warehouse operator shall surrender the warehouse receipts in a manner required by the department.

Sec. 115. Section 203C.30, Code 2011, is amended to read as follows:

**203C.30 Inspecting and grading.**

Grain, ~~flaxseed~~, or any other fungible agricultural product stored in a warehouse licensed under this chapter for which no separate compartment is provided, and its identity preserved, shall be inspected and graded.

Sec. 116. Section 203C.39, Code 2011, is amended to read as follows:

**203C.39 Grain stored in another warehouse.**

A licensed warehouse operator may store grain in ~~any other~~ an alternative warehouse located in Iowa licensed in accordance with section 203C.6 or the United States Warehouse Act, 7 U.S.C. ch. 10, subject to the following conditions: or another state as provided in this section.

1. a. The alternative warehouse located in Iowa must be another licensed warehouse or a warehouse licensed pursuant to the United States Warehouse Act.

b. The alternative warehouse located in another state must be licensed pursuant to the applicable laws of the state in which the alternative warehouse is located or the United States Warehouse Act. A warehouse operator shall not store grain in an alternative warehouse located in another state, unless approved in writing by the department in a manner required by the department.

2. In storing grain in an alternative warehouse under subsection 1, all of the following requirements apply:

a. The warehouse operator must obtain from such warehouse operator a nonnegotiable warehouse receipt and such receipt must show clearly the following notation:

~~“Held~~ Held in trust for depositors ~~of”~~ of (name of original receiving warehouse).

2. b. When the licensed warehouse operator begins to use the ~~additional facilities described in this section~~ alternative warehouse, the licensed warehouse operator must have sufficient net worth under section 203C.6 or provide a deficiency bond or an irrevocable letter of credit to cover the increase in the licensed warehouse operator’s gross capacity.

3. A licensed warehouse operator may transfer grain for storage to another licensed warehouse operator while the warehouse operator receiving such grain has grain stored elsewhere under the provisions of this section.

Sec. 117. REPEAL. Section 203C.27, Code 2011, is repealed.

DIVISION XIV

AGRICULTURAL MARKETING — GRAIN DEPOSITORS AND SELLERS INDEMNITY FUND

Sec. 118. Section 203D.1, subsection 7, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:

7. “Grain” means the same as defined in section 203.1.

Sec. 119. Section 203D.6, subsection 2, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) ~~The revocation, termination, or cancellation~~ cessation of the license of the grain dealer as described in section 203.10 or warehouse operator as described in section 203C.10.

DIVISION XV

PESTICIDE REGULATION — CERTIFICATION

Sec. 120. Section 206.2, subsection 25, Code 2011, is amended to read as follows:

25. a. “Public applicator” means an individual who applies pesticides as an employee of a state agency, county, municipal corporation, or other governmental agency.

b. This term “Public applicator” does not include employees an employee who work works only under the direct supervision of a public applicator.

Sec. 121. Section 206.5, subsection 2, paragraph a, Code 2011, is amended to read as follows:

~~a. A commercial applicator shall choose between a one-year certification for which the applicator shall pay a thirty dollar fee or a three-year certification for which the applicator shall pay a seventy-five dollar fee for a three-year certification. A public applicator shall choose between a one-year certification for which the applicator shall pay a ten dollar fee or a three-year certification for which the applicator shall pay a fifteen dollar fee. A public applicator or a private applicator shall pay a fifteen dollar fee for a three-year certification.~~

Sec. 122. Section 206.5, subsection 7, paragraph b, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The department shall adopt rules providing for the program requirements which shall at least may include the safe handling, application, and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon the groundwater.

Sec. 123. Section 206.5, subsection 7, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 124. Section 206.6, subsection 5, paragraph c, Code 2011, is amended to read as follows:

c. 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 as provided in section 206.5,~~ unless it has been revoked or suspended 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. 125. APPLICABILITY — CURRENT CERTIFICATIONS. Notwithstanding section 206.5, as amended in this division of this Act, a certification issued to a commercial applicator or a public applicator prior to the effective date of this division of this Act shall expire according to section 206.5, Code 2011, as that section existed immediately prior to the effective date of this division of this Act.

#### DIVISION XVI PESTICIDE REGULATION — LICENSURE

Sec. 126. Section 206.6, subsection 5, paragraph a, subparagraph (3), Code 2011, is amended to read as follows:

(3) An applicant applying for a license to engage in aerial application of pesticides must ~~meet all of~~ demonstrate compliance with 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.

Sec. 127. Section 206.8, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A The annual license fee for a pesticide dealer ~~shall pay~~ is due and payable by June 30 of each year to the department ~~an~~. The annual license fee is based on the gross retail sales of all pesticides sold for use in this state by the dealer in the previous year. The license fee shall be set as follows:

Sec. 128. Section 206.10, Code 2011, is amended to read as follows:

**206.10 License renewals — delinquent fee.**

~~1. If the application for renewal of a license provided for in this chapter, other than a pesticide dealer license,~~ is not filed prior to the first of January in any year, a delinquent fee of twenty-five percent shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued. A delinquent fee does not apply if



the applicant furnishes an affidavit certifying that the applicant has not applied pesticides after the expiration of the applicant's license. All licenses issued under this chapter expire December 31 each year.

2. However, a Subsection 1 does not apply to any of the following:

a. A license issued to a pesticide dealer that expires as provided in section 206.8.

b. A certificate issued to a certified applicator that expires as provided in section 206.5.

Sec. 129. Section 206.13, Code 2011, is amended to read as follows:

**206.13 Evidence of financial responsibility required by commercial applicator.**

1. The department shall not issue a commercial applicator's license as required in section 206.6 until the applicant has furnished evidence of financial responsibility with the department. The evidence of financial responsibility shall consist of a surety bond, a liability insurance policy, or an irrevocable letter of credit issued by a financial institution. The department may accept a certification of the evidence of financial responsibility. The evidence of financial responsibility shall pay the amount that the beneficiary is legally obligated to pay as damages caused by the pesticide operations of the applicant. However, the evidence of financial responsibility does not apply to damages or an injury which is expected or intended from the standpoint of the beneficiary. A liability insurance policy shall be subject to the insurer's policy provisions filed with and approved by the commissioner of insurance. The evidence of financial responsibility need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicant.

2. The amount of the evidence of financial responsibility as provided for in this section shall be not less than two hundred fifty thousand dollars for property damage and public liability insurance, each separately. The evidence of financial responsibility shall be maintained at not less than that amount at all times during the licensed period. The department shall be notified ten days prior to any reduction in the surety bond or liability insurance made at the request of the applicant or cancellation of the surety bond by the surety or the liability insurance by the insurer. The department shall be notified ninety days prior to any reduction of the amount of the irrevocable letter of credit at the request of the applicant or the cancellation of the irrevocable letter of credit by the financial institution. The total and aggregate liability of the surety, insurer, or financial institution for all claims shall be limited to the face of the surety bond, liability insurance policy, or irrevocable letter of credit.

DIVISION XVII  
PESTICIDE REGULATION — REGISTRATION

Sec. 130. Section 139A.21, subsection 7, Code 2011, is amended by striking the subsection.

Sec. 131. Section 206.2, subsection 28, Code 2011, is amended to read as follows:

28. "*State restricted use pesticide*" means a pesticide which is restricted for sale, use, or distribution under section ~~455B.491~~ 206.20.

Sec. 132. Section 206.11, subsection 1, paragraph e, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Any pesticide which contains any substance or substances in quantities highly toxic to humans; determined as provided in section ~~206.6~~ 206.12, unless the label shall bear, in addition to any other matter required by this chapter:

Sec. 133. Section 206.12, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The secretary shall provide for a three-month grace period for registration.

Sec. 134. Section 206.12, subsection 2, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 135. Section 206.12, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 136. Section 206.21, subsection 2, Code 2011, is amended to read as follows:

2. a. ~~For the purpose of carrying out the provisions and the requirements of this chapter and the rules made and notices given pursuant thereto, the~~ The secretary or, including the secretary's authorized agents, inspectors, or employees, may enter into or upon any place during reasonable business hours in order to ~~take do any of the following:~~

(1) Take periodic random samples for chemical examinations of pesticides and devices ~~and to open.~~

(2) Open any bundle, package or other container containing or believed to contain a pesticide in order to determine whether the pesticide or device complies with the requirements of this chapter.

(3) Monitor the use of or review the pesticide application.

b. Methods of analysis shall be those currently used by the association of official agricultural chemists.

#### DIVISION XVIII COAL MINING

Sec. 137. Section 207.2, subsection 10, Code 2011, is amended to read as follows:

10. ~~"Prime farmland" has means~~ means the same ~~meaning~~ as prescribed by the United States ~~secretary department of agriculture and published in the federal register on January 31, 1978 pursuant to 7 C.F.R. § 567.5(a).~~

#### DIVISION XIX WEIGHTS AND MEASURES — GENERAL

Sec. 138. Section 215.1, Code 2011, is amended to read as follows:

##### **215.1 Duty to inspect Inspections.**

The department shall regularly inspect all commercial weighing and measuring devices, and when a complaint is made to the department that any false or incorrect weights or measures are being made, the department shall inspect the commercial weighing and measuring devices which caused the complaint. The department may inspect prepackaged goods to determine the accuracy of their recorded weights.

Sec. 139. Section 215.4, Code 2011, is amended to read as follows:

##### **215.4 Tag for inaccurate or incorrect device — reinspection — fee.**

A commercial weighing and measuring device found to be inaccurate or incorrect upon inspection by the department shall be rejected or tagged "condemned until repaired" and the "licensed for commercial use" inspection sticker shall be removed. If notice is received by the department that the device has been repaired and upon reinspection the device is found to be accurate or correct, the license fee shall not be charged for the reinspection. However, a second license fee shall be charged if upon reinspection the device is found to be inaccurate. The device shall be tagged "condemned" and removed from service if a third reinspection fails.

Sec. 140. Section 215.7, Code 2011, is amended to read as follows:

##### **215.7 Transactions by false weights or measures.**

Any ~~A~~ person shall be deemed to have violated the provisions of this chapter and shall be punished as provided in chapter 189, if any of the following apply:

1. ~~If such~~ The person sell ~~sells, trade trades, deliver delivers, charge charges~~ for or ~~claim claims~~ to have delivered to a purchaser an amount of any commodity which is less in weight or measure than that which is asked for, agreed upon, claimed to have been delivered, or noted on the delivery ticket.

2. ~~If such~~ The person make ~~makes~~ a settlement for or ~~enter enters~~ credit, based upon any false weight or measurement, for any commodity purchased.

3. ~~If such~~ The person make ~~makes~~ a settlement for or ~~enter enters~~ a credit, based upon any false weight or measurement, for any labor where the price of producing or mining is determined by weight or measure.

4. ~~If such~~ The person record records a false weight or measurement upon the weight ticket or book.

Sec. 141. Section 215.9, Code 2011, is amended to read as follows:

**215.9 Power of cities political subdivision limited.**

~~Commodities~~ A commodity weighed upon any scale bearing ~~the inspection card, a sticker~~ issued by the department, shall not be required to be reweighed as required by any ordinance of any political subdivision including but not limited to a city, nor shall their a commodity's sale, at the weights so ascertained, and because thereof, be, by such ordinance, prohibited or restricted.

Sec. 142. Section 215.14, subsection 3, Code 2011, is amended to read as follows:

3. ~~After~~ Before approval by the department, the specifications for a commercial weighing and measuring device shall be furnished to the purchaser of the device by the manufacturer. The approval shall be based upon the recommendation of the United States national institute of standards and technology.

Sec. 143. Section 215.26, subsection 1, Code 2011, is amended to read as follows:

1. "*Commercial weighing and measuring device*" means a weight or measure or weighing or measuring device used to establish size, quantity, area or other quantitative measurement of a commodity sold by weight or measurement, or where the price to be paid for producing the commodity is based upon the weight or measurement of the commodity. The term includes an accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation may affect the accuracy of the device. "*Commercial weighing and measuring device*" includes a public scale or a commercial scanner.

Sec. 144. Section 215.26, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 1A. "*Department*" means the department of agriculture and land stewardship.

DIVISION XX  
WEIGHTS AND MEASURES — STATE METROLOGIST

Sec. 145. Section 213.2, Code 2011, is amended to read as follows:

**213.2 Physical standards.**

Weights and measures, which conform to the standards of the United States national institute of standards and technology existing as of January 1, 1979, that are traceable to the United States standards supplied by the federal government or approved as being in compliance with its standards by the national bureau of standards shall be the state primary standard of weights and measures. Such weights and measures shall be verified upon initial receipt of same and as often as deemed necessary by the secretary of agriculture. The secretary may provide for the alteration in the state primary standard of weights and measures in order to maintain traceability with the standard of the United States national ~~bureau~~ institute of standards and technology. All such alterations shall be made pursuant to rules promulgated by the secretary in accordance with chapter 17A.

DIVISION XXI  
WEIGHTS AND MEASURES — FUEL

Sec. 146. Section 214.1, subsection 3, Code 2011, is amended to read as follows:

3. "*Motor fuel blender pump*" or "*blender pump*" means a motor fuel ~~pump~~ meter 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.

Sec. 147. Section 214.1, subsection 4, Code 2011, is amended to read as follows:

4. “*Motor fuel pump*” means a ~~pump~~, meter, or similar commercial weighing and measuring device used to measure and dispense motor fuel originating from a motor fuel storage tank, on a retail basis.

Sec. 148. Section 214.11, Code 2011, is amended to read as follows:

**214.11 Inspections — recalibrations — penalty.**

1. ~~The department of agriculture and land stewardship~~ shall provide for annual inspections of all motor fuel pumps, including but not limited to motor fuel blender pumps, licensed under this chapter. Inspections shall be for the purpose of determining the accuracy of the pumps’ measuring mechanisms, and for such purpose the department’s inspectors may enter upon the premises of any wholesale dealer or retail dealer, as they are defined in section 214A.1, of motor fuel or fuel oil within this state. Upon completion of an inspection, the inspector shall affix the department’s seal to the measuring mechanism of the motor fuel pump. The seal shall be appropriately marked, dated, and recorded by the inspector. If the owner of an inspected and sealed motor fuel pump is registered with the department as a servicer in accordance with section 215.23, or employs a person so registered as a servicer, the owner or other servicer may open the motor fuel pump, break the department’s seal, recalibrate the measuring mechanism if necessary, and reseal the motor fuel pump as long as the department is notified of the recalibration within forty-eight hours, on a form provided by the department.

2. A person violating a provision of this section is, upon conviction, guilty of a simple misdemeanor.

DIVISION XXII

IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
BOARD

Sec. 149. Section 455G.4, subsection 1, paragraph a, subparagraphs (4) and (5), Code Supplement 2011, are amended to read as follows:

(4) ~~Two~~ Three 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. ~~The two~~ A public member shall member may have experience in either, or both, financial markets or insurance.

(5) ~~Two~~ Three owners or operators appointed by the governor, two of which shall be designated as follows:

(a) One member shall be an owner or operator who is self-insured.

(b) One member shall be a member of the petroleum marketers and convenience stores of Iowa or its designee.

Approved April 19, 2012

**CHAPTER 1096**

HUNTING, FUR DEALER, FUR HARVESTER, AND FISHING LICENSES

*S.F. 2317*

**AN ACT** relating to the issuance of hunting, fur dealer, fur harvester, and fishing licenses, providing for fees, and including effective date provisions.

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

Section 1. Section 461C.8, subsection 3, Code 2011, is amended to read as follows:

3. A hunter who participates in urban deer control pursuant to this section shall be otherwise qualified to hunt deer in this state, have purchase a hunting license and pay that includes the wildlife habitat fee, and obtain a special deer hunting license valid only for the dates, locations, and type of deer specified on the license. Special deer hunting licenses issued pursuant to this section shall be available only to residents and shall cost the same as deer hunting licenses issued during general deer seasons. The commission may establish procedures for issuing more than one license per person as necessary to achieve the purposes of urban deer control, and the cost of each additional license shall be ten dollars.

Sec. 2. Section 481A.72, Code 2011, is amended to read as follows:

**481A.72 Hooks and lines.**

1. A person shall not at any time take from the waters of the state any fish, except as otherwise provided in this chapter, except with hook, line, and bait, nor shall a person use more than ~~two~~ three lines nor more than two hooks on each line in still fishing or trolling, and in fly fishing not more than two flies may be used on one line, and in trolling and bait casting not more than two trolling spoons or artificial bait may be used on one line.

2. A person shall not leave fish line or lines and hooks in the water unattended by being out of visual sight of the lines and hooks.

3. One hook means a single, double, or treble pointed hook, and all hooks attached as a part of an artificial bait or lure shall be counted as one hook.

Sec. 3. Section 481A.93, subsection 2, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

(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 purchase a hunting license and pay that includes the wildlife habitat fee as provided in section 483A.1 if applicable. If the accompanying person is not required to have a hunting license the person is not required to pay the wildlife habitat fee. 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.

Sec. 4. Section 481C.2A, subsection 1, paragraph d, Code Supplement 2011, is amended to read as follows:

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 purchase a hunting license, pay that includes the wildlife habitat fee, and pay the one dollar fee for the purpose of the deer herd population management program.

Sec. 5. Section 483A.1, Code 2011, is amended to read as follows:

**483A.1 Licenses — fees.**

Except as otherwise provided in this chapter, a person shall not fish, trap, hunt, pursue, catch, kill, take in any manner, use, have possession of, sell, or transport all or a part of any wild animal, bird, game, or fish, the protection and regulation of which is desirable for the conservation of resources of the state, without first obtaining a license for that purpose and the payment of a fee as follows:

1. Residents:

- a. Fishing license, annual .....\$ 17.00
- b. Fishing license, three-year .....\$ 51.00
- c. Fishing license, seven-day .....\$ 11.50

<u>d.</u>	Fishing license, one-day .....	\$ 7.50
<u>e.</u>	Third line fishing permit, annual .....	\$ 10.00
<del>b.</del> <u>f.</u>	Fishing license, lifetime, sixty-five years or older .....	\$ 50.50
<u>e.</u> <u>g.</u>	Hunting license, annual, not including the wildlife habitat fee .....	\$ 17.00
<u>h.</u>	Hunting license, annual, including the wildlife habitat fee .....	\$ 28.00
<u>i.</u>	Hunting license, three-year, including the wildlife habitat fees .....	\$ 84.00
<del>d.</del> <u>j.</u>	Hunting license, lifetime, sixty-five years or older .....	\$ 50.50
<u>k.</u>	Combination hunting and fishing license, annual, including the wildlife habitat fee .....	\$ 45.00
<u>e.</u> <u>l.</u>	Deer hunting license .....	\$ 25.50
<u>f.</u> <u>m.</u>	Wild turkey hunting license .....	\$ 22.50
<u>g.</u> <u>n.</u>	Fur harvester license, annual, not including the wildlife habitat fee, sixteen years or older .....	\$ 20.50
<u>o.</u>	Fur harvester license, annual, including the wildlife habitat fee, sixteen years or older .....	\$ 31.50
<del>k.</del> <u>p.</u>	Fur harvester license, annual, not including the wildlife habitat fee, under sixteen years of age .....	\$ 5.50
<u>i.</u> <u>q.</u>	Fur dealer license .....	\$225.50
<u>j.</u> <u>r.</u>	Aquaculture unit license .....	\$ 25.50
<u>k.</u> <u>s.</u>	Retail bait dealer license .....	\$ 30.50
<u>l.</u>	Fishing license, seven-day .....	\$ 11.50
<del>m.</del> <u>t.</u>	Trout fishing fee .....	\$ 10.50
<del>n.</del> <u>u.</u>	Game breeder license .....	\$ 15.50
<del>o.</del> <u>v.</u>	Taxidermy license .....	\$ 15.50
<del>p.</del> <u>w.</u>	Falconry license .....	\$ 20.50
<del>q.</del> <u>x.</u>	Wildlife habitat fee .....	\$ 11.00
<u>r.</u> <u>y.</u>	Migratory game bird fee .....	\$ 8.00
<u>s.</u>	Fishing license, one-day .....	\$ 7.50
<u>t.</u> <u>z.</u>	Wholesale bait dealer license .....	\$125.00
<u>u.</u> <u>aa.</u>	Boundary waters sport trotline license, annual .....	\$ 20.50
2. Nonresidents:		
<u>a.</u>	Fishing license, annual .....	\$ 39.00
<u>b.</u>	Fishing license, seven-day .....	\$ 30.00
<u>c.</u>	Fishing license, three-day .....	\$ 15.50
<u>d.</u>	Fishing license, one-day .....	\$ 8.50
<u>e.</u>	Third line fishing permit, annual .....	\$ 10.00
<u>e.</u> <u>f.</u>	Hunting license, annual, including the wildlife habitat fee, eighteen years of age or older .....	\$110.00 121.00
<u>d.</u> <u>g.</u>	Hunting license, annual, including the wildlife habitat fee, under eighteen years of age .....	\$ 30.00 41.00
<u>e.</u> <u>h.</u>	Deer hunting license, antlered or any sex deer .....	\$295.00
<u>f.</u> <u>i.</u>	Preference point issued under section 483A.7, subsection 3, paragraph "b", or section 483A.8, subsection 3, paragraph "e" .....	\$ 50.00
<u>g.</u> <u>j.</u>	Deer hunting license, antlerless deer only, required with the purchase	

of an antlered or any sex deer hunting license .....	\$125.00
<del>h.</del> <u>k.</u> Deer hunting license, antlerless deer only .....	\$225.00
<del>i.</del> <u>l.</u> Holiday deer hunting license issued under section 483A.8, subsection 6, antlerless deer only .....	\$ 75.00
<del>j.</del> <u>m.</u> Wild turkey hunting license .....	\$100.00
<del>k.</del> <u>n.</u> Fur harvester license, including the wildlife habitat fee .....	\$200.00
	211.00
<del>l.</del> <u>o.</u> Fur dealer license, annual .....	\$501.00
<del>p.</del> <u>r.</u> Fur dealer license, one day, one location .....	\$250.00
<del>m.</del> <u>q.</u> Location permit for fur dealers .....	\$ 56.00
<del>n.</del> <u>r.</u> Aquaculture unit license .....	\$ 56.00
<del>o.</del> <u>s.</u> Retail bait dealer license <del>or the</del> .....	\$125.00
or the amount for the same type of license in the nonresident's state, whichever is greater	
<del>t.</del> <u>w.</u> Wholesale bait dealer license .....	\$250.00
or the amount for the same type of license in the nonresident's state, whichever is greater	
<del>p.</del> <u>u.</u> Trout fishing fee .....	\$ 13.00
<del>q.</del> <u>v.</u> Game breeder license .....	\$ 26.00
<del>r.</del> <u>w.</u> Taxidermy license .....	\$ 26.00
<del>s.</del> <u>x.</u> Falconry license .....	\$ 26.00
<del>t.</del> <u>y.</u> Wildlife habitat fee .....	\$ 11.00
<del>u.</del> <u>z.</u> Migratory game bird fee .....	\$ 8.00
<del>v.</del> <u>aa.</u> Fishing license, three-day .....	\$ 15.50
<del>w.</del> <u>bb.</u> Wholesale bait dealer license .....	\$250.00
or the amount for the same type of license in the nonresident's state, whichever is greater	
<del>x.</del> <u>cc.</u> Fishing license, one-day .....	\$ 8.50
<del>y.</del> <u>dd.</u> Boundary waters sport trotline license, annual .....	\$ 40.50

Sec. 6. Section 483A.3, Code 2011, is amended to read as follows:

**483A.3 Wildlife habitat fee.**

1. a. A resident or nonresident person required to have a hunting or fur harvester license shall not hunt or trap unless the person ~~has paid~~ purchases a hunting or fur harvester license that includes the wildlife habitat fee. ~~This section shall not apply to residents~~

b. Residents who have permanent disabilities or who are younger than sixteen or older than sixty-five years of age may purchase a hunting or fur harvester license that does not include the wildlife habitat fee. ~~Wildlife~~

c. Eleven dollars of the fee paid for each resident or nonresident hunting or fur harvester license that includes the wildlife habitat fee shall be designated as a wildlife habitat fee.

d. All wildlife habitat fees shall be administered in the same manner as hunting and fur harvester licenses except all revenue derived from wildlife habitat fees shall be used within the state of Iowa for habitat development and shall be deposited in the state fish and game protection fund, except as provided in subsection 2. The revenue may be used for the matching of federal funds. The revenues and any matched federal funds shall be used for acquisition of land, leasing of land, or obtaining of easements from willing sellers for use as wildlife habitats. Notwithstanding the exemption provided by section 427.1, any land acquired with the revenues and matched federal funds shall be subject to the full consolidated

levy of property taxes which shall be paid from those revenues. In addition the revenue may be used for the development and enhancement of wildlife lands and habitat areas.

e. Not less than fifty percent of all revenue from wildlife habitat fees shall be used by the commission to enter into agreements with county conservation boards or other public agencies in order to carry out the purposes of this section. The state share of funding of those agreements provided by the revenue from wildlife habitat fees shall not exceed seventy-five percent.

2. Up to sixty percent of the revenues from wildlife habitat fees which are not required under subsection 1 to be used by the commission to enter into agreements with county conservation boards or other public agencies may be credited to the wildlife habitat bond fund as provided in section 483A.53.

3. Notwithstanding subsections 1 and 2, any increase in wildlife habitat fee revenues received on or after July 1, 2007, pursuant to this section as a result of wildlife habitat fee increases pursuant to 2007 Iowa Acts, ch. 194, shall be used by the commission only for the purpose of the game bird habitat development program as provided in section 483A.3B. The commission shall not reduce on an annual basis for these purposes the amount of other funds being expended as of July 1, 2007.

4. A three-year hunting license purchased pursuant to section 483A.1, subsection 1, paragraph "i", includes the payment of a wildlife habitat fee for each of the three years for which the license is valid and those fees shall be used as provided in this section.

Sec. 7. Section 483A.3A, Code 2011, is amended to read as follows:

**483A.3A Fish habitat development funding.**

Three dollars from each resident and nonresident annual and seven-day fishing license and nine dollars from each resident three-year fishing license sold shall be deposited in the state fish and game protection fund and shall be used within this state for fish habitat development. Not less than fifty percent of this amount shall be used by the commission to enter into agreements with county conservation boards to carry out the purposes of this section.

Sec. 8. Section 483A.7, subsection 1, Code 2011, is amended to read as follows:

1. A resident hunting wild turkey who is required to have a license must ~~have purchase~~ a resident hunting license that includes the wildlife habitat fee in addition to the wild turkey hunting license ~~and must pay the wildlife habitat fee~~. Upon application and payment of the required fees for archery-only licenses, a resident archer shall be issued two wild turkey licenses for the spring season.

Sec. 9. Section 483A.7, subsection 3, Code 2011, is amended to read as follows:

3. *a.* A nonresident wild turkey hunter is required to ~~have purchase~~ a nonresident hunting license that includes the wildlife habitat fee and a nonresident wild turkey hunting license ~~and pay the wildlife habitat fee~~. The commission shall annually limit to two thousand three hundred licenses the number of nonresidents allowed to have wild turkey hunting licenses. Of the two thousand three hundred licenses, one hundred fifty licenses shall be valid for hunting with muzzle loading shotguns only. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

*b.* The commission shall assign one preference point to a nonresident whose application for a nonresident wild turkey hunting license is denied due to limitations on the number of nonresident wild turkey hunting licenses available for issuance that year. An additional preference point shall be assigned to that person each subsequent year the person's license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph "~~f~~" "i". The first nonresident wild turkey hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident wild turkey hunting licenses have been issued. If a



nonresident applicant receives a wild turkey hunting license, all of the applicant's assigned preference points at that time shall be removed.

Sec. 10. Section 483A.8, subsection 1, Code Supplement 2011, is amended to read as follows:

1. A resident hunting deer who is required to have a hunting license must have purchase a resident hunting license that includes the wildlife habitat fee, in addition to the deer hunting license and ~~must pay the wildlife habitat fee~~. In addition, a resident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

Sec. 11. Section 483A.8, subsection 3, paragraphs a, b, and e, Code Supplement 2011, are amended to read as follows:

a. A nonresident hunting deer is required to have purchase a nonresident hunting license that includes the wildlife habitat fee and a nonresident deer hunting license and ~~must pay the wildlife habitat fee~~. In addition, a nonresident who purchases a deer hunting license shall pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

b. A nonresident who purchases an antlered or any sex deer hunting license pursuant to section 483A.1, subsection 2, paragraph "e" "h", is required to purchase an antlerless deer only deer hunting license at the same time, pursuant to section 483A.1, subsection 2, paragraph "g" "j".

e. The commission shall assign one preference point to a nonresident whose application for a nonresident antlered or any sex deer hunting license is denied due to limitations on the number of nonresident antlered or any sex deer hunting licenses available for issuance that year. An additional preference point shall be assigned to that person each subsequent year the person's license application is denied for that reason. A nonresident may purchase additional preference points pursuant to section 483A.1, subsection 2, paragraph "f" "i". The first nonresident antlered or any sex deer hunting license drawing each year shall be made from the pool of applicants with the most preference points and continue to pools of applicants with successively fewer preference points until all available nonresident antlered or any sex deer hunting licenses have been issued. If a nonresident applicant receives an antlered or any sex deer hunting license, all of the applicant's assigned preference points at that time shall be removed.

Sec. 12. Section 483A.8, subsection 6, Code Supplement 2011, is amended to read as follows:

6. The commission shall provide by rule for the annual issuance to a nonresident of a nonresident antlerless deer hunting license that is valid for use only during the period beginning on December 24 and ending at sunset on January 2 of the following year and costs seventy-five dollars. A nonresident hunting deer with a license issued under this subsection shall be otherwise qualified to hunt deer in this state and shall have purchase a nonresident hunting license, ~~pay that includes the wildlife habitat fee~~, and pay the one dollar fee for the purpose of deer herd population management as provided in subsection 3. Pursuant to this subsection, the commission shall make available for issuance only the remaining nonresident antlerless deer hunting licenses allocated under subsection 3 that have not yet been issued for the current year's nonresident antlerless deer hunting seasons.

Sec. 13. Section 483A.8B, Code 2011, is amended to read as follows:

**483A.8B Senior crossbow deer hunting licenses.**

1. A person who is a resident and who is seventy years of age or older may be issued one special senior statewide antlerless deer only crossbow deer hunting license to hunt deer during bow season as established by rule by the commission. A person who obtains a license to hunt deer under this section is not required to pay the wildlife habitat fee but shall be otherwise qualified to hunt deer in this state and shall have purchase a resident hunting license that does not include the wildlife habitat fee.

2. A person may obtain a license under this section in addition to a statewide antlered or any sex deer hunting bow season license. Season dates, shooting hours, limits, license quotas, and other regulations for this license shall be the same as set forth by the commission by rule for bow season deer hunts.

Sec. 14. Section 483A.8C, subsection 2, Code 2011, is amended to read as follows:

2. A person who obtains a deer hunting license under this section is not required to pay the wildlife habitat fee but shall purchase a deer hunting license and hunting license that does not include the wildlife habitat fee, be otherwise qualified to hunt, and pay a one dollar fee that shall be used and is appropriated for the purpose of deer herd population management, including assisting with the cost of processing deer donated to the help us stop hunger program administered by the commission.

Sec. 15. Section 483A.9A, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commission shall offer to residents a combination package of an annual fishing license and an annual hunting license, as provided in section 483A.1, subsection 1, the cost of which includes the wildlife habitat fee.

Sec. 16. Section 483A.17, Code 2011, is amended to read as follows:

**483A.17 Tenure of license.**

Every license, except as otherwise provided in this chapter, is valid from the date issued to January 10 of the succeeding calendar year for which it is issued. A license shall not be issued prior to December 15 for the subsequent calendar year except for a three-year fishing license or a three-year hunting license issued to a resident pursuant to section 483A.1, subsection 1.

Sec. 17. Section 483A.24, subsections 3 and 4, Code Supplement 2011, 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 economic development authority, or their designees. The licenses provided pursuant to 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 purchase of a nonresident hunting license that includes the wildlife habitat fee and the purchase of a 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 economic development authority, or their designees. The licenses provided pursuant to 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 purchase of a nonresident hunting license that includes the wildlife habitat fee and the purchase of a 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. 18. Section 483A.24, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. A resident of the state under sixteen years of age is not required to have a fur harvester license to accompany the minor's parent or guardian, or any other competent adult with the consent of the minor's parent or guardian, while the parent or guardian or other adult is hunting raccoons so long as the minor is not hunting and does not carry or use a firearm or any other weapon.

Sec. 19. Section 483A.24, subsection 10, paragraph d, Code Supplement 2011, is amended to read as follows:

d. A nonresident who receives a special license pursuant to this subsection shall purchase a hunting license that includes the wildlife habitat fee 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 that includes the wildlife habitat fee. During the hunt, the accompanying adult must be within arm's reach of the nonresident licensee.

Sec. 20. Section 483A.24B, subsection 6, Code 2011, is amended to read as follows:

6. A person who receives a license pursuant to this section shall be otherwise qualified to hunt deer in this state and shall ~~have~~ purchase a hunting license ~~and pay~~ that includes the wildlife habitat fee.

Sec. 21. Section 483A.28, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Any person who is issued a valid fishing license pursuant to this chapter may fish with a third line as provided in section 481A.72 only upon the annual purchase of a third line fishing permit as provided in section 483A.1.

Sec. 22. Section 484B.10, subsections 2 and 3, Code 2011, are amended to read as follows:

2. Waterfowl shall not be shot over any area where pen-reared mallards may serve as live decoys for wild waterfowl. All persons hunting game birds or ungulates upon a licensed hunting preserve shall secure a hunting license ~~to do so~~ that includes the wildlife habitat fee in accordance with the game laws of Iowa, with the exception that an unlicensed person may secure an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars. All persons who hunt on hunting preserves shall pay the wildlife habitat fee.

3. A nonresident youth under sixteen years of age may hunt game birds on a licensed hunting preserve upon securing an annual hunting preserve license restricted to hunting preserves only for a license fee of five dollars and payment of the wildlife habitat fee. A nonresident youth is not required to complete the hunter safety and ethics education course to obtain a hunting preserve license pursuant to this subsection if the youth is accompanied by a person who is at least eighteen years of age, is qualified to hunt, and possesses a valid hunting license that includes the wildlife habitat fee. During the hunt, the accompanying adult must be within arm's reach of the nonresident youth.

Sec. 23. EFFECTIVE DATE. This Act takes effect January 1, 2013.

Approved April 19, 2012

**CHAPTER 1097****INCOME TAX CHECKOFFS — CHILD ABUSE PREVENTION, VETERANS, AND  
VOLUNTEER FIRE FIGHTER PREPAREDNESS***S.F. 2325*

**AN ACT** relating to the income tax checkoffs for the child abuse prevention program fund and the veterans trust fund and volunteer fire fighter preparedness fund, and including retroactive applicability provisions.

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

Section 1. Section 35A.13, subsection 2, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Moneys credited to the fund pursuant to an income tax checkoff provided in chapter 422, division II, if applicable.

Sec. 2. Section 100B.13, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. Moneys credited to the fund pursuant to ~~section 422.12G~~ an income tax checkoff provided in chapter 422, division II, if applicable.

Sec. 3. Section 235A.2, subsection 1, Code 2011, is amended to read as follows:

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 422.12F~~ pursuant to an income tax checkoff provided in chapter 422, division II, if applicable. 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.

Sec. 4. 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 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 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. 5. NEW SECTION. 422.12L Joint income tax 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. 6. RETROACTIVE APPLICABILITY. This Act applies retroactively to January 1, 2012, for tax years beginning on or after that date.

Approved April 19, 2012

## CHAPTER 1098

### SALES TAX REBATE — BASEBALL AND SOFTBALL TOURNAMENT FACILITY AND MOVIE SITE

*S.F. 2329*

**AN ACT** relating to the rebate of state sales tax to the owner or operator of a baseball and softball tournament facility and movie site.

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

Section 1. FINDINGS. The general assembly finds that a baseball and softball tournament facility and movie site in Iowa would result in a substantial economic benefit to the state and would offer thousands of competitors and visitors the opportunity to experience and discover Iowa.

The general assembly further finds that the development of the baseball and softball tournament facility and movie site, including a year-round training facility, would enhance the economic development of the area through an increase in tourism.

The general assembly further finds that the rebate of state sales tax collected at the baseball and softball tournament facility and movie site to assist in the development of such facility and complex would further tourism and is a public purpose for which state funds may be used.

The general assembly further finds that the rebate of state sales tax to the baseball and softball tournament facility and movie site should be considered a program to be used as a means to increase tourism into the state.

Sec. 2. Section 423.2, subsection 11, Code Supplement 2011, is amended to read as follows:

11. a. (1) All revenues arising under the operation of the provisions of this section shall be deposited into the general fund of the state.

(2) Subsequent to the deposit into the general fund of the state, the director shall credit an amount equal to the product of the sales tax rate imposed in this section times the sales price of the tangible personal property or services furnished to purchasers at a baseball and softball tournament facility and movie site meeting the qualifications of section 423.4, subsection 10, into the baseball and softball tournament facility and movie site sales tax rebate fund

created under section 423.4, subsection 10, paragraph “e”. The director shall credit the moneys beginning the first day of the quarter following the effective date of this Act. This subparagraph is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total rebates have been provided under section 423.4, subsection 10, or thirty days following the date on which rebates cease as provided in section 423.4, subsection 10, paragraph “c”, subparagraph (4), whichever is earliest.

b. Subsequent to the deposit into the general fund of the state and after the transfer of such pursuant to paragraph “a”, the department shall do the following in the order prescribed:

(1) Transfer the revenues collected under chapter 423B, the department shall transfer.

(2) Transfer from the remaining revenues the amounts required under Article VII, section 10, of the Constitution of the State of Iowa to the natural resources and outdoor recreation trust fund created in section 461.31, if applicable.

(3) Transfer one-sixth of such the remaining revenues to the secure an advanced vision for education fund created in section 423F2. This paragraph subparagraph (3) is repealed December 31, 2029.

(4) Transfer to the baseball and softball tournament facility and movie site sales tax rebate fund that portion of the sales tax receipts described in paragraph “a”, subparagraph (2), remaining after the transfers required under subparagraphs (1), (2), and (3) of this paragraph “b”. This subparagraph is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total rebates have been provided under section 423.4, subsection 10, or thirty days following the date on which rebates cease as provided in section 423.4, subsection 10, paragraph “c”, subparagraph (4), whichever is earliest.

Sec. 3. Section 423.4, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. For purposes of this subsection:

(1) “Baseball and softball tournament facility and movie site” means a baseball and softball tournament complex and tourist destination, which facility is located on a maximum of two hundred seventy-nine acres, located inside or within three miles of the city limits of a city with a population of at least four thousand but not more than five thousand five hundred residents, which city is located in a county with a population of at least ninety-three thousand but not more than one hundred thousand residents and where the construction on the baseball and softball tournament facility commenced not later than one year following the enactment of this Act, and the cost of the construction upon completion was at least thirty-eight million dollars.

(2) “Change of control” means any of the following:

(a) Any change in the ownership of the original or any subsequent legal entity that is the owner or operator of the baseball and softball tournament facility and movie site such that more than fifty-one percent of the equity interests in the legal entity cease to be owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both.

(b) The original owners of the legal entity that is the owner or operator of the baseball and softball tournament facility and movie site shall collectively cease to own more than fifty percent of the voting equity interests of such legal entity or shall otherwise cease to have effective control of such legal entity.

(3) “Iowa corporation” means a corporation incorporated under the laws of Iowa where more than fifty-one percent of the corporation’s equity interests are owned by individuals who are residents of Iowa.

(4) “Owner or operator” means a for-profit legal entity where more than fifty-one percent of its equity interests are owned by individuals who are residents of Iowa, an Iowa corporation, or combination of both and that is the owner or operator of a baseball and softball tournament facility and movie site and is primarily a promoter of baseball and softball tournaments.

(5) “Population” means the population based upon the 2010 certified federal census.

b. The owner or operator of a baseball and softball tournament facility and movie site may apply to the department for a rebate of sales tax imposed and collected by retailers upon sales of any goods, wares, merchandise, admission tickets, or services furnished to purchasers at the baseball and softball tournament facility and movie site.

c. The rebate may be obtained only in the following amounts and manner and only under the following conditions:

(1) On forms furnished by the department within the time period provided by the department by rule, which time period shall not be longer than quarterly.

(2) The owner or operator shall provide information as deemed necessary by the department.

(3) The transactions for which sales tax was collected and the rebate is sought occurred on or after January 1, 2014, but before January 1, 2024. However, not more than sixteen million five hundred thousand dollars in total rebates shall be provided pursuant to this subsection.

(4) Notwithstanding subparagraph (3), the rebate of sales tax shall cease for transactions occurring on or after the date of the change of control of the baseball and softball tournament facility and movie site.

d. To assist the department in determining the amount of the rebate, the owner or operator shall identify to the department retailers located at the baseball and softball tournament facility and movie site who will be collecting sales tax. The department shall verify such identity and ensure that all proper permits have been issued. For purposes of this subsection, advance ticket and admissions sales shall be considered occurring at the baseball and softball tournament facility and movie site regardless of where the transactions actually occur.

e. There is established within the state treasury under the control of the department a baseball and softball tournament facility and movie site sales tax rebate fund consisting of the amount of state sales tax revenues transferred pursuant to section 423.2, subsection 11, paragraph "b", subparagraph (4). An account is created within the fund for each baseball and softball tournament facility and movie site meeting the qualifications of this subsection. Moneys in the fund shall only be used to provide rebates of state sales tax pursuant to this subsection, and only the state sales tax revenues in the baseball and softball tournament facility and movie site rebate fund are subject to rebate under this subsection. Not more than sixteen million five hundred thousand dollars in total rebates shall be paid from the fund. Any moneys in the fund which represent state sales tax revenue for which the time period in paragraph "c" for receiving a rebate has expired, or which otherwise represent state sales tax revenue that has become ineligible for rebate pursuant to this subsection, shall immediately revert to the general fund of this state.

f. Upon determining that the conditions and requirements of this subsection and the department are met, the department shall issue a warrant from the applicable account within the baseball and softball tournament facility and movie site rebate fund to the owner or operator in the amount equal to the amount claimed and verified by the department.

g. This subsection is repealed June 30, 2024, or thirty days following the date on which sixteen million five hundred thousand dollars in total rebates have been provided, or thirty days following the date on which rebates cease as provided in paragraph "c", subparagraph (4), whichever is the earliest.

Approved April 19, 2012

## CHAPTER 1099

### SCRAP METAL TRANSACTIONS

*H.F. 2399*

**AN ACT** relating to scrap metal transactions, prohibiting certain sales, and providing penalties.

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

Section 1. Section 714.27, Code Supplement 2011, is amended by striking the section and inserting in lieu thereof the following:

**714.27 Scrap metal transactions and reporting — penalties.**

1. For purposes of this section, and unless the context otherwise requires, the following definitions shall apply:

a. “*Scrap metal*” means any metal suitable for reprocessing. “*Scrap metal*” does not include a motor vehicle, but does include a catalytic converter detached from a motor vehicle.

b. “*Scrap metal dealer*” means any person operating a business at a fixed or mobile location that is engaged in one of the following activities:

(1) Buying, selling, procuring, collecting, gathering, soliciting, or dealing in scrap metal.

(2) Operating, managing, or maintaining a scrap metal yard.

c. “*Scrap metal yard*” means any yard, plot, space, enclosure, building, mobile facility, or other place where scrap metal is collected, gathered together, stored, or kept for shipment, sale, or transfer.

2. a. A person shall not sell scrap metal to a scrap metal dealer in this state unless the person provides to the scrap metal dealer, at or before the time of sale, the person’s name, address, and place of business, if any, and presents to the scrap metal dealer a valid driver’s license or nonoperator’s identification card, military identification card, passport, or other government-issued photo identification.

b. A scrap metal dealer shall not make an initial purchase of scrap metal from a person without demanding and receiving the information required by this subsection. However, after an initial transaction, a scrap metal dealer may only require the person’s name and place of business for subsequent purchases, provided the scrap metal dealer retains all information received during the initial transaction.

3. A scrap metal dealer shall keep a confidential register or log of each transaction, including a record of the information required by subsection 2. All records and information kept pursuant to this subsection shall be retained for at least two years, and shall be provided to a law enforcement agency or other officer or employee designated by a county or city to enforce this section upon request during normal business hours when the law enforcement agency or designated officer or employee of a county or city has reasonable grounds to request such information as part of an investigation. A law enforcement agency or designated officer or employee of a county or city shall preserve the confidentiality of the information provided under this subsection and shall not disclose it to a third party, except as may be necessary in enforcement of this section or the prosecution of a criminal violation.

4. All scrap metal transactions, other than those transactions exempt pursuant to subsection 5, in which the total sale price exceeds fifty dollars shall require payment by check or electronic funds transfer.

5. The following scrap metal transactions are exempt from the requirements of this section:

a. Transactions in which the total sale price is fifty dollars or less, except transactions for the sale of catalytic converters.

b. Transactions for the sale of catalytic converters in which the total sale price is seventy-five dollars or less.

c. Transactions in which a scrap metal dealer is selling scrap metal.

d. Transactions in which the person selling the scrap metal is known to the scrap metal dealer purchasing the scrap metal to be the officer, employee, or agent of an established commercial or industrial business, operating from a fixed location, that may reasonably be expected to produce scrap metal during the operation of the business.

6. a. The provisions of this section shall take precedence over and supersede any local ordinance adopted by a political subdivision that regulates scrap metal transactions.

b. Notwithstanding paragraph “a” of this subsection, a city ordinance regarding scrap metal or other scrap material in effect prior to January 1, 2012, in a city with a population exceeding one hundred fifty thousand as shown by the 2010 federal decennial census may continue to be enforced by the city which adopted it.

7. A person who violates subsection 2, paragraph “a”, or a person who conducts a scrap metal transaction by or on behalf of a scrap metal dealer who violates this section shall be subject to a civil penalty as follows:



a. An initial violation shall subject the person to a civil penalty in the amount of one hundred dollars.

b. A second violation within two years shall subject the person to a civil penalty in the amount of five hundred dollars.

c. A third or subsequent violation within two years shall subject the person to a civil penalty in the amount of one thousand dollars.

Sec. 2. Section 805.8C, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 9. *Scrap metal transaction violations.* For violations of section 714.27, the scheduled fine is one hundred dollars for a first violation, five hundred dollars for a second violation within two years, and one thousand dollars for a third or subsequent violation within two years. The scheduled fine under this subsection is a civil penalty which shall be deposited into the general fund of the county or city if imposed by a designated officer or employee of a county or city, or deposited in the general fund of the state if imposed by a state agency, and the criminal penalty surcharge under section 911.1 shall not be added to the penalty.

Approved April 19, 2012

## CHAPTER 1100

### REGULATION OF SNOWMOBILES, ALL-TERRAIN VEHICLES, AND WATERCRAFT

*H.F. 2467*

**AN ACT** relating to the regulation of snowmobiles, all-terrain vehicles, and watercraft by the department of natural resources, establishing fees, and making penalties applicable.

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

Section 1. Section 321G.1, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. “*Designated snowmobile trail*” means a snowmobile riding trail on any public land, private land, or public ice that has been designated by the department, a political subdivision, or a controlling authority for snowmobile use.

NEW SUBSECTION. 5B. “*Direct supervision*” means to provide supervision of another person while maintaining visual and verbal contact at all times.

NEW SUBSECTION. 11A. “*Nonresident*” means a person who is not a resident of this state.

NEW SUBSECTION. 15A. “*Public ice*” means any frozen, navigable waters within the territorial limits of this state and the frozen marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the commission.

NEW SUBSECTION. 16A. “*Public water*” means any navigable waters within the territorial limits of this state and the marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the commission.

NEW SUBSECTION. 17A. “*Resident*” means as defined in section 483A.1A.

Sec. 2. Section 321G.1, subsections 19 and 21, Code 2011, are amended to read as follows:

19. ~~“Safety~~ “Education certificate” means a snowmobile ~~safety~~ education certificate, approved by the commission, which is issued to a qualified applicant who is twelve years of age or older.

21. “*Special event*” means an organized race, exhibition, or demonstration of limited duration which is conducted on public land, ~~or public ice, or a designated snowmobile trail~~ under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested.

Sec. 3. Section 321G.1, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 23. “Water skipping” means the operation of a snowmobile on the surface of water by utilizing the skis, track, and bottom surface area of the snowmobile for flotation while the snowmobile is in motion.

Sec. 4. Section 321G.2, subsection 1, paragraphs c, e, f, and h, Code 2011, are amended to read as follows:

c. Use of snowmobiles on designated snowmobile trails and public lands under the jurisdiction of the commission.

e. Establishment of a program of grants, subgrants, and contracts to be administered by the department for the development, maintenance, signing, and operation of designated snowmobile trails and the operation of grooming equipment by political subdivisions and incorporated private organizations.

f. Issuance of safety education certificates.

h. Issuance of annual user permits ~~for nonresidents~~ and establishment of administrative fees for issuance of the permits.

Sec. 5. Section 321G.2, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Maintenance, signing, and operation of designated snowmobile trails.

Sec. 6. Section 321G.3, Code 2011, is amended to read as follows:

**321G.3 Registration required — penalties.**

1. Each snowmobile used on public land ~~or~~, public ice, or a designated snowmobile trail of this state shall be currently registered. A person shall not operate, maintain, or give permission for the operation or maintenance of a snowmobile on public land ~~or~~, public ice, or a designated snowmobile trail unless the snowmobile is registered in accordance with this chapter or applicable federal laws or ~~the snowmobile displays a current annual user permit decal issued for the snowmobile as provided in section 321G.4A in accordance with an approved numbering system of another state and the evidence of registration is in full force and effect.~~ A snowmobile must also be issued a user permit in accordance with this chapter.

~~2. A registration certificate and registration decal shall be assigned, without payment of fee, to snowmobiles owned by the state of Iowa or its political subdivisions. The registration decal shall be displayed on the snowmobile as required under section 321G.5. A registration certificate shall be assigned, without payment of a registration fee, for a snowmobile which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321G.27 and an administrative fee. A registration decal shall not be issued and the registration shall not expire while the snowmobile is exempt. The application for registration and the registration certificate shall indicate the reason for exemption from the registration fee.~~

~~3. 2.~~ A violation of subsection 1 ~~or~~ 2 is punishable as a scheduled violation under section 805.8B, subsection 2, paragraph “a”. When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration ~~or~~ and user permit ~~has~~ have been obtained by providing a copy of the registration ~~or~~ and user permit to the department within thirty days of the date the fine is paid. A person who violates this subsection is guilty of a simple misdemeanor.

Sec. 7. Section 321G.4, subsection 2, Code 2011, is amended to read as follows:

2. The owner of the snowmobile shall file an application for registration with the department through a the county recorder of the county of residence, or in the case of a nonresident owner, in the county of primary use, in the manner established by the commission. The application shall be completed by the owner and shall be accompanied by a fee of fifteen dollars and a writing fee as provided in section 321G.27. A snowmobile shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the snowmobile or that the owner is exempt from paying the tax. A snowmobile that has an expired registration certificate from another state may be registered

in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

Sec. 8. Section 321G.4A, subsection 1, Code 2011, is amended to read as follows:

1. A nonresident person wishing to operate a snowmobile, ~~other than a snowmobile registered pursuant to this chapter,~~ snowmobile on public land, or public ice, or a designated snowmobile trail of this state shall ~~first~~ obtain a user permit from the department. A user permit shall be issued for the use on only one snowmobile specified at the time of application and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.

Sec. 9. Section 321G.5, Code 2011, is amended to read as follows:

**321G.5 Display of registration and user permit decals.**

The owner of a snowmobile shall display the registration decal ~~or nonresident and~~ user permit decal on a the snowmobile in the manner prescribed by the rules of the commission.

Sec. 10. Section 321G.6, subsection 3, Code 2011, is amended to read as follows:

3. Duplicate registrations may be issued ~~upon application to the~~ by a county recorder and or a license agent upon the payment of a five dollar fee plus a writing fee as provided in section 321G.27.

Sec. 11. Section 321G.7, subsection 1, Code 2011, is amended to read as follows:

1. A county recorder or license agent shall remit to the commission the snowmobile fees collected by the recorder or license agent in the manner and time prescribed by the department.

Sec. 12. Section 321G.8, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Registration and user permits shall not be required for the following described snowmobiles:

Sec. 13. Section 321G.8, subsection 1, Code 2011, is amended to read as follows:

1. Snowmobiles owned ~~and used~~ by the United States, this state, or another state, or by a political governmental subdivision of another state thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes.

Sec. 14. Section 321G.9, subsection 6, Code 2011, is amended by striking the subsection.

Sec. 15. Section 321G.10, Code Supplement 2011, is amended to read as follows:

**321G.10 Accident reports.**

If a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state. If the accident occurred on public land, or public ice, or a designated snowmobile trail under the jurisdiction of the commission, the operator shall file with the commission a report of the accident, within seventy-two hours, containing information as the commission may require. All other accidents shall be reported as required under section 321.266.

Sec. 16. Section 321G.12, Code 2011, is amended to read as follows:

**321G.12 ~~Headlamp — tail lamp~~ Headlight — taillight — brakes.**

Every snowmobile shall be equipped with at least one headlamp headlight and one tail lamp taillight. Every snowmobile shall be equipped with brakes.

Sec. 17. Section 321G.13, subsection 1, paragraph f, Code 2011, is amended to read as follows:

f. On any public land, public ice, or snow designated snowmobile trail, in violation of official signs of the commission prohibiting such operation in the interest of safety for

persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.

Sec. 18. Section 321G.13, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Upon the surface of any public water in a maneuver known as water skipping. This paragraph "i" does not apply to operation on rivers or streams between November 1 and April 1.

Sec. 19. Section 321G.13, subsection 3, Code 2011, is amended to read as follows:

3. A person shall not drive or operate a snowmobile on public land or a designated snowmobile trail without a measurable snow cover.

Sec. 20. Section 321G.17, Code 2011, is amended to read as follows:

**321G.17 Violation of stop signal.**

A person, ~~after having~~ who has received a visual or audible signal from a peace officer to come to a stop, shall not operate a snowmobile in willful or wanton disregard of the signal, ~~or~~ interfere with or endanger the officer or any other person or vehicle, ~~or~~ increase speed, or attempt to flee or elude the officer.

Sec. 21. Section 321G.20, Code 2011, is amended to read as follows:

**321G.20 Minors under twelve Operation by minors.**

1. An owner or operator of a snowmobile shall not permit a person under twelve years of age to operate and a person less than twelve years of age shall not operate, a snowmobile on a designated snowmobile trail, public land, or public ice except when accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and who possesses a valid driver's license, as defined in section 321.1, or a safety an education certificate issued under this chapter.

2. While operating a snowmobile on a designated snowmobile trail, public land, or public ice, a person twelve through fifteen years of age and possessing a valid education certificate must be under the direct supervision of a parent, guardian, or another adult authorized by the parent or guardian, who is experienced in snowmobile operation and possesses a valid driver's license, as defined in section 321.1, or an education certificate issued under this chapter.

3. A person under eighteen years of age but over the age of fifteen shall not operate a snowmobile on or across a public highway unless the person has in the person's possession an education certificate issued to the person pursuant to this chapter.

Sec. 22. Section 321G.21, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A manufacturer, distributor, or dealer owning a snowmobile required to be registered under this chapter may operate the snowmobile for purposes of transporting, testing, demonstrating, or selling it without the snowmobile being registered, except that a special ~~identification number~~ registration decal issued to the owner as provided in this chapter shall be displayed on the snowmobile in the manner prescribed by rules of the commission. The ~~special identification number~~ registration decal shall not be used on a snowmobile offered for hire or for any work or service performed by a manufacturer, distributor, or dealer.

2. Every manufacturer, distributor, or dealer shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate ~~containing a general identification number and for one or more duplicate special registration certificates and decal.~~ The applicant shall pay a registration fee of ~~fifteen~~ forty-five dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.

3. The commission, upon granting an application, shall issue to the applicant a special registration certificate ~~containing and decal.~~ The special registration certificate shall contain the applicant's name, address, the and general identification number; assigned to the applicant, the word "manufacturer", "dealer", or "distributor"; and other information the commission prescribes. ~~The manufacturer, distributor, or dealer shall have the assigned~~

~~number printed upon or attached to a removable sign or signs which may be temporarily but firmly mounted or attached to the snowmobile being used. The display shall meet the requirements of this chapter and the rules of the commission.~~

4. The commission shall also issue duplicate special registration certificates and decals which shall have displayed thereon the general identification number assigned to the applicant. ~~Each duplicate registration certificate so issued shall contain a number or symbol identifying it from every other duplicate special registration certificate bearing the same general identification number. A county recorder may issue duplicate special registration certificates and decals electronically pursuant to rules adopted by the commission. The fee for each additional duplicate special registration certificate and decal shall be two five dollars, plus a writing fee.~~

5. Each special registration certificate issued ~~hereunder~~ under this section shall be for a ~~period of three years~~ and shall expire on December 31 of each ~~the renewal year, and a. A new special registration certificate for the ensuing twelve months~~ three-year renewal period may be obtained upon application to the commission and payment of the fee provided by law. A county recorder may issue special registration certificate renewals electronically pursuant to rules adopted by the commission.

Sec. 23. Section 321G.23, Code 2011, is amended to read as follows:

**321G.23 Course of instruction.**

1. The commission shall provide, by rules adopted pursuant to section 321G.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of snowmobiles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of snowmobiles consistent with this chapter and rules adopted by the commission and the director of transportation and other matters the commission deems pertinent for a qualified snowmobile operator. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from safety education certificate fees under section 321G.24.

2. The commission may certify any experienced, qualified operator to be an instructor of a class established under subsection 1. Each instructor shall be at least eighteen years of age.

3. Upon completion of the course of instruction, the commission shall provide for the administration of a written test to any student who wishes to qualify for ~~a safety~~ an education certificate.

4. The commission shall provide safety education material relating to the operation of snowmobiles for the use of nonpublic or public elementary and secondary schools in this state.

5. The department may develop requirements and standards for online education offerings. Only vendors who have entered into a memorandum of understanding with the department shall be permitted to offer an online course that results in the issuance of an education certificate approved by the commission. Vendors may charge for their courses and collect the education certificate fee required under section 321G.24, subsection 2, on behalf of the department as agreed to in the memorandum of understanding.

Sec. 24. Section 321G.24, Code 2011, is amended to read as follows:

**321G.24 Safety Education certificate — fee.**

1. A person under eighteen years of age shall not operate a snowmobile on public land, ~~or public ice, a designated snowmobile trail,~~ or land purchased with snowmobile registration funds in this state without obtaining a valid safety education certificate ~~issued approved~~ by the department and having the certificate in the person's possession, unless the person is accompanied on the same snowmobile by a responsible person of at least eighteen years of age who is experienced in snowmobile operation and possesses a valid driver's license, as defined in section 321.1, or ~~a safety an education~~ certificate issued under this chapter.

2. Upon ~~application successful completion of the course~~ and payment of a fee of five dollars, a qualified applicant shall be issued ~~a safety an education~~ certificate which is valid until the certificate is suspended or revoked by the director for a violation of a provision of this chapter or a rule adopted pursuant to this chapter. ~~The application shall be made~~

~~on forms issued by the commission and shall contain information as the commission may reasonably require.~~

3. Any person who is required to have a ~~safety~~ an education certificate under this chapter and who has completed a course of instruction established under section 321G.2, subsection 1, paragraph “j”, including the successful passage of an examination which includes a written test relating to such course of instruction, shall be considered qualified to receive a ~~safety~~ an education certificate.

4. The ~~permit certificate~~ fees collected under this section shall be credited to the special snowmobile fund created under section 321G.7 and shall be used for safety and educational programs.

5. A valid snowmobile ~~safety or education~~ certificate or license issued to a ~~nonresident~~ by a governmental authority of another state shall be considered a valid certificate or license in this state if the ~~permit certification or license licensing~~ requirements of the governmental authority, ~~excluding fees~~, are substantially the same as the requirements of this chapter as determined by the commission.

Sec. 25. Section 321G.25, Code 2011, is amended to read as follows:

**321G.25 Stopping and inspecting — warnings.**

A peace officer may stop and inspect a snowmobile operated, parked, or stored on public streets, highways, public lands, ~~or frozen waters~~ public ice, or designated snowmobile trails of the state to determine if the snowmobile is registered, numbered, or equipped as required by this chapter and commission rules. The officer shall not inspect an area that is not essential to determine compliance with the requirements. If the officer determines that the snowmobile is not in compliance, the officer may issue a warning memorandum to the operator and forward a copy to the commission. The warning memorandum shall indicate the items found not in compliance and shall direct the owner or operator of the snowmobile to have the snowmobile in compliance and return a copy of the warning memorandum with the proof of compliance to the commission within fourteen days. If the proof of compliance is not provided within fourteen days, the owner or operator is in violation of this chapter.

Sec. 26. Section 321G.26, Code 2011, is amended to read as follows:

**321G.26 Termination of use.**

A person who receives a warning memorandum for a snowmobile shall stop using the snowmobile as soon as possible and shall not operate it on public streets, highways, public lands, ~~or frozen waters~~ public ice, or designated snowmobile trails of the state until the snowmobile is in compliance.

Sec. 27. Section 321G.27, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0c. The county recorder shall collect a writing fee of one dollar and twenty-five cents for each duplicate special registration certificate issued by the county recorder's office.

Sec. 28. Section 321G.29, subsection 8, Code Supplement 2011, is amended to read as follows:

8. Once titled, a person shall not sell or transfer ownership of a snowmobile without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the ~~purchaser or transferee~~ purchaser's or transferee's name. A person shall not purchase or otherwise acquire a snowmobile without obtaining a certificate of title for it in that person's name.

Sec. 29. Section 321G.31, subsection 1, Code 2011, is amended to read as follows:

1. If ownership of a snowmobile is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the snowmobile, shall mail or deliver to the county recorder of the transferee's county of residence satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee.

Sec. 30. Section 321G.33, subsections 1 and 3, Code 2011, are amended to read as follows:

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

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

Sec. 31. Section 321I.1, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to chapter 321. An operator of an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in this chapter, but is exempt from the safety education instruction and certification program requirements of sections 321I.25 and 321I.26.

Sec. 32. Section 321I.1, subsections 6, 7, and 16, Code 2011, are amended to read as follows:

6. "Designated riding area" means an all-terrain vehicle riding area on any public land or public ice under the jurisdiction of the department that has been designated by the department for all-terrain vehicle use.

7. "Designated riding trail" means an all-terrain vehicle riding trail on any public land, private land, or public ice under the jurisdiction of the department that has been designated by the department, a political subdivision, or a controlling authority for all-terrain vehicle use.

16. a. "Off-road utility vehicle" means a motorized ~~flotation-tire~~ vehicle with not less than four and not more than eight ~~low-pressure~~ nonhighway tires or rubberized tracks that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than ~~one~~ two thousand ~~eight hundred~~ pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control.

b. ~~An owner of an off-road utility vehicle may register or title an off-road utility vehicle in order to legally operate the off-road vehicle on public ice, a designated riding area, or a designated riding trail.~~ The operator of an off-road utility vehicle is subject to provisions governing the operation of all-terrain vehicles in section 321.234A, and this chapter, and administrative rules, but is exempt from the safety education instruction and certification program requirements of sections 321I.25 and 321I.26. An operator of an off-road utility vehicle shall not operate the vehicle on a designated riding area or designated riding trail unless the department has posted signage indicating the riding area or trail is open to the operation of off-road utility vehicles. Off-road utility vehicles are ~~exempt from~~ subject to the dealer registration and titling requirements of this chapter. A motorized vehicle that was previously titled or is currently titled under chapter 321 shall not be registered or operated as an off-road utility vehicle.

Sec. 33. Section 321I.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 20A. "Public ice" means any frozen, navigable waters within the territorial limits of this state and the frozen marginal river areas adjacent to this state, other than farm ponds, that are under the jurisdiction of the commission.

Sec. 34. Section 321I.1, subsections 23, 25, and 27, Code 2011, are amended to read as follows:

23. "Resident" means ~~a person who meets the requirements for residency described in section 321.1A as defined in section 483A.1A.~~

25. ~~“Safety Education certificate”~~ means an all-terrain vehicle safety education certificate, approved by the commission, which is issued to a qualified applicant who is twelve years of age or older.

27. ~~“Special event”~~ means an organized race, exhibition, or demonstration of limited duration which is conducted on public land, ~~or public ice, or a designated riding trail~~ under the jurisdiction of the commission according to a prearranged schedule and in which general public interest is manifested.

Sec. 35. Section 321I.2, subsection 1, paragraph f, Code 2011, is amended to read as follows:

f. Issuance of safety education certificates.

Sec. 36. Section 321I.3, Code 2011, is amended to read as follows:

**321I.3 Registration required — penalties.**

1. Each all-terrain vehicle used on public land, ~~or public ice, or a designated riding trail~~ of this state shall be currently registered. A person shall not operate, maintain, or give permission for the operation or maintenance of an all-terrain vehicle on public land, ~~or public ice, or a designated riding trail~~ unless the all-terrain vehicle is registered in accordance with this chapter or applicable federal laws or ~~the all-terrain vehicle displays a current annual user permit decal issued for the all-terrain vehicle as provided in section 321I.5 in accordance with an approved numbering system of another state and the evidence of registration is in full force and effect. An all-terrain vehicle registered in another state must also be issued a user permit in this state in accordance with this chapter.~~

~~2. A registration certificate and registration decal shall be assigned, without payment of fee, to all terrain vehicles owned by the state of Iowa or its political subdivisions. The registration decal shall be displayed on the all-terrain vehicle as required under section 321I.6. A registration certificate shall be assigned, without payment of a registration fee, for an all-terrain vehicle which is exempt from registration but is being titled, upon payment of a writing fee as provided in section 321I.29 and an administrative fee. A registration decal shall not be issued and the registration shall not expire while the all-terrain vehicle is exempt. The application for registration and the registration certificate shall indicate the reason for exemption from the registration fee.~~

~~3.~~ 2. A violation of subsection 1 ~~or 2~~ is punishable as a scheduled violation under section 805.8B, subsection 2A, paragraph “a”. When the scheduled fine is paid, the violator shall submit proof to the department that a valid registration or user permit has been obtained by providing a copy of the registration or user permit to the department within thirty days of the date the fine is paid. A person who violates this subsection is guilty of a simple misdemeanor.

Sec. 37. Section 321I.4, subsection 2, Code 2011, is amended to read as follows:

2. The owner of the all-terrain vehicle shall file an application for registration with the department through a the county recorder of the county of residence, or in the case of a nonresident owner, in the county of primary use, in the manner established by the commission. The application shall be completed by the owner and shall be accompanied by a fee of fifteen dollars and a writing fee as provided in section 321I.29. An all-terrain vehicle shall not be registered by the county recorder until the county recorder is presented with receipts, bills of sale, or other satisfactory evidence that the sales or use tax has been paid for the purchase of the all-terrain vehicle or that the owner is exempt from paying the tax. An all-terrain vehicle that has an expired registration certificate from another state may be registered in this state upon proper application, payment of all applicable registration and writing fees, and payment of a penalty of five dollars.

Sec. 38. Section 321I.5, subsection 1, Code 2011, is amended to read as follows:

1. A nonresident wishing to operate an all-terrain vehicle, other than an all-terrain vehicle ~~owned by a resident and~~ registered pursuant to this chapter, on public land, ~~or public ice, or a designated riding trail~~ of this state shall ~~first~~ obtain a user permit from the department. A user permit shall be issued for the use on only one all-terrain vehicle ~~specified at the time of application~~ and is not transferable. A user permit shall be valid for the calendar year or time period specified in the permit.



Sec. 39. Section 321I.7, subsections 3 and 4, Code 2011, are amended to read as follows:

3. Duplicate registrations may be issued ~~upon application to the~~ by a county recorder or a license agent and <sup>1</sup> the payment of a five dollar fee plus a writing fee as provided in section 321I.29.

4. A motorcycle, as defined in section 321.1, subsection 40, paragraph “a”, may be registered as an all-terrain vehicle as provided in this section. A motorcycle registered as an all-terrain vehicle may participate in all programs established for all-terrain vehicles under this chapter except for the safety education instruction and certification program.

Sec. 40. Section 321I.8, Code 2011, is amended to read as follows:

**321I.8 Fees remitted to commission — appropriation.**

1. A county recorder or license agent shall remit to the commission the all-terrain vehicle fees collected by the recorder or license agent in the manner and time prescribed by the department.

2. The department shall remit the fees, including user fees collected pursuant to section 321I.5, to the treasurer of state, who shall place the money in a special all-terrain vehicle fund. The money is appropriated to the department for the all-terrain vehicle programs of the state. The programs shall include grants, subgrants, contracts, or cost-sharing of all-terrain vehicle programs with political subdivisions or incorporated private organizations or both in accordance with rules adopted by the commission. All-terrain vehicle fees may be used for the establishment, maintenance, and operation of all-terrain vehicle recreational riding areas through the awarding of grants administered by the department. All-terrain vehicle recreational riding areas established, maintained, or operated by the use of such grants shall not be operated for profit. All programs using cost-sharing, grants, subgrants, or contracts shall establish and implement ~~a safety~~ an education instruction program either singly or in cooperation with other all-terrain vehicle programs. All-terrain vehicle fees may be used to support all-terrain vehicle programs on a usage basis. At least fifty percent of the special fund shall be available for political subdivisions or incorporated private organizations or both. Moneys from the special fund not used by the political subdivisions or incorporated private organizations or both shall remain in the fund and may be used by the department for the administration of the all-terrain vehicle programs. Notwithstanding section 8.33, moneys in the special fund shall not revert to the general fund of the state at the end of a fiscal year. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the special fund shall remain in the fund.

Sec. 41. Section 321I.9, subsection 1, Code 2011, is amended to read as follows:

1. All-terrain vehicles owned ~~and used~~ by the United States, this state, or another state, or by a political governmental subdivision of another state thereof, and used for enforcement, search and rescue, or official research and studies, but not for recreational or commercial purposes.

Sec. 42. Section 321I.11, Code Supplement 2011, is amended to read as follows:

**321I.11 Accident reports.**

If an all-terrain vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state. If the accident occurred on public land, ~~or public ice, or a designated riding trail~~ under the jurisdiction of the commission, the operator shall file with the commission a report of the accident, within seventy-two hours, containing information as the commission may require. All other accidents shall be reported as required under section 321.266.

Sec. 43. Section 321I.13, Code 2011, is amended to read as follows:

**321I.13 Headlamp — tail lamp Headlight — taillight — brakes.**

Every all-terrain vehicle operated during the hours of darkness shall display a lighted

<sup>1</sup> See chapter 1138, §65 herein

~~headlamp~~ headlight and ~~tail lamp~~ taillight. Every all-terrain vehicle shall be equipped with brakes.

Sec. 44. Section 321I.14, subsection 1, paragraph f, Code 2011, is amended to read as follows:

f. On any public land, public ice, or ~~snow~~ designated riding trail, in violation of official signs of the commission prohibiting such operation in the interest of safety for persons, property, or the environment. Any officer appointed by the commission may post an official sign in an emergency for the protection of persons, property, or the environment.

Sec. 45. Section 321I.17, Code 2011, is amended to read as follows:

**321I.17 Special events.**

The department may authorize the holding of organized special events as defined in this chapter within this state. The department shall adopt rules relating to the conduct of special events held under department permits and designating the equipment and facilities necessary for the safe operation of all-terrain vehicles or, off-road motorcycles, and off-road utility vehicles and for the safety of operators, participants, and observers in the special events. ~~A special event for all-terrain vehicles may include motorcycles upon payment of~~ require an entrance fee set by the organizer of the special event. The department may require that part of the ~~motorcycle~~ entrance fee be credited to pay costs of all-terrain vehicle programs authorized pursuant to section 321I.8. At least thirty days before the scheduled date of a special event in this state, an application shall be filed with the department for authorization to conduct the special event. The application shall set forth the date, time, and location of the proposed special event and any other information the department requires. The special event shall not be conducted without written authorization of the department. ~~Copies of the rules shall be furnished by the department to any person making an application.~~

Sec. 46. Section 321I.18, Code 2011, is amended to read as follows:

**321I.18 Violation of stop signal.**

A person, ~~after having who has~~ received a visual or audible signal from a peace officer to come to a stop, shall not operate an all-terrain vehicle in willful or wanton disregard of the signal, ~~or~~ interfere with or endanger the officer or any other person or vehicle, ~~or~~ increase speed, ~~or~~ attempt to flee or elude the officer.

Sec. 47. Section 321I.21, unnumbered paragraph 1, Code 2011, is amended to read as follows:

A person under twelve years of age shall not operate an all-terrain vehicle, including an off-road motorcycle, on a designated riding area or designated riding trail or on public land or public ice unless one of the following applies:

Sec. 48. Section 321I.21, subsection 1, Code 2011, is amended to read as follows:

1. The person is taking a prescribed safety education training course and the operation is under the direct supervision of a certified all-terrain vehicle safety education instructor.

Sec. 49. Section 321I.22, subsections 1 through 5, Code 2011, are amended to read as follows:

1. A manufacturer, distributor, or dealer owning an all-terrain vehicle required to be registered under this chapter may operate the all-terrain vehicle for purposes of transporting, testing, demonstrating, or selling it without the all-terrain vehicle being registered, except that a special ~~identification number~~ registration decal issued to the owner as provided in this chapter shall be displayed on the all-terrain vehicle in the manner prescribed by rules of the commission. The special ~~identification number~~ registration decal shall not be used on an all-terrain vehicle offered for hire or for any work or service performed by a manufacturer, distributor, or dealer.

2. Every manufacturer, distributor, or dealer shall register with the department by making application to the commission, upon forms prescribed by the commission, for a special registration certificate ~~containing a general identification number and for one or more duplicate special registration certificates and decal.~~ The applicant shall pay a registration

fee of ~~fifteen~~ forty-five dollars and submit reasonable proof of the applicant's status as a bona fide manufacturer, distributor, or dealer as may be required by the commission.

3. The commission, upon granting an application, shall issue to the applicant a special registration certificate ~~containing and decal~~. The special registration certificate shall contain the applicant's name, ~~and address, the and~~ general identification number; ~~assigned to the applicant,~~ the word "manufacturer", "dealer", or "distributor"; and other information the commission prescribes. ~~The manufacturer, distributor, or dealer shall have the assigned number printed upon or attached to a removable sign or signs which may be temporarily but firmly mounted or attached to the all-terrain vehicle being used. The display shall meet the requirements of this chapter and the rules of the commission.~~

4. The commission shall also issue duplicate special registration certificates and decals which shall have displayed thereon the general identification number assigned to the applicant. Each duplicate registration certificate so issued shall contain a number or symbol identifying it from every other duplicate special registration certificate bearing the same general identification number. A county recorder may issue duplicate special registration certificates and decals electronically pursuant to rules adopted by the commission. The fee for each additional duplicate special registration certificate ~~and decal~~ shall be ~~two~~ five dollars ~~plus a writing fee~~.

5. Each special registration certificate issued ~~hereunder~~ under this section shall be for a period of three years and shall expire on December 31 of each ~~the renewal year, and a~~. A new special registration certificate for the ~~ensuing twelve months~~ three-year renewal period may be obtained upon application to the commission and payment of the fee provided by law. A county recorder may issue special registration certificate renewals electronically pursuant to rules adopted by the commission.

Sec. 50. Section 321I.25, Code 2011, is amended to read as follows:

**321I.25 Course of instruction.**

1. The commission shall provide, by rules adopted pursuant to section 321I.2, for the establishment of certified courses of instruction to be conducted throughout the state for the safe use and operation of all-terrain vehicles. The curriculum shall include instruction in the lawful and safe use, operation, and equipping of all-terrain vehicles consistent with this chapter and rules adopted by the commission ~~and the director of transportation and other matters the commission deems pertinent for a qualified all-terrain vehicle operator~~. The commission may establish a fee for the course which shall not exceed the actual cost of instruction minus moneys received by the department from safety education certificate fees under section 321I.26.

2. The commission may certify any experienced, qualified operator to be an instructor of a class established under subsection 1. Each instructor shall be at least eighteen years of age.

3. Upon completion of the course of instruction, the commission shall provide for the administration of either a written test or the demonstration of adequate riding skills to any student who wishes to qualify for a safety an education certificate.

4. The commission shall provide safety education material relating to the operation of all-terrain vehicles for the use of nonpublic or public elementary and secondary schools in this state.

5. The department may develop requirements and standards for online education offerings. Only vendors who have entered into a memorandum of understanding with the department shall be permitted to offer an online course that results in the issuance of an education certificate approved by the commission. Vendors may charge for their courses and collect the education certificate fee required under section 321I.26, subsection 2, on behalf of the department as agreed to in the memorandum of understanding.

Sec. 51. Section 321I.26, Code 2011, is amended to read as follows:

**321I.26 Safety Education certificate — fee.**

1. A person twelve years of age or older but less than eighteen years of age shall not operate an all-terrain vehicle on public land, ~~or public ice,~~ a designated riding trail, or land purchased with all-terrain vehicle registration funds in this state without obtaining a valid

~~safety education certificate issued approved~~ by the department and having the certificate in the person's possession.

2. Upon ~~application~~ successful completion of the course and payment of a fee of five dollars, a qualified applicant shall be issued ~~a safety an education certificate~~ which is valid until the certificate is suspended or revoked by the director for a violation of a provision of this chapter or a rule adopted pursuant to this chapter. ~~The application shall be made on forms issued by the commission and shall contain information as the commission may reasonably require.~~

3. Any person who is required to have ~~a safety an education certificate~~ under this chapter and who has completed a course of instruction established under section 321I.2, subsection 1, paragraph "i", including the successful passage of an examination which includes either a written test relating to such course of instruction or the demonstration of adequate riding skills, shall be considered qualified to receive ~~a safety an education certificate~~.

4. The ~~permit certificate~~ fees collected under this section shall be credited to the special all-terrain vehicle fund and shall be used for ~~safety and~~ educational programs.

5. A valid all-terrain vehicle safety or education certificate or license issued to ~~a nonresident~~ by a governmental authority of another state shall be considered a valid certificate or license in this state if the ~~permit certification or license licensing~~ requirements of the governmental authority, ~~excluding fees~~, are substantially the same as the requirements of this chapter as determined by the commission.

Sec. 52. Section 321I.27, Code 2011, is amended to read as follows:

**321I.27 Stopping and inspecting — warnings.**

A peace officer may stop and inspect an all-terrain vehicle operated, parked, or stored on public streets, highways, public lands, ~~or frozen waters public ice, or designated riding trails~~ of the state to determine if the all-terrain vehicle is registered, numbered, or equipped as required by this chapter and commission rules. The officer shall not inspect an area that is not essential to determine compliance with the requirements. If the officer determines that the all-terrain vehicle is not in compliance, the officer may issue a warning memorandum to the operator and forward a copy to the commission. The warning memorandum shall indicate the items found not in compliance and shall direct the owner or operator of the all-terrain vehicle to have the all-terrain vehicle in compliance and return a copy of the warning memorandum with the proof of compliance to the commission within fourteen days. If the proof of compliance is not provided within fourteen days, the owner or operator is in violation of this chapter.

Sec. 53. Section 321I.28, Code 2011, is amended to read as follows:

**321I.28 Termination of use.**

A person who receives a warning memorandum for an all-terrain vehicle shall stop using the all-terrain vehicle as soon as possible and shall not operate it on public streets, highways, public lands, ~~or frozen waters public ice, or designated riding trails~~ of the state until the all-terrain vehicle is in compliance.

Sec. 54. Section 321I.29, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. 0c. The county recorder shall collect a writing fee of one dollar and twenty-five cents for each duplicate special registration certificate issued by the county recorder's office.

Sec. 55. Section 321I.31, subsection 8, Code 2011, is amended to read as follows:

8. Once titled, a person shall not sell or transfer ownership of an all-terrain vehicle without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the ~~purchaser or transferee~~ purchaser's or transferee's name. A person shall not purchase or otherwise acquire an all-terrain vehicle without obtaining a certificate of title for it in that person's name.

Sec. 56. Section 321I.33, subsection 1, Code 2011, is amended to read as follows:

1. If ownership of an all-terrain vehicle is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the all-terrain vehicle, shall mail or deliver to the county recorder of the transferee's county of residence satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee.

Sec. 57. Section 321I.35, subsections 1 and 3, Code 2011, are amended to read as follows:

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

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

Sec. 58. Section 461C.2, subsection 5, Code 2011, is amended to read as follows:

5. "*Recreational purpose*" means the following or any combination thereof: Hunting, trapping, horseback riding, fishing, swimming, boating, camping, picnicking, hiking, pleasure driving, motorcycling, all-terrain vehicle riding, nature study, water skiing, snowmobiling, other summer and winter sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites while going to and from or actually engaged therein.

Sec. 59. Section 462A.2, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 43A. "*Watercraft education certificate*" means a certificate, approved by the commission, which is issued to a qualified applicant who is twelve years of age or older who has successfully completed a watercraft education course approved by the department.

Sec. 60. Section 462A.12, subsection 6, Code 2011, is amended to read as follows:

6. An owner or operator of a vessel propelled by a motor of more than ten horsepower shall not permit any person under twelve years of age to operate the vessel unless accompanied in or on the same vessel by a responsible person of at least eighteen years of age who is experienced in motorboat operation. A person who is twelve years of age or older but less than eighteen years of age shall not operate any vessel propelled by a motor of more than ten horsepower unless the person has successfully completed a department-approved watercraft safety education course and obtained a watercraft safety education certificate or is accompanied in or on the same vessel by a responsible person of at least eighteen years of age who is experienced in motorboat operation. A person required to have a watercraft safety education certificate shall carry and shall exhibit or make available the certificate upon request of an officer of the department. A violation of this subsection is a simple misdemeanor as provided in section 462A.13. However, a person charged with violating this subsection shall not be convicted if the person produces in court, within a reasonable time, a ~~department-approved~~ watercraft education certificate. The cost of a ~~department~~ watercraft education certificate, or any duplicate, shall not exceed five dollars.

Sec. 61. NEW SECTION. **462A.12A Online watercraft education courses.**

1. The department shall develop requirements and standards for online watercraft education courses. Only vendors who have entered into a memorandum of understanding with the department shall be approved by the department to offer an online watercraft education course that upon successful completion is sufficient to result in the issuance of a watercraft education certificate to the person who completes the course.

2. A vendor approved to offer an online watercraft education course as provided in subsection 1 may charge a fee for the course as agreed to in the memorandum of

understanding with the department and may also collect the watercraft education certificate fee on behalf of the department as agreed to in the memorandum of understanding.

Sec. 62. Section 462A.36, Code 2011, is amended to read as follows:

**462A.36 Fee for special certificate — minimum requirements for issuance.**

1. Any manufacturer or dealer may, upon payment of a fee of fifteen dollars, make application to the commission, upon such forms as the commission prescribes, for a special certificate containing a general distinguishing number and for one or more duplicate special certificates. The applicant shall submit such reasonable proof of the applicant's status as a bona fide manufacturer or dealer as the commission may require.

2. The commission may adopt rules consistent with this chapter establishing minimum requirements for a dealer or manufacturer to be issued a special certificate. In adopting such rules the department shall consider the need to protect persons, property, and the environment, and to promote uniform practices relating to the sale and use of vessels. The commission may also adopt rules providing for the suspension or revocation of a dealer's or manufacturer's special certificate issued pursuant to this section.

Sec. 63. Section 462A.46, Code 2011, is amended to read as follows:

**462A.46 Purchase of registered vessel by dealer.**

Whenever a dealer purchases or otherwise acquires a vessel registered in this state, the dealer shall issue a signed receipt to the previous owner, indicating the date of purchase or acquisition, the name and address of such previous owner, and the registration number of the vessel purchased or acquired. ~~The original receipt shall be delivered to the previous owner and one copy shall be mailed or delivered by the dealer to the county recorder of the county in which the vessel is registered, and one copy shall be delivered to the commission within forty-eight hours.~~

Sec. 64. Section 462A.53, Code 2011, is amended to read as follows:

**462A.53 Amount of writing fees.**

A writing fee of one dollar and twenty-five cents for each transaction privilege shall be collected by the county recorder. ~~If two or more functions are transacted for the same vessel at one time, the writing fee is limited to one dollar and twenty-five cents.~~

Sec. 65. Section 805.8B, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. For registration or user permit violations under section 321G.3, ~~subsections~~ subsection 1 and 2, the scheduled fine is fifty dollars.

Sec. 66. Section 805.8B, subsection 2, paragraph b, subparagraph (3), Code 2011, is amended to read as follows:

(3) For operating violations under section 321G.13, subsection 1, paragraphs "a", "b", "e", "f", "g", ~~and "h", and "i"~~, and subsections 2 and 3, the scheduled fine is one hundred dollars.

Sec. 67. Section 805.8B, subsection 2, paragraph g, Code 2011, is amended to read as follows:

g. For violations of section 321G.20 and for safety education certificate violations under section 321G.24, subsection 1, the scheduled fine is fifty dollars.

Sec. 68. Section 805.8B, subsection 2A, paragraphs a and g, Code 2011, are amended to read as follows:

a. For registration or user permit violations under section 321I.3, ~~subsections~~ subsection 1 and 2, the scheduled fine is fifty dollars.

g. For violations of section 321I.21 and for safety education certificate violations under section 321I.26, subsection 1, the scheduled fine is fifty dollars.

Sec. 69. REPEAL. Sections 462A.40 and 462A.42, Code 2011, are repealed.

**CHAPTER 1101****REGULATION OF OCCUPATIONAL THERAPY SERVICES PROVIDERS, ORTHOTISTS,  
PROSTHETISTS, AND PEDORTHISTS**

S.F. 364

**AN ACT** relating to the licensure and regulation of persons offering occupational therapy services, and orthotists, prosthetists, and pedorthists, providing exceptions for persons practicing within the scope of their professions, and providing for fees and penalties.

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

Section 1. Section 147.1, subsections 3 and 6, Code 2011, are amended to read as follows:

3. “*Licensed*” or “*certified*”, when applied to a physician and surgeon, podiatric physician, osteopathic physician and surgeon, physician assistant, psychologist, chiropractor, nurse, dentist, dental hygienist, dental assistant, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, physical therapist assistant, occupational therapist, occupational therapy assistant, orthotist, prosthetist, pedorthist, 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.

6. “*Profession*” means medicine and surgery, podiatry, 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, orthotics, prosthetics, or pedorthics.

Sec. 2. Section 147.2, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not engage in the practice of medicine and surgery, podiatry, 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, orthotics, prosthetics, pedorthics, 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, unless the person has obtained a license for that purpose from the board for the profession.

Sec. 3. Section 147.13, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 24. For orthotics, prosthetics, and pedorthics, the board of podiatry.

Sec. 4. Section 147.14, subsection 1, paragraph s, Code 2011, is amended to read as follows:

s. For podiatry, five members licensed to practice podiatry, two members licensed to practice orthotics, prosthetics, or pedorthics, and two members who are not so licensed ~~to practice podiatry~~ and who shall represent the general public.

Sec. 5. Section 147.74, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 24. a. An orthotist licensed under chapter 148F may use the words “licensed orthotist” after the person’s name or signify the same by the use of the letters “L.O.” after the person’s name.

b. A pedorthist licensed under chapter 148F may use the words “licensed pedorthist” after the person’s name or signify the same by the use of the letters “L.ped.” after the person’s name.

c. A prosthetist licensed under chapter 148F may use the words “licensed prosthetist” after the person’s name or signify the same by the use of the letters “L.P.” after the person’s name.

Sec. 6. Section 148B.2, subsection 2, Code 2011, is amended to read as follows:

2. “Occupational therapy” means the therapeutic application of specific tasks used for the purpose of evaluation and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorder, congenital or developmental disability, or the aging process in order to achieve optimum function, for maintenance of health and prevention of disability use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life. “Occupational therapy” includes but is not limited to providing assessment, design, fabrication, application, and fitting of selected orthotic devices and training in the use of prosthetic devices.

Sec. 7. Section 148B.3, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 8. Section 148B.3, subsection 6, Code 2011, is amended to read as follows:

6. A nonresident performing occupational therapy services in the state who is not licensed under this chapter, if the services are performed for not more than ~~ninety~~ thirty days in a calendar year in association with an occupational therapist licensed under this chapter, and the nonresident meets either of the following requirements:

a. The nonresident is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this chapter, ~~or,~~

b. the nonresident meets the requirements for certification as an occupational therapist registered (O.T.R.), or a certified occupational therapy assistant (C.O.T.A.) established by the American national board for certification in occupational therapy association.

Sec. 9. Section 148B.4, Code 2011, is amended to read as follows:

#### **148B.4 Limited permit.**

1. A limited permit to practice occupational therapy may be granted to persons a person who have has completed the education and experience academic and field work requirements of for occupational therapists under this chapter and has not yet taken or received the results of the entry-level certification examination. This permit shall A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to practice occupational therapy under the direction and appropriate supervision of a licensed an occupational therapist and shall be valid until the date on which the results of the next qualifying examination have been made public licensed under this chapter. This The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed if the applicant has failed the examination.

2. A limited permit to assist in the practice of occupational therapy may be granted to a person who has completed the academic and field work requirements for occupational therapy assistants under this chapter and has not yet taken or received the results of the entry-level certification examination. A permit granted pursuant to this subsection shall be valid for a period of time as determined by the board by rule and shall allow the person to assist in the practice of occupational therapy under the direction and appropriate supervision of an occupational therapist licensed under this chapter. The permit shall expire when the person is issued a license under section 148B.5 or if the person is notified that the person did not pass the examination. The limited permit shall not be renewed.



Sec. 10. Section 148B.6, Code 2011, is amended to read as follows:

**148B.6 Waiver of requirements for licensing.**

1. The board may waive the examination and grant a license:

1. ~~to~~ To a person certified prior to January 1, 1981, as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American Occupational Therapy Association occupational therapy association.

2. ~~The board shall waive the education and experience requirements for licensure in section 148B.5, subsections 1 and 2, for applicants for a license who present evidence to the board that they have been engaged in the practice of occupational therapy on and prior to January 1, 1981. Proof of actual practice shall be presented to the board in a manner as it prescribes by rule. To obtain the benefit of this waiver, an applicant must successfully complete the examination within one year from January 1, 1981. However, the waiver is conditional upon the applicant satisfying the education and experience requirements of section 148B.5, subsections 1 and 2, within five years of the waiver being granted and if those requirements are not satisfied at the expiration of those five years the board shall revoke the license.~~

3. 2. ~~The board may waive the examination and grant a license to~~ To an applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this chapter.

Sec. 11. NEW SECTION. **148B.8 Unlawful practice.**

1. A person shall not practice occupational therapy or assist in the practice of occupational therapy, provide occupational therapy services, hold oneself out as an occupational therapist or occupational therapy assistant or as being able to practice occupational therapy or assist in the practice of occupational therapy, or provide occupational therapy services in this state unless the person is licensed under this chapter.

2. It is unlawful for any person not licensed as an occupational therapist in this state or whose license is suspended or revoked to use in connection with the person's name or place of business in this state the words "occupational therapist", "licensed occupational therapist", or any word, title, letters, or designation that implies that the person is an occupational therapist.

3. It is unlawful for any person not licensed as an occupational therapy assistant in this state or whose license is suspended or revoked to use in connection with the person's name or place of business in this state, the words "occupational therapy assistant", "licensed occupational therapy assistant", or any word, title, letters, or designation that implies that the person is an occupational therapy assistant.

Sec. 12. NEW SECTION. **148B.9 False use of titles prohibited.**

A person or business entity, including the employees, agents, or representatives of the business entity, shall not use in connection with that person or business entity's business activity, the words "occupational therapy", "occupational therapist", "licensed occupational therapist", "doctor of occupational therapy", "occupational therapy assistant", "licensed occupational therapy assistant", or the letters "O.T.", "O.T./L.", "O.T.D.", "O.T.A.", "O.T.A./L.", or any words, abbreviations, or insignia indicating or implying that occupational therapy is provided or supplied unless such services are provided by or under the direction and supervision of an occupational therapist licensed pursuant to this chapter.

Sec. 13. NEW SECTION. **148F.1 Title and purpose.**

1. This chapter may be cited and referred to as the "*Orthotics, Prosthetics, and Pedorthics Practice Act*".

2. The purpose of this chapter is to provide for the regulation of persons offering orthotic, prosthetic, and pedorthic services to the public in order to safeguard the public health, safety, and welfare.

Sec. 14. NEW SECTION. **148F.2 Definitions.**

As used in this chapter:

1. "*Board*" means the board of podiatry.

2. “*Orthosis*” means a custom-fabricated or custom-fitted brace or support designed to provide for alignment, correction, or prevention of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity. “*Orthosis*” does not include fabric or elastic supports, corsets, arch supports, low temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices carried in stock and sold as “over-the-counter” items by a drug store, department store, corset shop, or surgical supply facility.

3. “*Orthotic and prosthetic education program*” means a course of instruction accredited by the national commission on accreditation of allied health education programs, consisting of both of the following:

a. A basic curriculum of college level instruction in math, physics, biology, chemistry, and psychology.

b. A specific curriculum in orthotic or prosthetic courses, including but not limited to:

(1) Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management.

(2) Subject matter related to pediatric and geriatric problems.

(3) Instruction in acute care techniques, such as immediate and early post-surgical prosthetics and fracture bracing techniques.

(4) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses.

4. “*Orthotic and prosthetic scope of practice*” means a list of tasks, with relative weight given to such factors as importance, criticality, and frequency, based on nationally accepted standards of orthotic and prosthetic care as outlined by the American board for certification in orthotics, prosthetics, and pedorthics.

5. “*Orthotics*” means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis under an order from a licensed physician or podiatric physician for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

6. “*Orthotist*” means a health care professional, specifically educated and trained in orthotic patient care, who measures, designs, fabricates, fits, or services orthoses and may assist in the formulation of the order and treatment plan of orthoses for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries, or deformities.

7. “*Pedorthic device*” means therapeutic shoes, such as diabetic shoes and inserts, shoe modifications made for therapeutic purposes, below-the-ankle partial foot prostheses, and foot orthoses for use at the ankle or below. The term also includes subtalar-control foot orthoses designed to manage the function of the anatomy by controlling the range of motion of the subtalar joint. Excluding pedorthic devices which are footwear, the proximal height of a custom pedorthic device does not extend beyond the junction of the gastrocnemius and the Achilles tendon. “*Pedorthic device*” does not include nontherapeutic inlays or footwear regardless of method of manufacture; unmodified, nontherapeutic over-the-counter shoes; or prefabricated foot care products.

8. “*Pedorthic education program*” means an educational program accredited by the American board for certification in orthotics, prosthetics, and pedorthics consisting of all of the following:

a. A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics.

b. A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, subject matter related to pediatric and geriatric problems, and lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices.

9. “*Pedorthic scope of practice*” means a list of tasks with relative weight given to such factors as importance, criticality, and frequency based on nationally accepted standards of

pedorthic care as outlined by the American board for certification in orthotics, prosthetics and pedorthics.

10. "*Pedorthics*" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device under an order from a licensed physician or podiatric physician for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity.

11. "*Pedorthist*" means a health care professional, specifically educated and trained in pedorthic patient care, who measures, designs, fabricates, fits, or services pedorthic devices and may assist in the formulation of the order and treatment plan of pedorthic devices for the support or correction of disabilities caused by neuromusculoskeletal diseases, injuries, or deformities.

12. "*Prosthesis*" means an artificial medical device that is not surgically implanted and that is used to replace a missing limb, appendage, or any other external human body part including an artificial limb, hand, or foot.

13. "*Prosthetics*" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis under an order from a licensed physician.

14. "*Prosthetist*" means a health care professional, specifically educated and trained in prosthetic patient care, who measures, designs, fabricates, fits, or services prostheses and may assist in the formulation of the order and treatment plan of prostheses for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.

15. "*Resident*" means a person who has completed an education program in either orthotics or prosthetics and is continuing the person's clinical education in a residency accredited by the American board for certification in orthotics, prosthetics and pedorthics.

16. "*Residency*" means an approved supervised program of a minimum duration of one year to acquire practical clinical training in orthotics or prosthetics in a patient care setting.

**Sec. 15. NEW SECTION. 148F.3 Duties of the board.**

The board shall administer this chapter. The board's duties shall include but are not limited to the following:

1. Adoption of rules to administer and interpret this chapter, chapter 147, and chapter 272C with respect to the education and licensing of orthotists, prosthetists, and pedorthists.

2. Adoption of rules to establish accepted standards of orthotic and prosthetic scope of practice, including the classification of devices and supervision of nonlicensed caregivers. Any changes to the nationally accepted standards by the American board for certification in orthotics, prosthetics and pedorthics which impact scope of practice may be approved by the board along with the adoption of rules as required in this section.

3. Adoption of rules relating to professional conduct and licensing and the establishment of ethical and professional standards of practice.

4. Acting on matters concerning licensure and the process of applying for, granting, suspending, imposing supervisory or probationary conditions upon, reinstating, revoking, or renewing a license.

5. Establishing and collecting licensure fees as provided in section 147.80.

6. Developing continuing education requirements as a condition of license renewal.

7. Evaluating requirements for licensure in other states to determine if reciprocity may be granted.

8. Adoption of rules providing temporary licensing for persons providing orthotic, prosthetic, and pedorthic care in this state prior to the effective date of this Act. A temporary license is good for no more than one year.

**Sec. 16. NEW SECTION. 148F.4 Persons and practices not affected.**

This chapter does not prevent or restrict the practice, services, or activities of any of the following:

1. A person licensed in this state by any other law from engaging in the profession or occupation for which the person is licensed, including but not limited to persons set out in section 147.1, subsections 3 and 6.

2. A person employed as an orthotics, prosthetics, or pedorthics practitioner by the government of the United States if that person practices solely under the direction or control of the organization by which the person is employed.

3. A person pursuing a course of study leading to a degree or certificate in orthotics, prosthetics, or pedorthics in an educational program accredited or approved according to rules adopted by the board, if the activities and services constitute a part of a supervised course of study and the person is designated by a title which clearly indicates the person's status as a student, resident, or trainee.

**Sec. 17. NEW SECTION. 148F.5 Qualifications for licensure as orthotist, prosthetist, or pedorthist.**

1. To qualify for a license to practice orthotics or prosthetics, a person shall meet the following requirements:

a. Possess a baccalaureate degree from a college or university.

b. Have completed the amount of formal training, including but not limited to an orthotic and prosthetic education program, and clinical practice established and approved by the board.

c. Complete a clinical residency in the professional area for which a license is sought in accordance with standards, guidelines, or procedures for residencies established and approved by the board. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of orthotics or prosthetics or a person certified as a certified orthotist, certified prosthetist, or certified prosthetist orthotist whose practice is located outside the state.

d. Pass all written, practical, and oral examinations that are required and approved by the board.

e. Be qualified to practice in accordance with accepted standards of orthotic and prosthetic care as established by the board.

2. To qualify for a license to practice pedorthics, a person shall meet the following requirements:

a. Submit proof of a high school diploma or its equivalent.

b. Have completed the amount of formal training, including but not limited to a pedorthic education program, and clinical practice established and approved by the board.

c. Complete a qualified work experience program or internship in pedorthics that has a minimum of one thousand hours of pedorthic patient care experience in accordance with any standards, guidelines, or procedures established and approved by the board. The majority of training must be devoted to services performed under the supervision of a licensed practitioner of pedorthics or a person certified as a certified pedorthist whose practice is located outside the state.

d. Pass all examinations that are required and approved by the board.

e. Be qualified to practice in accordance with accepted standards of pedorthic care as established by the board.

3. The standards and requirements for licensure established by the board shall be substantially equal to or in excess of standards commonly accepted in the professions of orthotics, prosthetics, or pedorthics, as applicable. The board shall adopt rules as necessary to set the standards and requirements.

4. A person may be licensed in more than one discipline.

**Sec. 18. NEW SECTION. 148F.6 Assistants and technicians.**

1. a. A person shall not work as an assistant to an orthotist or prosthetist or provide patient care services or fabrication of orthoses or prostheses, unless the work is performed under the supervision of a licensed orthotist or prosthetist.

b. An assistant may perform orthotic or prosthetic procedures and related tasks in the management of patient care. An assistant may also fabricate, repair, and maintain orthoses and prostheses.

2. A technician may assist a person licensed under this chapter with fabrication of orthoses, prostheses, or pedorthic devices but shall not provide direct patient care.

Sec. 19. **NEW SECTION. 148F.7 Limitation on provision of care and services.**

A licensed orthotist, prosthetist, or pedorthist may provide care or services only if the care or services are provided pursuant to an order from a licensed physician, a licensed podiatric physician, an advanced registered nurse practitioner who has a written collaborative agreement with a collaborating physician or podiatric physician that specifically authorizes ordering the services of an orthotist, prosthetist, or pedorthist, an advanced registered nurse practitioner who practices in a hospital or ambulatory surgical treatment center and possesses clinical privileges to order services of an orthotist, prosthetist, or pedorthist, or a physician assistant who has been delegated the authority to order the services of an orthotist, prosthetist, or pedorthist by the assistant's supervising physician. A licensed podiatric physician or an advanced registered nurse practitioner collaborating with a podiatric physician may only order care or services concerning the foot from a licensed pedorthist or orthotist.

Sec. 20. **NEW SECTION. 148F.8 Penalties.**

1. If any person, company, or other entity violates a provision of this chapter, the attorney general may petition for an order enjoining the violation or for an order enforcing compliance with this chapter. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person, company, or other entity has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided in this chapter.

2. If a person practices as an orthotist, prosthetist, or pedorthist or represents the person as such without being licensed under the provisions of this chapter, then any other licensed orthotist, pedorthist, or prosthetist, any interested party, or any person injured by the person may petition for relief as provided in subsection 1.

3. If a company or other entity holds itself out to provide orthotic, prosthetic, or pedorthic services without having an orthotist, prosthetist, or pedorthist licensed under the provisions of this chapter on its staff to provide those services, then any other licensed orthotist, prosthetist, or pedorthist or any interested party or injured person may petition for relief as provided in subsection 1.

Approved April 27, 2012

## CHAPTER 1102

### RETURNING DROPOUT AND DROPOUT PREVENTION PROGRAMS — FUNDING

*S.F. 451*

**AN ACT** relating to the allowable uses for modified allowable growth for programs for returning dropouts and dropout prevention and including applicability provisions.

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

Section 1. Section 257.41, Code 2011, is amended to read as follows:

**257.41 Funding for programs for returning dropouts and dropout prevention.**

1. *Budget.* The budget of an approved program for returning dropouts and dropout prevention for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 257.8. Annually, the department of management shall establish a modified allowable growth for each such school district equal to the difference between the approved budget for the program for returning dropouts and dropout prevention for that district and the sum

of the amount funded from the district cost of the school district plus funds received from other sources.

2. *Appropriate uses of funding.* Appropriate uses of the returning dropout and dropout prevention program funding include but are not limited to the following:

a. Salary and benefits for instructional staff, instructional support staff, and school-based youth services staff who are working with students who are participating in dropout prevention programs, alternative programs, and alternative schools, in a traditional or alternative setting, if the staff person's time is dedicated to working with returning dropouts or students who are deemed, at any time during the school year, to be at risk of dropping out, in order to provide services beyond those which are provided by the school district to students who are not identified as at risk of dropping out. However, if the staff person works part-time with students who are participating in returning dropout and dropout prevention programs, alternative programs, and alternative schools and has another unrelated staff assignment, only the portion of the staff person's time that is related to the returning dropout and dropout prevention program, alternative program, or alternative school may be charged to the program. For purposes of this paragraph, if an alternative setting is necessary to provide for a program which is offered at a location off school grounds and which is intended to serve student needs by improving relationships and connections to school, decreasing truancy and tardiness, providing opportunities for course credit recovery, or helping students identified as at risk of dropping out to accelerate through multiple grade levels of achievement within a shortened time frame, the tuition costs for a student identified as at risk of dropping out shall be considered an appropriate use of the returning dropout and dropout prevention program funding.

b. Professional development for all teachers and staff working with at-risk students and programs involving dropout prevention strategies.

c. Research-based resources, materials, software, supplies, and purchased services that meet all of the following criteria:

(1) Meets the needs of kindergarten through grade twelve students identified as at risk of dropping out and of returning dropouts.

(2) Are beyond those provided by the regular school program.

(3) Are necessary to provide the services listed in the school district's dropout prevention plan.

(4) Will remain with the kindergarten through grade twelve returning dropout and dropout prevention program.

d. Up to five percent of the total budgeted amount received pursuant to subsection 1 may be used for purposes of providing district-wide or building-wide returning dropout and dropout prevention programming targeted to students who are not deemed at risk of dropping out.

3. *Limitation.* For the fiscal year beginning July 1, 2013, and each succeeding fiscal year, the ratio of the amount of modified allowable growth established by the department of management compared to the school district's total regular program district cost shall not exceed two and one-half percent. However, if the school district's highest such ratio so determined for any fiscal year beginning on or after July 1, 2009, but before July 1, 2013, exceeded two and one-half percent, the ratio may exceed two and one-half percent but shall not exceed the highest such ratio established during that period.

## Sec. 2. APPLICABILITY.

1. Notwithstanding section 257.38, subsection 1, section 257.40, subsection 1, or any other provision of law to the contrary, the section of this Act enacting section 257.41, subsection 2, is applicable to budget years beginning on or after July 1, 2012, for purposes of the appropriate uses of funding for returning dropout and dropout prevention program plans approved for budget years beginning on or after July 1, 2012.

2. The section of this Act enacting section 257.41, subsection 3, is applicable to budget years beginning on or after July 1, 2013.

**CHAPTER 1103****INCOME TAX CREDIT FOR VOLUNTEER FIRE FIGHTERS AND EMERGENCY MEDICAL SERVICES PERSONNEL***S.F. 2322*

**AN ACT** providing volunteer fire fighters and emergency medical services personnel with an individual income tax credit and including effective date and applicability provisions.

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

Section 1. Section 422.12, subsection 1, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. *0b. "Emergency medical services personnel" means an emergency medical care provider, as defined in section 147A.1, who is certified as a first responder pursuant to chapter 147A.*

NEW PARAGRAPH. *d. "Volunteer fire fighter" means a volunteer fire fighter as defined in section 85.61 who has met the minimum training standards established by the fire service training bureau pursuant to chapter 100B.*

Sec. 2. Section 422.12, subsection 2, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c. (1) A volunteer fire fighter and volunteer emergency medical services personnel credit equal to fifty dollars to compensate the taxpayer for the voluntary services if the volunteer served for the entire tax year.*

If the taxpayer is not a volunteer fire fighter or volunteer emergency medical services personnel for the entire tax year, the maximum amount of the credit shall be prorated and the amount of credit for the taxpayer shall equal the maximum amount of credit for the tax year, divided by twelve, multiplied by the number of months in the tax year the taxpayer was a volunteer. The credit shall be rounded to the nearest dollar. If the taxpayer is a volunteer during any part of a month, the taxpayer shall be considered a volunteer for the entire month. If the taxpayer is a volunteer fire fighter and a volunteer emergency medical services personnel during the same month, a credit may be claimed for only one volunteer position for that month.

(2) The taxpayer is required to have a written statement from the fire chief or other appropriate supervisor verifying that the taxpayer was a volunteer fire fighter or volunteer emergency medical services personnel for the months for which the credit under this paragraph is claimed.

Sec. 3. **EFFECTIVE DATE.** This Act takes effect January 1, 2013.

Sec. 4. **APPLICABILITY.** This Act applies to tax years beginning on or after January 1, 2013.

Approved April 27, 2012

**CHAPTER 1104****SALES TAX EXEMPTION FOR TANGIBLE PERSONAL PROPERTY OR SERVICES SALES  
TO SUBSTANCE ABUSE TREATMENT OR PREVENTION PROGRAMS***S.F. 2333*

**AN ACT** providing a sales tax exemption for the sale of tangible personal property or services to substance abuse treatment or prevention programs that receive block grant funding from the Iowa department of public health.

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

Section 1. Section 423.3, subsection 18, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Substance abuse treatment or prevention programs that receive block grant funding from the Iowa department of public health.

Approved April 27, 2012

**CHAPTER 1105****MECHANICS' LIENS — STATE CONSTRUCTION REGISTRY***H.F. 675*

**AN ACT** concerning mechanics' liens including the establishment of a state construction registry for residential construction property, and including effective date and applicability provisions.

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

Section 1. Section 207.23, subsection 1, Code 2011, is amended to read as follows:

1. Within six months after the completion of a project to restore, reclaim, abate, control, or prevent adverse effects of past coal mining practices on privately owned land, the division shall itemize the money expended on the project and may file a lien statement ~~in the manner provided in section 572.8~~ in the office of the district court clerk of each county in which a portion of the property affected by the project is located, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past mining practices if the money so expended results in a significant increase in property value. A copy of the lien statement and the appraisal, if required, shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices. A lien shall not be filed in accordance with this subsection against the property of a person who owned the surface prior to May 2, 1977, and who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed.

Sec. 2. Section 572.1, Code 2011, is amended to read as follows:

**572.1 Definitions and rules of construction.**

For the purpose of this chapter:

1. "Administrator" means the secretary of state.

2. "Building" shall be construed as if followed by the words "erection, or other improvement upon land".



3. “General contractor” includes every person who does work or furnishes materials by contract, express or implied, with an owner. “General contractor” does not include a person who does work or furnishes materials on contract with an owner-builder.

~~2.~~ 4. “Labor” means labor completed by the claimant.

~~3.~~ 5. “Material” shall, in addition to its ordinary meaning, include includes machinery, tools, fixtures, trees, evergreens, vines, plants, shrubs, tubers, bulbs, hedges, bushes, sod, soil, dirt, mulch, peat, fertilizer, fence wire, fence material, fence posts, tile, and the use of forms, accessories, and equipment furnished by the claimant.

~~4.~~ 6. “Owner” means the record legal or equitable titleholder and every person for whose use or benefit any building, erection, or other improvement is made, having the capacity to contract, including guardians of record.

~~5. “Owner-occupied dwelling” means the homestead of an owner, as defined in section 561.1, and without respect to the value limitations in section 561.3, and actually occupied by the owner or the spouse of the owner, or both. “Owner-occupied dwelling” includes a newly constructed dwelling to be occupied by the owner as a homestead, or a dwelling that is under construction and being built by or for an owner who will occupy the dwelling as a homestead.~~

7. “Owner-builder” means the legal or equitable titleholder of record who furnishes material for or performs labor upon a building, erection, or other improvement, or who contracts with a subcontractor to furnish material for or perform labor upon a building, erection, or other improvement and who offers or intends to offer to sell the owner-builder’s property without occupying or using the structures, properties, developments, or improvements for a period of more than one year from the date the structure, property, development, or improvement is substantially completed or abandoned.

8. “Residential construction” means construction on single-family or two-family dwellings occupied or used, or intended to be occupied or used, primarily for residential purposes, and includes real property pursuant to chapter 499B.

9. “State construction registry” means a centralized computer database maintained on the internet by the administrator that provides a central repository for the submission and management of preliminary notices, notices of commencement of work on residential construction properties, and mechanics’ liens on all construction properties.

10. “State construction registry number” means a number provided by the administrator for all residential construction properties posted to the state construction registry.

~~6.~~ 11. “Subcontractor” shall include includes every person furnishing material or performing labor upon any building, erection, or other improvement, except those having contracts directly with the owner. “Subcontractor” shall include those persons having contracts directly with an owner-builder.<sup>1</sup>

Sec. 3. Section 572.2, Code 2011, is amended to read as follows:

**572.2 Persons entitled to lien.**

1. Every person who ~~shall furnish~~ furnishes any material or labor for, or ~~perform~~ performs any labor upon, any building or land for improvement, alteration, or repair thereof, including those engaged in the construction or repair of any work of internal or external improvement, and those engaged in grading, sodding, installing nursery stock, landscaping, sidewalk building, fencing on any land or lot, by virtue of any contract with the owner, ~~owner-builder, general contractor, or subcontractor~~ shall have a lien upon such building or improvement, and land belonging to the owner on which the same is situated or upon the land or lot so graded, landscaped, fenced, or otherwise improved, altered, or repaired, to secure payment for the material or labor furnished or labor performed.

2. If material is rented by a person to the owner, general contractor, or subcontractor, the person shall have a lien upon such building, improvement, or land to secure payment for the material rental. The lien is for the reasonable rental value during the period of actual use of the material and any reasonable periods of nonuse of the material taken into account in the rental agreement. The delivery of material to such building, improvement, or land, whether or not delivery is made by the person, creates a presumption that the material was used in the

<sup>1</sup> See chapter 1138, §40, 43 herein

course of alteration, construction, or repair of the building, improvement, or land. However, this presumption shall not pertain to recoveries sought under a surety bond.

3. An owner-builder is not entitled to a lien under this chapter as to work the owner-builder performs, or is contractually obligated to perform, prior to transferring title to the buyer.

Sec. 4. Section 572.8, Code 2011, is amended to read as follows:

**572.8 Perfection of lien.**

1. A person shall perfect a mechanic's lien by filing with the clerk of the district court of the county in which the building, land, or improvement to be charged with the lien is situated posting to the state construction registry internet website a verified statement of account of the demand due the person, after allowing all credits, setting forth:

a. The date when such material was first furnished or labor first performed, and the date on which the last of the material was furnished or the last of the labor was performed.

b. The legal description of the property to be charged with the lien.

c. The name and last known mailing address of the owner of the property.

d. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

e. The tax parcel identification number.

2. Upon the filing posting of the lien, the clerk of court administrator shall mail a copy of the lien to the owner. If the statement of the lien consists of more than one page, the clerk administrator may omit such pages as consist solely of an accounting of the material furnished or labor performed. In this case, the clerk administrator shall attach a notification that pages of accounting were omitted and may be inspected in the clerk's office on the state construction registry internet website.

3. A lien perfected under this section shall be limited to the county in which the building, land, or improvement to be charged with the lien is situated. The county identified on the state construction registry internet website at the time of posting the required notices pursuant to sections 572.13A and 572.13B shall be the only county in which the building, land, or improvement may be charged with a mechanic's lien.<sup>2</sup>

Sec. 5. Section 572.9, Code 2011, is amended to read as follows:

**572.9 Time of filing lien posting.**

The statement of account required by section 572.8 shall be filed posted by a principal general contractor or subcontractor within two years and ninety days after the date on which the last of the material was furnished or the last of the labor was performed.

Sec. 6. Section 572.10, Code 2011, is amended to read as follows:

**572.10 Perfecting lien after lapse of ninety days.**

A general contractor or a subcontractor may perfect a mechanic's lien pursuant to section 572.8 beyond ninety days after the date on which the last of the material was furnished or the last of the labor was performed by filing a claim with the clerk of the district court posting a lien to the state construction registry internet website and giving written notice thereof to the owner. Such notice may be served by any person in the manner original notices are required to be served. If the party to be served is out of the county wherein the property is situated, a return of that fact by the person charged with making such service shall constitute sufficient service from and after the time it was filed with the clerk of the district court posted to the state construction registry internet website.<sup>3</sup>

Sec. 7. Section 572.11, Code 2011, is amended to read as follows:

**572.11 Extent of lien filed posted after ninety days.**

Liens perfected under section 572.10 shall be enforced against the property or upon the bond, if given, by the owner or by the owner-builder's buyer, only to the extent of the balance due from the owner to the general contractor or from the owner-builder's buyer to the owner-builder at the time of the service of such notice; but if the bond was given by the general contractor or owner-builder, or person contracting with the subcontractor filing the

<sup>2</sup> See chapter 1138, §40, 43 herein

<sup>3</sup> See chapter 1138, §40, 43 herein

claim for a lien, such bond shall be enforced to the full extent of the amount found due the subcontractor.

Sec. 8. Section 572.13, Code Supplement 2011, is amended by striking the section and inserting in lieu thereof the following:

**572.13 General contractor — owner notice — residential construction.**

1. A general contractor who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall provide the owner with the following owner notice in writing in boldface type of a minimum size of ten points:

“Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The state construction registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property.”

2. The notice described in subsection 1 shall also contain the internet website address and toll-free telephone number of the state construction registry.

3. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.

4. This section applies only to residential construction properties. <sup>4</sup>

Sec. 9. NEW SECTION. **572.13A Notice of commencement of work — general contractor — owner-builder.**

1. A general contractor or owner-builder who has contracted or will contract with a subcontractor to provide labor or furnish material for the property shall post a notice of commencement of work to the state construction registry internet website within ten days of commencement of work on the property. A notice of commencement of work is effective only as to any labor, service, equipment, or material furnished to the property subsequent to the posting of the notice of commencement of work. A notice of commencement of work shall include all of the following information:

a. The name and address of the owner.

b. The name, address, and telephone number of the general contractor or owner-builder.

c. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

d. The legal description of the property.

e. The date work commenced.

f. The tax parcel identification number.

g. Any other information prescribed by the administrator pursuant to rule.

2. If a general contractor or owner-builder fails to post the required notice of commencement of work to the state construction registry internet website pursuant to subsection 1, within ten days of commencement of the work on the property, a subcontractor may post the notice in conjunction with the filing of the required preliminary notice pursuant to section 572.13B. A notice of commencement of work must be posted to the state construction registry internet website before preliminary notices pursuant to section 572.13B may be posted.

3. a. At the time a notice of commencement of work is posted on the state construction registry internet website, the administrator shall assign a state construction registry number and send a copy of the owner notice described in section 572.13. The owner notice shall contain the following language:

Persons or companies furnishing labor or materials for the improvement of real property may enforce a lien upon the improved property if they are not paid for their contributions, even if the parties have no direct contractual relationship with the owner. The state construction registry provides a listing of all persons or companies furnishing labor or materials who have posted a lien or who may post a lien upon the improved property. If the person or company has posted its notice or lien to the state construction registry, you may be required to pay the person or company even if you have paid the general contractor

<sup>4</sup> See chapter 1138, §40, 43 herein

the full amount due. Therefore, check the state construction registry internet website for information about the property including persons or companies furnishing labor or materials before paying your general contractor. In addition, when making payment to your general contractor, it is important to obtain lien waivers from your general contractor and from persons or companies registered as furnishing labor or materials to your property. The information in the state construction registry is posted on the internet website of the state construction registry.

b. Other relevant information may be included with the notice described in subsection 1 as prescribed by the administrator pursuant to rule.

c. The notice described in subsection 1 shall be sent to the owner's address. If the owner's address is different than the property address, a copy of the notice shall also be sent to the property address, addressed to the owner.

4. A general contractor who fails to provide notice pursuant to this section is not entitled to a lien and remedy provided by this chapter.

5. This section applies only to residential construction properties.<sup>5</sup>

**Sec. 10. NEW SECTION. 572.13B Preliminary notice — subcontractor — residential construction.**

1. A subcontractor shall post a preliminary notice to the state construction registry internet website. A preliminary notice posted before the balance due is paid to the general contractor or the owner-builder is effective as to all labor, service, equipment, and material furnished to the property by the subcontractor. The preliminary notice shall contain all of the following information:

a. The name of the owner.

b. The state construction registry number.

c. The name, address, and telephone number of the subcontractor furnishing the labor, service, equipment, or material.

d. The name and address of the person who contracted with the claimant for the furnishing of the labor, service, equipment, or material.

e. The name of the general contractor or owner-builder under which the claimant is performing or will perform the work.

f. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.

g. The legal description of the property.

h. The date the material or materials were first furnished or the labor was first performed.

i. The tax parcel identification number.

j. Any other information required by the administrator pursuant to rule.

2. At the time a preliminary notice is posted to the state construction registry, the administrator shall send notification to the owner, including the owner notice described in section 572.13, subsection 1, and shall docket the mailing of the notice on the state construction registry as prescribed by the administrator pursuant to rule. Notices under this section shall not be sent to owner-builders. Upon request, the administrator shall provide an affidavit of mailing at no cost for the notice required under this section.

3. a. A mechanic's lien perfected under this chapter is enforceable only to the extent of the balance due the general contractor or the owner-builder at the time of the posting of the preliminary notice specified in subsection 1, and, except for residential construction property owned by an owner-builder, also is enforceable only to the extent of the balance due the general contractor at the time the owner actually receives the notice provided pursuant to subsection 2 or paragraph "b".

b. (1) In any action to enforce a mechanic's lien perfected under this chapter against the owner, the subcontractor bears the burden to prove by a preponderance of the evidence that the owner received notice pursuant to subsection 2. A subcontractor may satisfy the burden of proof by providing separate notice to an owner by including but not limited to any of the following means:

(a) By certified mail with return receipt.

<sup>5</sup> See chapter 1138, §41, 43 herein

- (b) By personal service in the manner original notices are required to be served.
- (c) By actual notice with a signed receipt from the owner acknowledging notice.

(2) If the subcontractor provides an affidavit of mailing, the presumption is that the owner received the notice on the fourth day of business for the post office after the notice was sent and the burden of proof shifts from the subcontractor to the owner to refute the presumption.

4. A subcontractor who fails to post a preliminary notice pursuant to this section shall not be entitled to a lien and remedy provided under this chapter.

5. This section applies only to residential construction properties.<sup>6</sup>

Sec. 11. Section 572.14, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**572.14 Liability to subcontractor after payment to general contractor or owner-builder.**

Except as provided in section 572.13B, payment to the general contractor or owner-builder of any part or all of the contract price of the building or improvement within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed by a subcontractor, does not relieve the owner from liability to the subcontractor for the full value of any material furnished or labor performed upon the building, land, or improvement if the subcontractor posts a lien within ninety days after the date on which the last of the materials was furnished or the last of the labor was performed.

Sec. 12. Section 572.15, Code 2011, is amended to read as follows:

**572.15 Discharge of subcontractor's mechanic's lien — bond.**

A mechanic's lien may be discharged at any time by ~~the owner, principal contractor, or intermediate subcontractor filing with the clerk of the district court of the county in which the property is located~~ submitting a bond to the administrator in twice the amount of the sum for which the claim for the lien is filed, with surety or sureties, to be approved by the ~~clerk~~ administrator, conditioned for the payment of any sum for which the claimant may obtain judgment upon the claim.

Sec. 13. Section 572.16, Code 2011, is amended to read as follows:

**572.16 Rule of construction.**

Nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the ~~principal general contractor~~, unless ~~said~~ the owner pays a part or all of the contract price to the ~~original general contractor~~ before the expiration of the ninety days allowed by law for the ~~filing posting~~ of a mechanic's lien by a subcontractor; provided that in the case of ~~an owner-occupied dwelling residential construction~~, nothing in this chapter shall be construed to require the owner to pay a greater amount or at an earlier date than is provided in the owner's contract with the ~~principal general contractor~~, unless the owner pays a part or all of the contract price to the ~~principal general contractor after receipt of notice under section 572.14, subsection 2~~ the owner receives notice pursuant to section 572.13B, subsection 2 or subsection 3, paragraph "b".

Sec. 14. Section 572.17, Code 2011, is amended to read as follows:

**572.17 Priority of mechanics' liens between mechanics.**

Mechanics' liens shall have priority over each other in the order of the ~~filing posting~~ of the statements ~~or~~ of accounts as ~~herein~~ provided in section 572.8.

Sec. 15. Section 572.18, subsections 1 and 3, Code 2011, are amended to read as follows:

1. Mechanics' liens ~~filed posted~~ by a ~~principal general contractor~~ or subcontractor within ninety days after the date on which the last of the material was furnished or the last of the claimant's labor was performed and for which notices were ~~properly posted to the state construction registry internet website pursuant to sections 572.13A and 572.13B~~ shall be superior to all other liens which may attach to or upon a building or improvement and to the land upon which it is situated, except liens of record prior to the time of the original commencement of the claimant's work or the claimant's improvements, except as provided in subsection 2.

<sup>6</sup> See chapter 1138, §41, 43 herein

3. The rights of purchasers, encumbrancers, and other persons who acquire interests in good faith, for a valuable consideration, and without notice of a lien perfected pursuant to this chapter, are superior to the claims of all general contractors or subcontractors who have perfected their liens more than ninety days after the date on which the last of the claimant's material was furnished or the last of the claimant's labor was performed.<sup>7</sup>

Sec. 16. Section 572.22, Code 2011, is amended to read as follows:

**572.22 Record of claim.**

~~The clerk of the court administrator shall endorse upon every claim for a mechanic's lien filed in the clerk's office posted to the state construction registry internet website the date and hour of filing posting and make an abstract thereof in the mechanic's lien book kept for that purpose. Said book~~ Each claim shall be properly indexed and shall contain the following items concerning each claim:

1. The name of the person by whom filed posted.
2. The date and hour of filing posting.
3. The amount thereof.
4. The name of the person against whom filed posted.
5. The legal description of the property to be charged ~~therewith~~.
6. The tax parcel identification number of the property to be charged.
7. The address of the property or a description of the location of the property if the property cannot be reasonably identified by an address.<sup>8</sup>

Sec. 17. Section 572.23, Code 2011, is amended to read as follows:

**572.23 Acknowledgment of satisfaction of claim.**

1. When a mechanic's lien is satisfied by payment of the claim, the claimant shall acknowledge satisfaction thereof ~~upon the mechanic's lien book, or otherwise in writing,~~ and, if the claimant neglects to do so for thirty days after demand in writing is personally served upon the claimant, the claimant shall forfeit and pay twenty-five dollars to the owner ~~or, general contractor, or owner-builder~~ and be liable to any person injured to the extent of the injury.

2. If ~~acknowledgment~~ of satisfaction is not ~~filed~~ acknowledged within thirty days after service of the demand in writing, the party ~~serving the demand or causing the demand to be served~~ may file for record with the ~~clerk of the district court administrator~~ a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing of the demand with the required attachments, the ~~clerk of the district court administrator~~ shall mail a ~~file-stamped date-stamped~~ copy of the demand to both parties.

Sec. 18. Section 572.24, subsection 2, Code 2011, is amended to read as follows:

2. An action to challenge a mechanic's lien may be commenced in the district court or small claims court if the amount of the lien is within jurisdictional limits. Any permissible claim or counterclaim meeting subject matter and jurisdictional requirements may be joined with the action. The court shall make written findings regarding the lawful amount and the validity of the mechanic's lien. In addition to any other appropriate order, the court may enter judgment on a permissibly joined claim or counterclaim. If the court determines that the mechanic's lien is invalid, valid for a lesser amount, frivolous, fraudulent, forfeited, expired, or for any other reason unenforceable, the clerk of the district court shall ~~make an entry of record to the mechanic's lien book~~ submit the ruling to the administrator who shall ~~make a posting to the state construction registry internet website~~ regarding the proper amount of the lien or, if warranted, canceling the lien.<sup>9</sup>

<sup>7</sup> See chapter 1138, §40, 43 herein

<sup>8</sup> See chapter 1138, §40, 43 herein

<sup>9</sup> See chapter 1138, §40, 43 herein

Sec. 19. Section 572.28, subsection 2, Code 2011, is amended to read as follows:

2. If an action is not filed within thirty days after demand to commence action is served, the party serving the demand or causing the demand to be served may ~~file for record post~~ with the ~~clerk of the district court~~ administrator a copy of the demand with proofs of service attached and endorsed and, in case of service by publication, a personal affidavit that personal service could not be made within this state. Upon completion of the requirements of this subsection, the record shall be constructive notice to all parties of the due forfeiture and cancellation of the lien. Upon the filing posting of the demand with the required attachments, the ~~clerk of the district court~~ administrator shall mail a file-stamped date-stamped copy of the demand to both parties.

Sec. 20. Section 572.30, Code 2011, is amended to read as follows:

**572.30 Action by subcontractor or owner against general contractor or owner-builder.**

Unless otherwise agreed, a ~~principal~~ general contractor or owner-builder who engages a subcontractor to supply labor or materials or both for improvements, alterations or repairs to a specific ~~owner-occupied dwelling~~ residential construction property shall pay the subcontractor in full for all labor and materials supplied within thirty days after the date the ~~principal~~ general contractor or owner-builder receives full payment from the owner. If a ~~principal~~ general contractor or owner-builder fails without due cause to pay a subcontractor as required by this section, the subcontractor, or the owner by subrogation, may commence an action against the general contractor or owner-builder to recover the amount due. Prior to commencing an action to recover the amount due, a subcontractor, or the owner by subrogation, shall give notice of nonpayment of the cost of labor or materials to the ~~principal~~ general contractor or owner-builder paid for the improvement. Notice of nonpayment must be in writing, delivered in a reasonable manner, and in terms that reasonably identify the real estate improved and the nonpayment complained of. In an action to recover the amount due a subcontractor, or the owner by subrogation, under this section, the court in addition to actual damages, shall award a successful plaintiff exemplary damages against the general contractor or owner-builder in an amount not less than one percent and not exceeding fifteen percent of the amount due the subcontractor, or the owner by subrogation, for the labor and materials supplied, unless the ~~principal~~ general contractor or owner-builder does one or both of the following, in which case no exemplary damages shall be awarded:

1. Establishes that all proceeds received from the person making the payment have been applied to the cost of labor or material furnished for the improvement.

2. Within fifteen days after receiving notice of nonpayment the ~~principal~~ general contractor or owner-builder gives a bond or makes a deposit with the ~~clerk of the district court~~ administrator, in an amount not less than the amount necessary to satisfy the nonpayment for which notice has been given under this section, and in a form approved by a judge of the district court, to hold harmless the owner or person having the improvement made from any claim for payment of anyone furnishing labor or material for the improvement, other than the ~~principal~~ general contractor or owner-builder.

Sec. 21. Section 572.31, Code 2011, is amended to read as follows:

**572.31 Cooperative and condominium housing.**

A lien arising under this chapter as a result of the construction of an apartment house or apartment building which is owned on a cooperative basis under chapter 499A, or which is submitted to a horizontal property regime under chapter 499B, is not enforceable, notwithstanding any contrary provision of this chapter, as against the interests of an owner in an ~~owner-occupied dwelling~~ unit contained in the apartment house or apartment building acquired in good faith and for valuable consideration, unless a lien statement specifically describing the ~~dwelling~~ unit is filed under section 572.8 within the applicable time period specified in section 572.9, but determined from the date on which the last of the material was supplied or the last of the labor was performed in the construction of that ~~dwelling~~ unit.

Sec. 22. Section 572.32, Code 2011, is amended to read as follows:

**572.32 Attorney fees — remedies.**

1. In a court action to enforce a mechanic's lien, ~~if the plaintiff furnished labor or materials directly to the defendant~~, a prevailing plaintiff may be awarded reasonable attorney fees.

2. In a court action to challenge a mechanic's lien filed posted on an owner-occupied dwelling a residential construction property, if the person challenging the lien prevails, the court may award reasonable attorney fees and actual damages. If the court determines that the mechanic's lien was filed posted in bad faith or the supporting affidavit was materially false, the court shall award the owner reasonable attorney fees plus an amount not less than five hundred dollars or the amount of the lien, whichever is less.

Sec. 23. Section 572.33, Code 2011, is amended to read as follows:

**572.33 Requirement of notification for commercial construction.**

1. The notification requirements in this section apply only to commercial construction.

~~1.~~ 2. A person furnishing labor or materials to a subcontractor shall not be entitled to a lien under this chapter unless the person furnishing labor or materials does all of the following:

a. Notifies the ~~principal~~ principal general contractor or owner-builder in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days of first furnishing labor or materials for which a lien claim may be made. Additional labor or materials furnished by the same person to the same subcontractor for use in the same construction project shall be covered by this notice.

b. Supports the lien claim with a certified statement that the ~~principal~~ principal general contractor or owner-builder was notified in writing with a one-time notice containing the name, mailing address, and telephone number of the person furnishing the labor or materials, and the name of the subcontractor to whom the labor or materials were furnished, within thirty days after the labor or materials were first furnished, pursuant to paragraph "a".

~~2. This section shall not apply to a mechanic's lien on single-family or two-family dwellings occupied or used or intended to be occupied or used for residential purposes.~~

3. Notwithstanding other provisions of this chapter, a principal general contractor or owner-builder shall not be prohibited from requesting information from a subcontractor or a person furnishing labor or materials to a subcontractor regarding payments made or payments to be made to a person furnishing labor or materials to a subcontractor.

Sec. 24. NEW SECTION. 572.33A **Liability of owner to general contractor — commercial construction.**

An owner of a building, land, or improvement upon which a mechanic's lien of a subcontractor may be filed, is not required to pay the general contractor for compensation for work done or material furnished for the building, land, or improvement until the expiration of ninety days after the completion of the building or improvement unless the general contractor furnishes to the owner one of the following:

1. Receipts and waivers of claims for mechanics' liens, signed by all persons who furnished material or performed labor for the building, land, or improvement.

2. A good and sufficient bond to be approved by the owner, conditioned that the owner shall be held harmless from any loss which the owner may sustain by reason of the filing of mechanics' liens by subcontractors.

Sec. 25. NEW SECTION. 572.34 **State construction registry — residential construction.**

1. A state construction registry is created and shall be administered by the administrator. The administrator shall adopt rules pursuant to chapter 17A for the creation and administration of the registry.

2. The state construction registry shall be accessible to the general public through the administrator's internet website.

3. The registry shall be indexed by owner name, general contractor name, state construction registry number, property address, legal description, tax parcel identification number, and any other identifier considered appropriate as determined by the administrator pursuant to rule.



4. A general contractor, owner-builder, or subcontractor who posts fictitious, forged, or false information to the state construction registry shall be subject to a penalty as determined by the administrator by rule in addition to all other penalties and remedies available under applicable law.

5. A person may post a correction statement with respect to a record indexed in the state construction registry internet website if the person believes the record is inaccurate or wrongfully posted.

6. The administrator shall charge and collect fees as established by rule necessary for the administration and maintenance of the registry and the registry's internet website. The administrator shall not charge a filing fee for a preliminary notice required pursuant to this chapter that exceeds the cost of sending such notice by certified mail with restricted delivery and return receipt. The administrator shall not charge a filing fee for a mechanics' lien that exceeds forty dollars.

7. Notices may be posted to the state construction registry electronically on the administrator's internet website, or may be sent to the administrator for posting by United States mail or facsimile transmission, or other alternate method as provided by the administrator pursuant to rule. Notices received by United States mail or facsimile transmission shall be posted by the administrator to the state construction registry within three business days of receipt.

8. Mechanics' liens may be posted to the state construction registry electronically on the administrator's internet website or may be sent to the administrator for posting by United States mail. Liens received by United States mail shall be posted by the administrator to the state construction registry within three business days of receipt.

9. The administrator shall send a receipt acknowledging a notice or lien submitted by United States mail or facsimile transmission, as provided by the administrator by rule.

10. Information collected by and furnished to the administrator in conjunction with the submission and posting of notices pursuant to sections 572.13A and 572.13B shall be used by the administrator solely for the purposes of the state construction registry.

11. Registration under chapter 91C shall not be required in order to post a notice or a lien under this chapter.

12. The administrator shall make, or cause to be made, preservation duplicates of state construction registry records, including records stored in a computer database. Any preservation duplicate record shall be accurate, complete, and clear, and shall be made, preserved, and made accessible to the public by means designated by the administrator by rule.<sup>10</sup>

Sec. 26. Section 602.8102, subsection 82, Code 2011, is amended to read as follows:

82. Carry out duties relating to liens as provided in chapters 249A, 572, 574, 580, 582, and 584.

Sec. 27. EFFECTIVE DATE. This Act takes effect January 1, 2013.

Sec. 28. APPLICABILITY.

1. Mechanics' liens filed prior to the effective date of this Act shall remain with the clerk of the district court of the county in which the building, land, or improvement charged with the lien is situated.

2. The notice provisions contained in this Act<sup>11</sup> apply only to material furnished or labor performed after the effective date of this Act.

Approved April 27, 2012

<sup>10</sup> See chapter 1138, §41, 43 herein

<sup>11</sup> See chapter 1138, §13 herein

## CHAPTER 1106 PHEASANT STUDIES

H.F. 2343

**AN ACT** requiring the department of natural resources to conduct pheasant studies, contingent on outside funding, and including a repeal.

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

Section 1. NEW SECTION. **481A.6B Pheasant population studies — reports.**

1. The department, in cooperation with private and public partners, shall conduct a multiyear study to determine the effectiveness of stocking wild or first-generation pheasants in the state.

2. The department, in cooperation with private and public partners, shall stock wild or first-generation pheasants in an area with suitable pheasant habitat that has a very low or no wild pheasant population. The rate at which the pheasant population changes over time in the stocked area shall be compared to the rate of change in another area where no pheasants have been stocked. Both areas shall be located in the southern half of the state. The results of the study shall be published and made available to the public at the conclusion of the study.

3. The department shall collect a sufficient amount of new data as is necessary to confirm or revise population parameters used by the department to predict pheasant population change. A report discussing the data collected and the changes made to the department's pheasant population prediction model, if any, shall be submitted to the general assembly and made available to the public by December 31, 2015.

4. The department, in cooperation with an institution under the control of the state board of regents, shall also conduct a study to determine the economic impact of pheasant hunting in Iowa. The study shall focus on the impact to rural areas of the state and to small communities. A report on the results of the study shall be submitted to the general assembly by December 31, 2014.

5. The duties imposed in this section are contingent on the receipt of outside funding by the department sufficient to cover the costs associated with the studies required.

6. This section is repealed June 30, 2018.

Approved April 27, 2012

## CHAPTER 1107

### AUDITS OR EXAMINATIONS OF CITY FINANCES

H.F. 2455

**AN ACT** relating to the examinations of the finances of certain cities and including effective date provisions.

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

Section 1. Section 11.6, subsection 1, paragraph a, Code Supplement 2011, is amended to read as follows:

a. (1) Except for entities organized under chapter 28E having gross receipts of one hundred thousand dollars or less in a fiscal year, the financial condition and transactions of all government subdivisions shall be audited ~~at least once each year annually~~, 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 budgeted gross expenditures of one million dollars or more in a fiscal year shall be subject to a required fiscal year examination for

that fiscal year according to procedures established by the office of auditor of state, and cities having a population of less than seven hundred two thousand and budgeted gross expenditures of less than one million dollars in a fiscal year shall be subject to periodic examination by the auditor of state according to procedures established by the auditor of state, and may be examined as otherwise provided in this section. However, a city having a population of less than two thousand and budgeted gross expenditures of one million dollars or more in a fiscal year shall not be subject to a required fiscal year examination until the city has two consecutive years of budgeted gross expenditures of one million dollars or more in both fiscal years, and such examination shall be conducted during the second of such fiscal years. A city meeting the requirements for a periodic examination shall be subject to an examination under this section at least once during an eight-year period at a time determined by the auditor of state. The audit of school districts 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 audit of school districts 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 audit of a city that owns or operates a municipal utility providing local exchange services pursuant to chapter 476 shall include performing tests of the city's compliance with section 388.10. The audit of a city that owns or operates a municipal utility providing telecommunications services pursuant to section 388.10 shall include performing tests of the city's compliance with section 388.10.

(2) Subject to the exceptions and requirements of subsections 2 and 3, and subsection 4, paragraph "a", subparagraph (3), audits or required fiscal year 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. However, a periodic examination of a city shall be conducted by the auditor of state or by a certified public accountant employed by the auditor of state pursuant to section 11.32, and shall be paid from examination fees collected pursuant to subsection 10A.

Sec. 2. Section 11.6, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 10A. a. The auditor of state shall adopt rules in accordance with chapter 17A to establish and collect a periodic examination fee from cities that are not required to have an audit or required fiscal year examination conducted pursuant to subsection 1 during a fiscal year. Such fees are due on March 31 each year. The auditor of state shall base the fees on a sliding scale, based on the city's budgeted gross expenditures, to produce total revenue of not more than three hundred seventy-five thousand dollars for each fiscal year. However, cities that pay a filing fee for an audit or examination pursuant to subsection 10 during the fiscal year are not required to pay the examination fee. The funds collected shall be maintained in a segregated account for use by the office of the auditor of state in performing periodic examinations conducted pursuant to subsection 1. However, if the fees collected in one fiscal year exceed three hundred seventy-five thousand dollars, the auditor of state shall apply the excess funds to provide training to city officials on municipal financial management or shall contract with a qualified organization to provide such training. Notwithstanding section 8.33, any fees collected by the auditor of state for these purposes that remain unexpended at the end of the fiscal year shall not revert to the general fund of the state or any other fund but shall remain available for use for the following fiscal year for the purposes authorized in this subsection.

b. The auditor of state shall provide an annual report by January 15 of each year to the general assembly's standing committees on government oversight, advising the general

assembly on the status of the account created in this subsection and on the status of the required fiscal year examinations and periodic examinations of cities.

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

Sec. 4. EFFECTIVE DATE. This Act takes effect July 1, 2013.

Approved April 27, 2012

## CHAPTER 1108

### RURAL IOWA PRIMARY CARE LOAN REPAYMENT PROGRAM

*H.F. 2458*

**AN ACT** establishing a rural Iowa primary care loan repayment program and trust fund to be administered by the college student aid commission.

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

Section 1. NEW SECTION. **261.115 Rural Iowa primary care loan repayment program — fund — appropriations.**

1. *Program established.* A rural Iowa primary care loan repayment program is established to be administered by the college student aid commission for purposes of providing loan repayments for medical students who agree to practice as physicians in service commitment areas for five years and meet the requirements of this section.

2. *Eligibility.* An individual is eligible to apply to enter into a program agreement with the commission if the individual is enrolled full-time in and receives a recommendation from the state university of Iowa college of medicine or Des Moines university — osteopathic medical center in a curriculum leading to a doctor of medicine degree or a doctor of osteopathy degree.

3. *Program agreements.* A program agreement shall be entered into by an eligible student and the commission when the eligible student begins the curriculum leading to a doctor of medicine or osteopathy degree. Under the agreement, to receive loan repayments pursuant to subsection 5, an eligible student shall agree to and shall fulfill all of the following requirements:

a. Receive a doctor of medicine or osteopathy degree from an eligible university and apply for, enter, and complete a residency program approved by the commission.

b. Apply for and obtain a license to practice medicine and surgery or osteopathic medicine and surgery in this state.

c. Complete their<sup>1</sup> residency program requirement with an Iowa-based residency program.

d. Within nine months of graduating from their residency program and receiving a permanent license in accordance with paragraph “b”, engage in the full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery for a period of sixty consecutive months in the service commitment area specified under subsection 6, unless the loan repayment recipient receives a waiver from the commission to complete the months of practice required under the agreement in another service commitment area pursuant to subsection 6.

4. *Priority to Iowa residents.* The commission shall give priority to eligible students who are residents of Iowa upon enrolling in the university.

5. *Loan repayment amounts.*

<sup>1</sup> See chapter 1138, §58 herein

a. The amount of loan repayment an eligible student who enters into an agreement pursuant to subsection 3 shall receive upon fulfilling the requirements of subsection 3 shall be not more than fifty thousand dollars annually for an eligible loan. Payments under this section are limited to a four-year period and shall not exceed a total of two hundred thousand dollars.

b. The commission shall not enter into more than twenty program agreements annually. Fifty percent of the agreements shall be entered into by students attending each university described in subsection 2. However, if there are fewer than ten eligible student applicants at one university, eligible student applicants enrolled in the other university may be awarded the remaining agreements.

6. *Selection of service commitment area.* A loan repayment recipient shall notify the commission of the recipient's service commitment area prior to beginning practice in the area in accordance with subsection 3, paragraph "d". The commission may waive the requirement that the loan repayment recipient practice in the same service commitment area for all sixty months.

7. *Rules for additional loan repayment.* The commission shall adopt rules to provide, in addition to loan repayment provided to eligible students pursuant to this section and subject to the availability of surplus funds, loan repayment to a physician who received a doctor of medicine or osteopathy degree from an eligible university as provided in subsection 2, obtained a license to practice medicine and surgery or osteopathic medicine and surgery in this state, completed the physician's residency program requirement with an Iowa-based residency program, and is engaged in the full-time practice of medicine and surgery or osteopathic medicine and surgery as specified in subsection 3, paragraph "d".

8. *Part-time practice — agreement amended.* A person who entered<sup>2</sup> an agreement pursuant to subsection 3 may apply to the commission to amend the agreement to allow the person to engage in less than the full-time practice specified in the agreement and under subsection 3, paragraph "d". If the commission determines exceptional circumstances exist, the commission and the person may consent to amend the agreement under which the person shall engage in less than full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery in a service commitment area for an extended period of part-time practice determined by the commission to be proportional to the amount of full-time practice remaining under the original agreement.

9. *Postponement and satisfaction of service obligation.*

a. The obligation to engage in practice in accordance with subsection 3 shall be postponed for the following purposes:

(1) Active duty status in the armed forces, the armed forces military reserve, or the national guard.

(2) Service in volunteers in service to America.

(3) Service in the federal peace corps.

(4) A period of service commitment to the United States public health service commissioned corps.

(5) A period of religious missionary work conducted by an organization exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code.

(6) Any period of temporary medical incapacity during which the person obligated is unable, due to a medical condition, to engage in full-time practice as required under subsection 3, paragraph "d".

b. Except for a postponement under paragraph "a", subparagraph (6), an obligation to engage in practice under an agreement<sup>3</sup> pursuant to subsection 3, shall not be postponed for more than two years from the time the full-time practice was to have commenced under the agreement.

c. An obligation to engage in full-time practice under an agreement entered into pursuant to subsection 3 shall be considered satisfied when any of the following conditions are met:

(1) The terms of the agreement are completed.

<sup>2</sup> See chapter 1138, §59 herein

<sup>3</sup> See chapter 1138, §60 herein

(2) The person who entered into the agreement dies.

(3) The person who entered into the agreement, due to a permanent disability, is unable to practice medicine and surgery or osteopathic medicine and surgery.

10. *Trust fund established.* A rural Iowa primary care trust fund is created in the state treasury as a separate fund under the control of the commission. The commission shall remit all repayments made pursuant to this section to the rural Iowa primary care trust fund. All moneys deposited or paid into the trust fund are appropriated and made available to the commission to be used for meeting the requirements of this section. Moneys in the fund up to the total amount that an eligible student may receive for an eligible loan in accordance with this section and upon fulfilling the requirements of subsection 3, shall be considered encumbered for the duration of the agreement entered into pursuant to subsection 3. Notwithstanding section 8.33, any balance in the fund on June 30 of each fiscal year shall not revert to the general fund of the state, but shall be available for purposes of this section in subsequent fiscal years.

11. *Definitions.* For purposes of this section:

a. “*Eligible loan*” means the physician’s total federally guaranteed Stafford loan amount under the federal family education loan program or the federal direct loan program, including principal and interest.

b. “*Eligible university*” means either the state university of Iowa college of medicine or Des Moines university — osteopathic medical center.

c. “*Service commitment area*” means a city in Iowa with a population of less than twenty-six thousand that is located more than twenty miles from a city with a population of fifty thousand or more and which provides a twenty thousand dollar contribution for deposit in the rural Iowa primary care trust fund for each physician in the community who is participating in the loan repayment program.

Approved April 27, 2012

## CHAPTER 1109

### ASSESSMENT ON SHEEP AND WOOL PRODUCTION

H.F. 2459

**AN ACT** relating to the assessment of moneys on sheep and wool production, and including effective date provisions.

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

Section 1. Section 182.1, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 2. Section 182.1, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 8A. “*Secretary*” means the secretary of agriculture.

Sec. 3. **NEW SECTION. 182.13B Assessment rate.**

1. If a majority of voters at a referendum conducted pursuant to section 182.4 approve the establishment of an Iowa sheep and wool promotion board and the imposition of an assessment, the assessment shall be imposed on wool and sheep at the following rates:

- a. For wool, two cents imposed on each pound of wool sold by a producer.
- b. For sheep, ten cents imposed on each head of sheep sold by a producer.

2. a. Notwithstanding subsection 1, upon a resolution adopted by the board, the secretary shall call a special referendum for voters to authorize increasing the assessment rate imposed on sheep as provided in this section.

b. The special referendum shall be conducted in the same manner as a referendum conducted upon receipt of a petition as provided in this chapter, unless otherwise provided in

the board's resolution. Only producers are eligible to vote in an election and each producer is entitled to one vote.

3. *a.* The special referendum conducted pursuant to subsection 2 shall allow a voter to cast a ballot for the following two questions:

(1) For the first question, whether to authorize an increase in the assessment rate to twenty-five cents imposed on each head of sheep.

(2) For the second question, if the first question is approved by a majority of voters, whether to also authorize the board to increase that assessment rate by future resolution as provided in this section.

4. If a majority of voters approve the first question, twenty-five cents shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12.

5. If a majority of voters approve both the first and second questions, all of the following apply:

*a.* Twenty-five cents shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12.

*b.* The board may adopt one or more resolutions to further impose an increased assessment rate. The increased assessment rate shall be imposed on each head of sheep sold by a producer as effectuated by the board pursuant to section 182.12. The board shall comply with all of the following:

(1) The board must wait three or more years from the effective date of the previous action imposing an increase in order to adopt a resolution. For the first increase, the effective date is the date of the special referendum. For any subsequent increase, the effective date is the date that the board last adopted a resolution imposing an increased rate as provided in this paragraph "b".

(2) The board shall not adopt a resolution until it provides notice to producers of the proposed increase and an opportunity for producers to submit written or oral comments to the board regarding the proposed increase. The board may provide notice by publication in the same manner as provided in section 182.3, publication on its internet site, mail bearing a United States postal service postmark, electronic transmission, or hand-delivery.

(3) The increase in the assessment rate imposed by a resolution adopted by the board must equal five cents. However, the assessment rate imposed by a resolution of the board shall not equal more than fifty cents.

6. *a.* If a majority of voters do not authorize increasing the assessment rate pursuant to a special referendum conducted pursuant to this section, the assessment rate shall be the same as provided in subsection 1.

*b.* Not more than one special referendum shall be conducted pursuant to this section.

Sec. 4. Section 182.14, subsection 1, Code 2011, is amended by striking the subsection.

Sec. 5. Section 182.14, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The An assessment provided in this chapter shall be imposed on the producer as follows:

Sec. 6. EFFECT OF ACT. The establishment of the Iowa sheep and wool promotion board and the assessment on the sale of sheep or wool, as established in a referendum conducted pursuant to section 182.4, and in effect immediately prior to the effective date of this Act, is not affected by the enactment of section 182.13B, subsection 1, or the repeal of section 182.14, subsection 1, as provided in this Act.

Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 2012

**CHAPTER 1110****ADMINISTRATION AND OVERSIGHT OF TAXES, TAX CREDITS AND INCENTIVES,  
FRANCHISE FEES, AND ANNEXATION OR SEVERANCE BY CITIES***S.F. 2328*

**AN ACT** relating to the technical administration of the tax and related laws by the department of revenue, including the administration of income taxes, sales and use taxes, franchise fees, notification of annexation or severance by cities, and cigarette and tobacco taxes, and including retroactive applicability provisions.

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

**DIVISION I  
INCOME TAXES**

Section 1. Section 2.48, subsection 3, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The tax credits for increasing research activities available under sections 15.335, ~~15A.9,~~ 422.10, and 422.33.

Sec. 2. Section 15.119, subsection 2, paragraph c, Code Supplement 2011, is amended by striking the paragraph.

Sec. 3. Section 15.293A, subsection 2, paragraph b, subparagraph (6), Code Supplement 2011, is amended to read as follows:

(6) 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.~~

Sec. 4. Section 15.329, subsection 3, Code Supplement 2011, is amended by striking the subsection.

Sec. 5. Section 15.393, subsection 2, paragraph a, subparagraph (3), Code Supplement 2011, is amended to read as follows:

(3) After verifying the eligibility for a tax credit under this paragraph "a", the economic development authority shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, 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. Tax credit certificates issued under this paragraph "a" 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, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. 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 economic development authority shall not be transferable. A tax credit shall not be claimed by a transferee under this paragraph "a" 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.~~

Sec. 6. Section 15.393, subsection 2, paragraph b, subparagraph (2), Code Supplement 2011, is amended to read as follows:

(2) After verifying the eligibility for a tax credit under this paragraph "b", the economic development authority shall issue a film, television, and video project promotion program tax credit certificate to be attached to the person's tax return. The tax credit certificate shall contain the taxpayer's name, address, tax identification number, the date of project completion, the amount of credit, 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. Tax credit certificates issued under this paragraph "b" 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, and the denomination that each replacement tax credit certificate is to carry and any other information required by the department of revenue. 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 economic development authority shall not be transferable. A tax credit shall not be claimed by a transferee under this paragraph "b" 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.~~

Sec. 7. Section 422.7, subsection 9, Code Supplement 2011, is amended to read as follows:

9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic biofuel fuels credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal adjusted gross income.

Sec. 8. Section 422.13, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. The individual has net income of more than nine thousand dollars ~~or more~~ for the tax year from sources taxable under this division.

Sec. 9. Section 422.28, Code 2011, is amended to read as follows:

**422.28 Revision of tax.**

A taxpayer may appeal to the director for revision of the tax, interest, or penalties assessed at any time within sixty days from the date of the notice of the assessment of tax, additional tax, interest, or penalties. The director shall grant a hearing and if, upon the hearing, the

director determines that the tax, interest, or penalties are excessive or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest, or penalties accordingly. The director shall notify the taxpayer by mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest, or penalties found by the director to be due, with interest ~~after sixty days~~ accruing from the ~~date of first day of the second calendar month following the date of payment~~ by the taxpayer at the rate in effect under section 421.7 for each month or a fraction of a month.

Sec. 10. Section 422.33, subsection 5, paragraph f, Code Supplement 2011, is amended by striking the paragraph.

Sec. 11. Section 422.33, subsection 12, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The taxes imposed under this division shall be reduced by investment tax credits authorized pursuant to ~~sections~~ section 15.333, ~~15A.9, subsection 4,~~ and section 15E.193B, subsection 6.

Sec. 12. Section 422.35, subsection 7, Code Supplement 2011, is amended to read as follows:

7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic biofuel fuels credit allowable for the tax year under section 40 of the Internal Revenue Code to the extent that the credit increased federal taxable income.

Sec. 13. Section 422.36, subsection 4, Code 2011, is amended to read as follows:

4. Foreign and domestic corporations shall file a copy of their federal income tax return for the current tax year with the return required by this section.

Sec. 14. Section 422.73, subsection 2, Code Supplement 2011, is amended by striking the subsection.

Sec. 15. Section 422.89, subsection 3, paragraph a, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

An amount equal to ~~ninety one hundred~~ percent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

Sec. 16. REPEAL. Section 15A.9, Code Supplement 2011, is repealed.

Sec. 17. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to January 1, 2012, for tax years beginning on or after that date:

1. The section of this Act amending section 422.89.

## DIVISION II SALES TAXES

Sec. 18. Section 423.3, subsection 40, Code Supplement 2011, is amended to read as follows:

40. The sales price from the sale of automotive fluids to a retailer to be used either in providing a service which includes the installation or application of the fluids in or on a motor vehicle, which service is subject to section 423.2, subsection 6, or to be installed in or applied to a motor vehicle which the retailer intends to sell, which sale is subject to section ~~423.26~~ 321.105A. For purposes of this subsection, automotive fluids are all those which are refined, manufactured, or otherwise processed and packaged for sale prior to their installation in or application to a motor vehicle. They include but are not limited to motor oil and other lubricants, hydraulic fluids, brake fluid, transmission fluid, sealants, undercoatings, antifreeze, and gasoline additives.

Sec. 19. Section 423.3, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 96. The sale price of fees charged for the release of medical records as described in section 622.10.

Sec. 20. Section 423.36, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. The department shall grant and issue to each applicant a permit for each place of business in this state where sales or use tax is collected. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated or at a place of relocation within the state same county if the ownership remains the same.

Sec. 21. Section 423.57, Code 2011, 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 1, and sections 423.45, 423.46, and 423.47.

Sec. 22. Section 622.10, subsection 6, paragraph c, Code Supplement 2011, is amended to read as follows:

c. Fees charged pursuant to this subsection are ~~not subject to a sales or use tax~~ exempt from the sales tax pursuant to section 423.3, subsection 96. 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.

Sec. 23. REPEAL. Section 423.28, Code 2011, is repealed.

DIVISION III  
MISCELLANEOUS

Sec. 24. Section 364.2, subsection 4, paragraph f, Code 2011, is amended to read as follows:

f. (1) A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent, without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise. Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to section 384.3A. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in section 362.3.

(2) If a city adopts, amends, or repeals an ordinance imposing a franchise fee, the city shall promptly notify the director of revenue of such action.

Sec. 25. Section 368.24, Code 2011, is amended to read as follows:

**368.24 Notification to public utilities and to the department of revenue.**

Notwithstanding any other provision of law to the contrary, any city that annexes territory or any city from which territory is severed shall provide written notification consisting of a legal description and map of the annexed or severed territory, each street address within the annexed or severed area, where possible, a statement containing the effective date of the annexation or severance and a copy of the order, resolution, or ordinance proclaiming the annexation or severance to all public utilities operating in the annexed or severed area and to the department of revenue. If the notification of the an annexation is provided to a public utility less than sixty days prior to the effective date of the annexation, the public utility shall have sixty days from the date of notification to adjust its tax and accounting records to reflect the annexation for any tax purpose.

DIVISION IV  
CIGARETTE AND TOBACCO TAXES

Sec. 26. Section 453A.1, subsections 4 and 14, Code 2011, are amended to read as follows:

4. “Cigarette vending machine” means any self-service device offered for public use which, upon insertion of a coin, coins, paper currency, or by other means payment or insertion of loose tobacco product, dispenses, or assembles and dispenses, cigarettes or tobacco products without the necessity of replenishing the device between each vending operation.

14. “Individual packages of cigarettes” shall mean and include every package of cigarettes or quantity of cigarettes assembled and ordinarily sold at retail.

Sec. 27. Section 453A.6, subsection 7, Code 2011, is amended to read as follows:

7. Cigarettes shall be sold or dispensed only in packages or quantities of twenty or more cigarettes.

8. Any permit holder owning, renting, leasing, or otherwise operating a cigarette vending machine into which loose tobacco products are inserted and from which assembled cigarettes are dispensed shall do all the following:

a. Pay directly to the department, in lieu of the tax under subsection 1, a tax equal to three and six hundredths cents on each cigarette dispensed from such machine.

b. Allow to be inserted into such machine only loose tobacco products whose manufacturer and brand family are then currently listed on the directory maintained by the director under chapter 453D.

c. On or after January 1, 2014, allow to be dispensed from such machine only cigarettes which are in compliance with the requirements of chapter 101B.

d. Maintain in good working order on such machine a secure meter that counts the number of cigarettes dispensed by the machine, which meter cannot be accessed except for the sole purpose of taking meter readings, and cannot be reset or otherwise altered by the permit holder.

Sec. 28. 2005 Iowa Acts, chapter 77, section 1, unnumbered paragraph 4, is amended to read as follows:

The committee shall annually report to the general assembly by January 1 of each year through January 1, 2013 2016.

Approved May 2, 2012

## CHAPTER 1111

### ENHANCED 911 EMERGENCY COMMUNICATION SYSTEMS

S.F. 2332

**AN ACT** relating to enhanced 911 emergency communication systems, including surcharges and the allocation of moneys collected from such surcharges and replacing the existing surcharge on prepaid wireless service with a new surcharge collected at the point of retail sale, and including effective and applicability date provisions.

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

Section 1. Section 34A.2, Code 2011, is amended to read as follows:

#### **34A.2 Definitions.**

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

1. "Access line" means an exchange access line that has the ability to access dial tone and reach a public safety answering point.
2. "Administrator" means the administrator of the homeland security and emergency management division of the department of public defense.
3. "Communications service" means a service capable of accessing, connecting with, or interfacing with a 911 system by dialing, initializing, or otherwise activating the system exclusively through the digits 911 by means of a local telephone device or wireless communications device.
4. "Communications service provider" means a service provider, public or private, that transports information electronically via landline, wireless, internet, cable, or satellite.
3. ~~5.~~ "Competitive local exchange service provider" means the same as defined in section 476.96.
4. "Emergency 911 notification device" means a product capable of accessing a public safety answering point through the 911 system.
6. "Emergency communications service surcharge" means a charge established by the program manager in accordance with section 34A.7A.
5. ~~7.~~ "Enhanced 911" or "E911" means a service that provides the user of a communications service with the ability to reach a public safety answering point by dialing using the digits 911, and that has the following additional features:
  - a. Routes an incoming 911 call to the appropriate public safety answering point.
  - b. Automatically provides voice, displays the name, address or location, and telephone number of an incoming 911 call and public safety agency servicing the location.
6. ~~8.~~ "Enhanced 911 service area" means the geographic area to be serviced, or currently serviced under an enhanced 911 service plan, provided that an enhanced 911 service area must at minimum encompass one entire county. The enhanced 911 service area may encompass more than one county, and need not be restricted to county boundaries.
7. ~~9.~~ "Enhanced 911 service plan" means a plan that includes the following information:
  - a. A description of the enhanced 911 service area.
  - b. A list of all public and private safety agencies within the enhanced 911 service area.
  - c. The number of public safety answering points within the enhanced 911 service area.
  - d. Identification of the agency responsible for management and supervision of the enhanced 911 emergency communication system.
  - e. (1) A statement of estimated costs to be incurred by the joint E911 service board or the department of public safety, including separate estimates of the following:
    - (a) Nonrecurring costs, including, but not limited to, public safety answering points, network equipment, software, database, addressing, initial training, and other capital and start-up expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider.
    - (b) Recurring costs, including, but not limited to, network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs shall not include personnel costs for a public safety answering point.

(2) Funds deposited in an E911 service fund are appropriated and shall be used for the payment of costs that are limited to nonrecurring and recurring costs directly attributable to the ~~provision receipt and disposition of the 911 emergency telephone communication service and may include costs for portable and vehicle radios, communication towers and associated equipment, and other radios and associated equipment permanently located at the public safety answering point and as directed by either the joint E911 service board or the department of public safety call~~. Costs do not include expenditures for any other purpose, and specifically exclude costs attributable to other emergency services or expenditures for buildings or personnel, except for the costs of personnel for database management and personnel directly associated with addressing.

f. Current equipment operated by affected local exchange service providers, and central office equipment and technology upgrades necessary for the provider to implement enhanced 911 service within the enhanced 911 service area.

g. A schedule for implementation of the plan throughout the E911 service area. The schedule may provide for phased implementation.

h. The number of telephone access lines capable of access to 911 in the enhanced 911 service area.

i. The total property valuation in the enhanced 911 service area.

j. A plan to migrate to an internet protocol-enabled next generation network.

8. 10. "Local exchange carrier" means the same as defined in section 476.96.

9. 11. "Local exchange service provider" means a vendor engaged in providing telecommunications service between points within an exchange and includes but is not limited to a competitive local exchange service provider and a local exchange carrier.

12. "Prepaid wireless telecommunications service" means a wireless communications service that provides the right to utilize mobile wireless service as well as other nontelecommunications services, including the download of digital products delivered electronically, content and ancillary services, which must be paid for in advance and that is sold in predetermined units or dollars of which the amount declines with use in a known amount.

10. 13. "Program manager" means the E911 program manager appointed pursuant to section 34A.2A.

11. 14. "Provider" means a vendor who provides, or offers to provide, E911 equipment, installation, maintenance, or exchange access services within the enhanced 911 service area.

12. 15. "Public or private safety agency" means a unit of state or local government, a special purpose district, or a private firm which provides or has the authority to provide fire fighting, police, ambulance, emergency medical services, or hazardous materials response.

13. 16. "Public safety answering point" means a twenty-four-hour public safety communications facility that receives enhanced 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency.

17. "Wireless communications service" means commercial mobile radio service. "Wireless communications service" includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio-telephone communications line used in cellular telephone service, a personal communications service, or a network access line. "Wireless communications service" does not include a service whose customers do not have access to 911 or 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.

18. "Wireless communications service provider" means a company that offers wireless communications service to users of wireless devices including but not limited to cellular, personal communications services, mobile satellite services, and enhanced specialized mobile radio.

14. 19. "Wireless E911 phase 1" means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and address of the tower that received the call to the appropriate public safety answering point.

15. 20. "Wireless E911 phase 2" means a 911 call made from a wireless device in which the wireless service provider delivers the call-back number and the latitude and longitude coordinates of the wireless device to the appropriate public safety answering point.

~~16.~~ 21. “Wire-line E911 service surcharge” is means a charge set by the E911 service area operating authority and assessed on each wire-line access line which physically terminates within the E911 service area in accordance with section 34A.7.

Sec. 2. Section 34A.3, subsection 4, Code 2011, is amended to read as follows:

4. *Participation in joint E911 service board required.* A political subdivision ~~or state agency~~ having a public safety agency within its territory or jurisdiction shall participate in a joint E911 service board and cooperate in maintaining the E911 service plan.

Sec. 3. Section 34A.6, subsection 1, Code 2011, is amended to read as follows:

1. Before a joint E911 service board may request imposition of the wire-line 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 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).

Sec. 4. Section 34A.6A, Code 2011, is amended to read as follows:

**34A.6A Alternative surcharge.**

1. Notwithstanding section 34A.6, the board may request imposition of a an alternative surcharge in an amount up to two dollars and fifty cents per month on each telephone access line. The board shall submit the question of the alternative surcharge to voters in the same manner as provided in section 34A.6. Not less than sixty days before the date of the referendum, the board shall notify all local exchange service providers in the county or counties comprising the E911 service area that a referendum on an alternative surcharge will be held. Not less than thirty days before the date of the referendum, the board shall publish in a newspaper of general circulation in the county or counties comprising the E911 service area a statement of estimated costs as described in section 34A.2, subsection 9, paragraph “e”, subparagraph (1), and justification of the need for the additional revenue. If approved, the alternative surcharge may be collected for a period of twenty-four months. At the end of the twenty-four-month period, the rate of the surcharge shall revert to one dollar per month, per access line.

2. Notwithstanding subsection 1, a temporary moratorium shall be applicable to a new surcharge authorized pursuant to this section until one hundred and fifty days after submission of recommendations by the E911 task force established by this Act to the general assembly.

Sec. 5. Section 34A.7, subsection 1, paragraph a, unnumbered paragraph 1, Code 2011, is amended to read as follows:

To encourage local implementation of E911 service, one source of funding for E911 emergency ~~telephone~~ communication systems shall come from a surcharge per month, per access line on each access line subscriber, except as provided in subsection 5, equal to the lowest amount of the following:

Sec. 6. Section 34A.7, subsection 1, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) The program manager shall notify a local exchange service provider scheduled to provide exchange access line service to an E911 service area that implementation of an E911 service plan has been approved by the joint E911 service board and by the service area referendum and that collection of the surcharge is to begin within ~~one hundred~~ sixty days.

Sec. 7. Section 34A.7, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. A local exchange service provider is not liable for an uncollected surcharge for which the local exchange service provider has billed a subscriber but not been paid. The surcharge shall appear as a single line item on a subscriber's periodic billing entitled, "E911 emergency telephone communications service surcharge".

Sec. 8. Section 34A.7, subsection 5, paragraph b, subparagraph (3), Code 2011, is amended to read as follows:

(3) If money remains in the fund after fully paying obligations under subparagraphs (1) and (2), the remainder may be accumulated in the fund as a carryover operating surplus. If the surplus is greater than twenty-five percent of the approved annual operating budget for the next year, the program manager shall reduce the surcharge by an amount calculated to result in a surplus of no more than twenty-five percent of the planned annual operating budget. After nonrecurring costs have been paid, if the surcharge is less than the maximum allowed and the fund surplus is less than twenty-five percent of the approved annual operating budget, the program manager shall, upon application of the joint E911 service board, increase the surcharge in an amount calculated to result in a surplus of twenty-five percent of the approved annual operating budget. The surcharge may only be adjusted once in a single year, upon ~~one~~ one hundred sixty days' prior notice to the provider.

Sec. 9. Section 34A.7A, Code 2011, is amended to read as follows:

**34A.7A Wireless Emergency communications service surcharge — fund established — distribution and permissible expenditures.**

1. a. Notwithstanding section 34A.6, the administrator shall adopt by rule a monthly surcharge of up to sixty-five cents to be imposed on each wireless communications service number provided in this state. The surcharge shall be imposed uniformly on a statewide basis and simultaneously on all wireless communications service numbers as provided by rule of the administrator. The surcharge shall not be imposed on wire-line-based communications or prepaid wireless telecommunications service.

b. The program manager shall provide no less than ~~one hundred sixty~~ one hundred sixty days' notice of the surcharge to be imposed to each wireless communications service provider. The program manager, subject to the sixty-five cent limit in paragraph "a", may adjust the amount of the surcharge as necessary, but no more than once in any calendar year.

c. (1) The surcharge shall be collected as part of the wireless communications service provider's periodic billing to a subscriber. The surcharge shall appear as a single line item on a subscriber's periodic billing indicating that the surcharge is for E911 emergency telephone communications service. ~~In the case of prepaid wireless telephone service, this surcharge shall be remitted based upon the address associated with the point of purchase, the customer billing address, or the location associated with the mobile telephone number for each active prepaid wireless telephone that has a sufficient positive balance as of the last days of the information, if that information is available.~~

(2) In compensation for the costs of billing and collection, the wireless communications service provider may retain one percent of the gross surcharges collected.

(3) The surcharges shall be remitted quarterly by the wireless communications service provider to the program manager for deposit into the fund established in subsection 2.

(4) A wireless communications service provider is not liable for an uncollected surcharge for which the wireless communications service provider has billed a subscriber but which has not been paid.

2. Moneys collected pursuant to subsection 1 and section 34A.7B, subsection 2, shall be deposited in a separate wireless E911 emergency communications fund within the state treasury under the control of the program manager. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section. Moneys in the fund shall be expended and distributed in the following priority order:

a. An amount as appropriated by the general assembly to the administrator shall be allocated to the administrator and program manager for implementation, support, and



maintenance of the functions of the administrator and program manager and to employ the auditor of state to perform an annual audit of the wireless E911 emergency communications fund.

~~b.~~ The program manager shall allocate twenty-one percent of the total amount of surcharge generated to wireless carriers to recover their costs to deliver E911 phase 1 services. If the allocation in this paragraph is insufficient to reimburse all wireless carriers for such carrier's eligible expenses, the program manager shall allocate a prorated amount to each wireless carrier equal to the percentage of such carrier's eligible expenses as compared to the total of all eligible expenses for all wireless carriers for the calendar quarter during which such expenses were submitted. When prorated expenses are paid, the remaining unpaid expenses shall no longer be eligible for payment under this paragraph.

~~e.~~ b. The program manager shall reimburse ~~wire-line carriers~~ communication service providers on a calendar quarter basis for carriers' eligible expenses for transport costs between the selective router and the public safety answering points related to the delivery of wireless E911 phase 1 services.

~~d.~~ c. The program manager shall reimburse wire-line carriers and third-party E911 automatic location information database providers on a calendar quarterly basis for the costs of maintaining and upgrading the E911 components and functionalities beyond the input to the E911 selective router, including the E911 selective router and the automatic location information database.

~~e.~~ The program manager shall apply an amount up to five hundred thousand dollars per calendar quarter to any outstanding wireless E911 phase 1 obligations incurred pursuant to this chapter prior to July 1, 2004.

~~f.~~ d. (1) The program manager shall allocate an amount up to one hundred fifty-nine thousand dollars per calendar quarter equally to the joint E911 service boards and the department of public safety that have submitted an annual written request to the program manager in a form approved by the program manager by May 15 of each year. The program manager shall allocate to each joint E911 service board and to the department of public safety a minimum of one thousand dollars per calendar quarter for each public safety answering point within the service area of the department of public safety or joint E911 service board that has submitted an annual written request to the program manager in a form approved by the program manager by May 15 of each year.

(2) Upon retirement of outstanding obligations referred to in paragraph "e", the amount allocated under this paragraph ~~"f"~~ "d" shall be ~~twenty-five~~ forty-six percent of the total amount of surcharge generated per calendar quarter allocated as follows:

(a) Sixty-five percent of the total dollars available for allocation shall be allocated in proportion to the square miles of the service area to the total square miles in this state.

(b) Thirty-five percent of the total dollars available for allocation shall be allocated in proportion to the wireless E911 calls taken at the public safety answering point in the service area to the total number of wireless E911 calls originating in this state.

(c) Notwithstanding subparagraph divisions (a) and (b), the minimum amount allocated to each joint E911 service board and to the department of public safety shall be no less than one thousand dollars for each public safety answering point within the service area of the department of public safety or joint E911 service board.

(3) The funds allocated in this paragraph ~~"f"~~ "d" shall be used for communication equipment ~~located inside~~ utilized by the public safety answering points for the implementation and maintenance of wireless E911 phase-2 services. ~~The joint E911 service boards and the department of public safety shall provide an estimate of phase 2 implementation costs to the program manager by January 1, 2005.~~

~~g.~~ e. If moneys remain in the fund after fully paying all obligations under paragraphs "a" through ~~"f"~~ "d", the remainder may be accumulated in the fund as a carryover operating surplus. This surplus shall be used to fund future ~~phase 2~~ network and public safety answering point improvements, including hardware and software for an internet protocol-enabled next generation network, and wireless carriers' transport costs related to wireless E911 services, if those costs are not otherwise recovered by wireless carriers through customer billing or other sources and approved by the program manager. Notwithstanding

section 8.33, any moneys remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain available for the purposes of the fund.

*h. f.* The administrator, in consultation with the program manager and the E911 communications council, shall adopt rules pursuant to chapter 17A governing the distribution of the surcharge collected and distributed pursuant to this subsection. The rules shall include provisions that all joint E911 service boards and the department of public safety which answer or service wireless E911 calls are eligible to receive an equitable portion of the receipts.

3. *a.* The program manager shall submit an annual report by January 15 of each year to the general assembly's standing committees on government oversight advising the general assembly of the status of E911 implementation and operations, including both wire-line and wireless services, the distribution of surcharge receipts, and an accounting of the revenues and expenses of the E911 program.

*b.* The program manager shall submit a calendar quarter report of the revenues and expenses of the E911 program to the fiscal services division of the legislative services agency.

*c.* The general assembly's standing committees on government oversight shall review the priorities of distribution of funds under this chapter at least every two years.

4. The amount collected from a wireless communications service provider and deposited in the fund, pursuant to section 22.7, subsection 6, information provided by a wireless communications service provider to the program manager consisting of trade secrets, pursuant to section 22.7, subsection 3, and other financial or commercial operations information provided by a wireless communications service provider to the program manager, shall be kept confidential as provided under section 22.7. This subsection does not prohibit the inclusion of information in any report providing aggregate amounts and information which does not identify numbers of accounts or customers, revenues, or expenses attributable to an individual wireless communications service provider.

~~5. For purposes of this section, "wireless communications service" means commercial mobile radio service, as defined under sections 3(27) and 332(d) of the federal Telecommunications Act of 1996, 47 U.S.C. § 151 et seq.; federal communications commission rules; and the Omnibus Budget Reconciliation Act of 1993. "Wireless communications service" includes any wireless two-way communications used in cellular telephone service, personal communications service, or the functional or competitive equivalent of a radio telephone communications line used in cellular telephone service, a personal communications service, or a network access line. "Wireless communications service" does not include services whose customers do not have access to 911 or a 911-like service, a communications channel utilized only for data transmission, or a private telecommunications system.~~

**Sec. 10. NEW SECTION. 34A.7B Prepaid wireless E911 surcharge.**

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

*a.* "Consumer" means a person who purchases prepaid wireless telecommunications service in a retail transaction.

*b.* "Department" means the department of revenue.

*c.* "Prepaid wireless E911 surcharge" means the surcharge that is required to be collected by a seller from a consumer in the amount established under this section.

*d.* "Provider" means a person who provides prepaid wireless telecommunications service pursuant to a license issued by the federal communications commission.

*e.* "Retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

*f.* "Seller" means a person who sells prepaid wireless telecommunications service to another person.

2. There is imposed a prepaid wireless E911 surcharge of thirty-three cents on each retail transaction or, on or after the determination of an adjusted rate as determined pursuant to subsection 7, the adjusted rate.

3. The prepaid wireless E911 surcharge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless E911 surcharge shall be either separately stated on an invoice, receipt, or other

similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

4. For purposes of subsection 3, a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of section 423.20 as that section applies to sourcing of a prepaid wireless calling service.

5. The prepaid wireless E911 surcharge is the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless E911 surcharges that the seller collects from consumers as provided in subsection 3, including all such surcharges that the seller is deemed to collect where the amount of the surcharge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

6. The amount of the prepaid wireless E911 surcharge that is collected by a seller from a consumer, if such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, other surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

7. The prepaid wireless E911 surcharge shall be increased or reduced, as applicable, in an amount proportionate to any change to the surcharge imposed under section 34A.7A, subsection 1. The proportional increase or reduction shall be effective on the first day of the calendar month after the effective date of the change to the surcharge imposed under section 34A.7A, subsection 1. The department shall provide not less than thirty days' advance notice of such increase or reduction on the department's internet site.

8. If a minimal amount of prepaid wireless telecommunications service is sold with a prepaid wireless device for a single, nonitemized price, the seller may elect not to apply the prepaid wireless E911 surcharge to the retail transaction. For purposes of this subsection, an amount of service denominated as ten minutes or less, or five dollars or less, shall be regarded as a minimal amount of service.

9. Prepaid wireless E911 surcharges collected by sellers shall be remitted to the department at the times and in the manner provided by chapter 423 with respect to the sales and use tax. The department shall establish registration and payment procedures that substantially coincide with the registration and payment procedures that apply to sellers under chapter 423.

10. A seller may deduct and retain three percent of prepaid wireless E911 surcharges that are collected by the seller from consumers.

11. The audit and appeal procedures applicable under chapter 423 shall apply to prepaid wireless E911 surcharges.

12. The department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction, which procedures shall substantially coincide with the procedures for documenting sale for resale transactions under chapter 423.

13. The department shall transfer all remitted prepaid wireless E911 surcharges to the treasurer of state for deposit in the E911 emergency communications fund created under section 34A.7A, subsection 2, within thirty days of receipt after deducting an amount, not to exceed two percent of collected surcharges, that shall be retained by the department to reimburse its direct costs of administering the collection and remittance of prepaid wireless E911 surcharges.

14. The limitation of actions provisions under section 34A.7, subsection 6, shall apply to providers and sellers of prepaid wireless telecommunications service. In addition, a provider or seller of prepaid wireless telecommunications service shall not be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigative or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by such investigative or law enforcement officer.

15. The prepaid wireless E911 surcharge imposed pursuant to this section shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications

service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

Sec. 11. Section 34A.15, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

c. One person appointed by the ~~Iowa association of chiefs of police and peace officers association.~~

Sec. 12. E911 TASK FORCE.

1. The homeland security and emergency management division of the department of public defense shall convene a task force of stakeholders to consider and offer recommendations regarding needed upgrades and enhancements to the state's E911 programs. Stakeholders shall include public safety and emergency management representatives, local public safety answering point personnel, telecommunications service providers, and state agencies that are directly involved in administering and providing E911 services in this state. Aspects of E911 service delivery for consideration by the task force shall include but not be limited to the following:

a. Enhanced technology needs of local E911 public safety answering points to ensure timely, quality emergency response services.

b. Identification of new wireless technologies used in E911 service delivery.

c. Funding needs to meet state and federal emergency communications technology mandates.

d. Potential wireless and wire-line surcharge adjustments to meet E911 service delivery demands, including specific recommendations on surcharge equalization and on the distribution formula of surcharge revenues.

e. Local and state E911 administration and governance.

2. The task force shall submit a report containing recommendations to the general assembly by December 1, 2012.

Sec. 13. EFFECTIVE DATE. The section of this Act enacting section 34A.7B takes effect January 1, 2013.

Sec. 14. APPLICABILITY. The section of this Act enacting section 34A.7B applies to retail sales of prepaid wireless telecommunications service on or after January 1, 2013.

Approved May 2, 2012

## CHAPTER 1112

### STATE CONTRACTS FOR LEGAL SERVICES

H.F. 563

**AN ACT** creating the transparency in private attorney contracts Act.

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

Section 1. Section 13.7, Code Supplement 2011, is amended to read as follows:

#### **13.7 Special counsel.**

1. Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head of an executive department of state government, or to a state board or commission. However, the executive council may authorize employment of legal assistance, at a reasonable compensation,

in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service. The reasons and action of the council shall be entered upon its records. If the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This ~~section~~ subsection does not affect the general counsel for the utilities board of the department of commerce, the legal counsel of the department of workforce development, or the general counsel for the property assessment appeal board.

2. The executive branch and the attorney general shall also comply with chapter 23B when retaining legal counsel on a contingency fee basis under this section, as appropriate.

Sec. 2. NEW SECTION. 23B.1 Citation.

This chapter may be known and cited as the “*Transparency in Private Attorney Contracts Act*”.

Sec. 3. NEW SECTION. 23B.2 Definitions.

For the purposes of this chapter:

1. “*Government attorney*” means an attorney employed by the state as a staff attorney in the attorney general’s office.
2. “*Private attorney*” means any private attorney or law firm.
3. “*State*” means the state of Iowa and includes state officers, departments, boards, commissions, divisions, bureaus, councils, and units of organization, however designated, of the executive branch of state government, and any of its agents.

Sec. 4. NEW SECTION. 23B.3 Contracts for legal services.

1. The state shall not enter into a contingency fee contract with a private attorney unless the attorney general makes a written determination prior to entering into such a contract that contingency fee representation is both cost-effective and in the public interest. Any written determination shall include specific findings for each of the following factors:

- a. Whether sufficient and appropriate legal and financial resources exist within the attorney general’s office to handle the matter.
- b. The time and labor required, the novelty, complexity, and difficulty of the questions involved, and the skill required to perform the attorney services properly.
- c. The geographic area where the attorney services are to be provided.
- d. The amount of experience desired for the particular kind of attorney services to be provided and the nature of the private attorney’s experience with similar issues or cases.

2. If the attorney general makes the determination described in subsection 1, the attorney general shall follow the procurement process used by the department of administrative services in seeking private attorneys to represent the department of justice on a contingency fee basis, unless the attorney general determines that the procurement process is not feasible under the circumstances and sets forth the basis for this determination in writing.

3. a. Except as provided in paragraph “c”, the state shall not enter into a contingency fee contract that provides for a private attorney to receive an aggregate contingency fee in excess of the sum of the following:

- (1) Twenty-five percent of any recovery up to and including ten million dollars, exclusive of reasonable costs and expenses.
- (2) Twenty percent of any portion of any recovery that exceeds ten million dollars up to and including fifteen million dollars, exclusive of reasonable costs and expenses.
- (3) Fifteen percent of any portion of any recovery that exceeds fifteen million dollars up to and including twenty million dollars, exclusive of reasonable costs and expenses.
- (4) Ten percent of any portion of any recovery that exceeds twenty million dollars up to and including twenty-five million dollars, exclusive of reasonable costs and expenses.

(5) Five percent of any portion of any recovery that exceeds twenty-five million dollars, exclusive of reasonable costs and expenses.

b. Except as provided in paragraph “c”, the aggregate contingency fee of any recovery shall not exceed fifty million dollars, exclusive of reasonable costs and expenses, and regardless of the number of lawsuits filed or the number of private attorneys retained to achieve the recovery.

c. The attorney general may request a waiver from the executive council of the aggregate contingency fee limits in paragraphs “a” and “b” if the attorney general provides a thirty-day notice of the attorney general’s intent to request a waiver. The executive council, upon unanimous consent, may grant such a waiver.

4. The attorney general shall develop a standard addendum to every contract for contingent fee attorney services that shall be used in all cases, describing in detail what is expected of both the contracted private attorney and the state, including, without limitation, all of the following requirements:

a. A government attorney shall retain complete control over the course and conduct of the case.

b. A government attorney with supervisory authority shall be personally involved in overseeing the litigation.

c. A government attorney shall retain veto power over any decisions made by the contracted private attorney.

d. A defendant that is the subject of such litigation may contact the lead government attorney directly, without having to confer with the contracted private attorney.

e. Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the government attorney and the state.

f. A government attorney with supervisory authority for the case shall participate in all settlement conferences.

5. Copies of any executed contingency fee contract as well as the attorney general’s written determination to enter into a contingency fee contract with a private attorney shall be posted on the attorney general’s website for public inspection within five business days after the date the contract is executed and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments thereto. Any payment of contingency fees shall be posted on the attorney general’s website within fifteen days after the payment of such contingency fees to the private attorney and shall remain posted on the website for at least one year thereafter.

6. Any private attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until at least four years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. The private attorney shall make all such records available for inspection and copying upon request in accordance with chapter 22.

7. The attorney general shall submit a report to the secretary of the senate and the chief clerk of the house of representatives describing the use of contingency fee contracts with private attorneys in the preceding calendar year by February 1 of each year. At a minimum, the report shall include all of the following information:

a. Identify all new contingency fee contracts entered into during the year and all previously executed contingency fee contracts that remain current during any part of the year, and for each contract describe:

(1) The name of the private attorney with whom the state has contracted, including the name of the attorney’s law firm.

(2) The nature and status of the legal matter.

(3) The name of the parties to the legal matter.

(4) The amount of any recovery.

(5) The amount of any contingency fee paid.

b. Copies of any written determinations made under subsection 1 or 2 during the year.

Sec. 5. NEW SECTION. **23B.4 No expansion of authority to contract.**

This chapter shall not be construed to expand the authority of a state agency or state agent to enter into contracts where no such authority previously existed.

Sec. 6. NEW SECTION. 23B.5 Chapter inapplicable.

This chapter shall not apply to legal services contracts under chapter 13B.

Approved May 2, 2012

## CHAPTER 1113

### REGULATION OF PUBLIC HEALTH — MISCELLANEOUS CHANGES

*H.F. 2464*

**AN ACT** relating to department of public health programs and activities, providing for a penalty, and including effective and applicability date provisions.

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

#### DIVISION I

#### NURSING HOME ADMINISTRATORS

Section 1. Section 155.1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

For the purposes of this chapter, ~~and as used herein:~~

Sec. 2. Section 155.3, subsections 2 and 3, Code 2011, are amended to read as follows:

2. The applicant has ~~satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes; knowledge of the laws governing the operation of nursing homes and the protection of the interests of patients therein; and knowledge of the elements of good nursing home administration; or has presented evidence satisfactory to the board of sufficient education, training, or experience in the foregoing fields to administer, supervise, and manage a nursing home.~~

3. The applicant has passed an examination ~~administered~~ prescribed by the board ~~and designed to test for competence in the subject matter referred to in subsection 2 of this section pursuant to section 147.34.~~

Sec. 3. Section 155.4, Code 2011, is amended to read as follows:

**155.4 Licensing function.**

The board shall license nursing home administrators in accordance with this chapter, chapter 147, and rules issued, and from time to time revised, by it by the board. A nursing home administrator's license shall not be transferable and, ~~if not inactive,~~ shall be valid until revoked pursuant to section 147.55 or voluntarily surrendered for cancellation or suspended or revoked for violation of this chapter or any other laws or regulations relating to the proper administration and management of a nursing home. Any denial of issuance or renewal, suspension, or revocation under any section of this chapter shall be subject to judicial review in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 4. Section 155.5, Code 2011, is amended to read as follows:

**155.5 License fees.**

Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board. The license shall expire in multiyear intervals determined by the board and be renewable ~~and upon payment of the license a renewal fee.~~

A person who fails to renew a license 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. 5. Section 155.9, Code 2011, is amended to read as follows:

**155.9 Duties of the board.**

The In addition to the duties and responsibilities provided in chapters 147 and 272C, the board shall have the duty and responsibility to:

~~1. Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators.~~

~~2. Develop and apply appropriate techniques, including examination and investigations, for determining whether an individual meets such standards. The board may administer as many examinations per year as are necessary, but shall administer at least one examination per year. Any written examination may be given by representatives of the board. Applicants who fail the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, the applicant shall be allowed to take the examination at the discretion of the board. An applicant who has failed the examination may request in writing information from the board concerning the applicant's examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the board administers a uniform, standardized examination, the board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the board.~~

~~3. Issue licenses to individuals who, after application of such techniques, are found to have met such standards; and for cause and after due notice and hearing, revoke or suspend licenses previously issued by such board in any case where the individual holding such license is found to have failed substantially to conform to the requirements of such standards.~~

~~The board may also accept the voluntary surrender of such license without necessity of a hearing. In adopt rules for granting a provisional license to an administrator appointed on a temporary basis by a nursing home's owner or owners in the event of the inability of the regular administrator of a the nursing home is unable to perform the administrator's duties or through death or other cause the nursing home is without a licensed administrator, a provisional administrator may be appointed on a temporary basis by the nursing home owner or owners to perform such duties for a period not to exceed one year because of death or other cause. Such provisional license shall allow the provisional licensee to perform the duties of a nursing home administrator. An individual shall not hold a provisional license for more than twelve total combined months, and the board may revoke or otherwise discipline a provisional licensee for cause after due notice and a hearing on a charge or complaint filed with the board.~~

~~4. Establish and carry out procedures designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards.~~

~~5. Receive, investigate, and take appropriate action with respect to any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards. Such appropriate action may include revocation of a license, if necessary, or placing the licensee on probation for a period not exceeding six months, and shall be taken only for cause after due notice and a hearing on the charge or complaint.~~

~~6. Conduct a continuing study and investigation of nursing homes, and administrators of nursing homes, in this state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.~~

~~7. Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this chapter, and make provisions for such courses and their accessibility to residents of this state unless it finds that there are, and approves, a sufficient number of courses, which courses are conducted by others within this state. In lieu~~



~~thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this chapter.~~

Sec. 6. Section 155.10, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**155.10 Continuing education.**

Each person licensed as a nursing home administrator shall be required to complete continuing education as a condition of license renewal. Such continuing education requirements shall be determined by the board.

Sec. 7. Section 155.14, Code 2011, is amended to read as follows:

**155.14 Applications.**

~~Applications for licensure and for license renewal shall be on forms in the format prescribed and furnished by the board and shall not contain a recent photograph of the applicant. An applicant shall not be ineligible for licensure because of age, citizenship, sex, race, religion, marital status or national origin although the application may require citizenship information. The board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of nursing home administration. Character references may be required, but shall not be obtained from licensed nursing home administrators.~~

Sec. 8. NEW SECTION. **155.19 Voluntary surrender.**

The board may accept the voluntary surrender of a license if accompanied by a written statement of intention. The voluntary surrender, when accepted, shall have the same force and effect as an order of revocation.

Sec. 9. REPEAL. Sections 155.2, 155.15, and 155.16, Code 2011, are repealed.

DIVISION II  
HEARING AID DISPENSERS

Sec. 10. Section 154A.7, Code 2011, is amended to read as follows:

**154A.7 Meetings and expenses Board meetings.**

~~The members of the board shall receive actual expenses incurred in the discharge of their duties within the limits of funds appropriated to the board. Each member of the board may also be eligible to receive compensation as provided in section 7E.6. The board shall meet at least one time per year at the seat of government and may hold additional meetings as deemed necessary. Additional meetings shall be held at the call of the chairperson or a majority of the members of the board. At any meeting of the board, a majority of the members shall constitute a quorum.~~

Sec. 11. Section 154A.10, Code 2011, is amended to read as follows:

**154A.10 Issuance of licenses.**

~~After January 1, 1975, an~~ An applicant may obtain a license, if the applicant:

1. Successfully passes the qualifying examination prescribed in section 154A.12.
2. Is free of contagious or infectious disease.
3. Pays the necessary fees set by the board ~~pursuant to section 154A.17.~~

Sec. 12. Section 154A.12, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. ~~Written tests~~ Evidence of knowledge in areas such as physics of sound, anatomy and physiology of hearing, and the function of hearing aids, as these areas pertain to the fitting or selection and sale of hearing aids.

Sec. 13. Section 154A.13, Code 2011, is amended to read as follows:

**154A.13 Temporary permit.**

A person who has not been ~~employed~~ licensed as a hearing aid dispenser ~~prior to January 1, 1975,~~ may obtain a temporary permit from the department upon completion of the application accompanied by the written verification of employment from a licensed hearing aid dispenser.

The department shall issue a temporary permit for one year which shall not be renewed or reissued. The fee for issuance of the temporary permit shall be set by the board pursuant to section 154A.17 in accordance with the provisions for establishment of fees in section 147.80. The temporary permit entitles an applicant to engage in the fitting or selection and sale of hearing aids under the supervision of a person holding a valid license.

Sec. 14. Section 154A.23, Code 2011, is amended to read as follows:

**154A.23 Complaints Disciplinary orders — attorney general.**

~~Any person wishing to make a complaint against a licensee or holder of a temporary permit shall file a written statement with the board within twelve months from the date of the action upon which the complaint is based. If the board determines that the complaint alleges facts which, if proven, would be cause for the suspension or revocation of the license of the licensee or the permit of the holder of a temporary permit, it shall make an order fixing a time and place for a hearing and requiring the licensee or holder of a temporary permit complained against to appear and defend. The order shall contain a copy of the complaint, and the order and copy of the complaint shall be served upon the licensee or holder of a temporary permit at least twenty days before the date set for hearing, either personally or as provided in section 154A.21. Continuance or adjournment of a hearing date may be made for good cause. At the hearing the licensee or holder of a temporary permit may be represented by counsel. The licensee or holder of a temporary permit and the board may take depositions in advance of hearing and after service of the complaint, and either may compel the attendance of witnesses by subpoenas issued by the board. The board shall issue such subpoenas at the request of a licensee or holder of a temporary permit. Either party taking depositions shall give at least five days' written notice to the other party of the time and place of such depositions, and the other party may attend, with counsel, if desired, and cross-examine.~~

~~If the board determines from the evidence and proofs submitted that the licensee or holder of a temporary permit is guilty of violating any of the provisions of this chapter, or any of the regulations promulgated by the board pursuant to this chapter, the department shall, within thirty days after the hearing, issue an order refusing to issue or renew, or revoking or suspending, as the case may be, the hearing aid dispenser's license or temporary permit. The order shall include the findings of fact and the conclusions of law made by the board and counsel. A copy of the order shall be sent to the licensee or holder of a temporary permit by registered mail. The records of the department shall reflect the action taken by the board on the charges, and the department shall preserve a record of the proceedings in a manner similar to that used by courts of record in this state.~~

~~The final order of the board in the proceedings may be appealed to the district court of the county where the licensee or holder of a temporary permit resides, or in which the licensed hearing aid dispenser's principal place of business is located.~~

~~The department shall send a copy of the complaint and a copy of the board's final order to the attorney general for purposes of information in the event the licensee or holder of a temporary permit pursues a court appeal and for consideration as to whether the violations are flagrant enough to justify prosecution. The board shall forward a copy of all final disciplinary orders, with associated complaints, to the attorney general for consideration for prosecution or enforcement when warranted. The attorney general and all county attorneys shall assist the board and the department in the enforcement of the provisions of this chapter.~~

Sec. 15. REPEAL. Sections 154A.2, 154A.3, 154A.4, 154A.5, 154A.6, 154A.8, 154A.9, 154A.11, 154A.14, 154A.15, 154A.17, and 154A.18, Code 2011, are repealed.

DIVISION III  
LOCAL BOARDS OF HEALTH

Sec. 16. Section 135.1, subsection 6, Code 2011, is amended by striking the subsection.

Sec. 17. SECTION 137.112, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 4. This section does not apply to any district board of health or district health department in existence prior to July 1, 2010.

Sec. 18. Section 331.502, subsection 8, Code 2011, is amended by striking the subsection.

Sec. 19. REPEAL. Section 135.32, Code 2011, is repealed.

Sec. 20. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending section 137.112.

Sec. 21. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to July 1, 2010:

1. The section of this Act amending section 137.112.

#### DIVISION IV FEDERAL GRANTS REPORTING

Sec. 22. Section 135.11, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 31. Report to the chairpersons and ranking members of the joint appropriations subcommittee on health and human services, the legislative services agency, the legislative caucus staffs, and the department of management within sixty calendar days of applying for or renewing a federal grant which requires a state match or maintenance of effort and has a value of over one hundred thousand dollars. The report shall list the federal funding source and address the potential need for the commitment of state funding in order to match or continue the funding provided by the federal grant in the present or future.

#### DIVISION V HIV CONFIDENTIALITY

Sec. 23. Section 141A.9, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 8. Medical information secured pursuant to subsection 1 may be shared with other state or federal agencies, with employees or agents of the department, or with local units of government that have a need for the information in the performance of their duties related to HIV prevention, disease surveillance, or care of persons with HIV, only as necessary to administer the program for which the information is collected or to administer a program within the other agency. Confidential information transferred to other persons or entities under this subsection shall continue to maintain its confidential status and shall not be rereleased by the receiving person or entity.

#### DIVISION VI REPEAL OF REPORTING REQUIREMENTS

Sec. 24. REPEAL. Section 135.165, Code 2011, is repealed.

#### DIVISION VII RADIOLOGICAL HEALTH

Sec. 25. Section 136C.3, subsection 5, Code 2011, is amended to read as follows:

5. Issue orders as necessary in connection with licensing and registration of radiation machines and radioactive materials and the operators or users thereof.

Sec. 26. Section 136C.8, Code 2011, is amended to read as follows:

**136C.8 Inspections.**

The department shall may inspect all radiation machines and radioactive materials located in this state, for the purpose of detecting, abating, or eliminating excessive radiation exposure hazards. The inspection shall include but shall not be limited to an evaluation of the radiation machine or radioactive material as well as the immediate environment to ensure that in using the machines or materials all unnecessary hazards for patients, personnel, and other persons who may be exposed to radiation produced by the machine or materials are avoided. ~~The~~

~~inspection shall also include an evaluation of electrical hazards as well as the adequacy of mechanical supporting and restraining devices. All defects and deficiencies noted by the inspector shall be fully disclosed and discussed with the responsible persons at the time of inspection. The department shall establish rules prescribing operating procedures for radiation machines and radioactive materials which ensure minimum radiation exposure to patients, personnel, and other persons in the immediate environment.~~

Sec. 27. Section 136C.14, subsection 2, Code 2011, is amended to read as follows:

2. A person, other than a licensed professional, who operates a radiation machine or uses radioactive materials for medical treatment or diagnostic purposes shall ~~display~~ make available upon request the credentials which indicate that person's qualification to operate the machine or use the materials ~~in the immediate vicinity of the machine or where the materials are stored. A person who owns or controls the machine or materials is also responsible for the proper display of credentials of those who operate the machine or use the materials and shall not employ a person to operate the machine or use the materials for medical treatment or diagnostic purposes except as provided in this section.~~

Sec. 28. Section 136D.2, subsections 4 and 5, Code 2011, are amended to read as follows:

4. "*Tanning device*" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers and that is used for tanning of human skin, such as sunlamps, tanning booths, or tanning beds. ~~The term also includes any accompanying equipment such as protective eyewear, timers, and handrails.~~

5. "*Tanning facility*" means ~~a place that provides access to tanning devices for compensation location, place, area, structure, or business, or a part thereof, which provides access to a tanning device for compensation. "Tanning facility" may include but is not limited to a tanning salon, health club, apartment, and condominium.~~

Sec. 29. Section 136D.8, subsection 2, Code 2011, is amended by striking the subsection.

Sec. 30. **NEW SECTION. 136D.9 Penalties.**

1. The department may impose a civil penalty not to exceed one thousand dollars on a person who violates a provision of this chapter, a rule adopted or order issued under this chapter, or a term, condition, or limitation of a registration certificate issued pursuant to this chapter, or who commits a violation for which a registration certificate may be revoked under rules issued pursuant to this chapter. Each day of continuing violation constitutes a separate offense in computing the civil penalty. However, the maximum civil penalty for a continuing violation shall not exceed five thousand dollars.

2. The department shall notify a person of the intent to impose a civil penalty against the person. The department shall establish the notification process to include an opportunity for the person to respond in writing, within a reasonable time as the department shall establish by rule, regarding reasons why the civil penalty should not be imposed.

3. The department may compromise, mitigate, or refund a civil penalty imposed under this section. A person upon whom a civil penalty is imposed may appeal the action pursuant to chapter 17A. The department shall remit moneys collected from civil penalties to the treasurer of the state who shall deposit the moneys in the general fund of the state.

#### DIVISION VIII PHARMACY RESEARCH PROJECTS

Sec. 31. 2011 Iowa Acts, chapter 63, section 36, subsection 1, is amended to read as follows:

1. Notwithstanding any provision of section 147.107, subsection 2, or section 155A.33 to the contrary, the board of pharmacy may approve a pilot or demonstration research project of innovative applications in the practice of pharmacy relating to the authority of prescription verification and the ability of a pharmacist to provide enhanced patient care.

**CHAPTER 1114****EXCISE TAX RATES ON MOTOR FUEL***H.F. 2472*

**AN ACT** extending the period for determining the rates of the motor fuel tax based on calculating the distribution of ethanol blended gasoline and other motor fuel, and including effective date provisions.

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

Section 1. Section 452A.3, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Except as otherwise provided in this section and in this division, until June 30, ~~2012~~ 2013, this subsection shall apply to the excise tax imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

Sec. 2. Section 452A.3, subsection 1A, Code 2011, is amended to read as follows:

1A. Except as otherwise provided in this section and in this division, after June 30, ~~2012~~ 2013, an excise tax of twenty cents is imposed on each gallon of motor fuel used for any purpose for the privilege of operating motor vehicles in this state.

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

Approved May 2, 2012

**CHAPTER 1115****REGULATION OF OPEN RECORDS AND PUBLIC MEETINGS***S.F. 430*

**AN ACT** relating to violations of the open records and public meetings laws and the creation of the Iowa public information board, and including effective date provisions.

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

Section 1. Section 21.6, subsection 3, paragraph a, subparagraph (3), Code Supplement 2011, is amended to read as follows:

(3) Reasonably relied upon a decision of a court, a formal opinion of the Iowa public information board, the attorney general, or the attorney for the governmental body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the Iowa public information board, the attorney general, or the attorney for the governmental body, given in writing.

Sec. 2. Section 22.7, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION.** 65. Tentative, preliminary, draft, speculative, or research material, prior to its completion for the purpose for which it is intended and in a form prior to the form in which it is submitted for use or used in the actual formulation, recommendation, adoption, or execution of any official policy or action by a public official authorized to make such decisions for the governmental body or the government body. This subsection shall not apply to public records that are actually submitted for use or are used in the formulation, recommendation, adoption, or execution of any official policy or action of a governmental

body or a government body by a public official authorized to adopt or execute official policy for the governmental body or the government body.

Sec. 3. Section 22.10, subsection 3, paragraph b, subparagraph (3), Code Supplement 2011, is amended to read as follows:

(3) Reasonably relied upon a decision of a court, a formal opinion of the Iowa public information board, the attorney general, or the attorney for the government body, given in writing, or as memorialized in the minutes of the meeting at which a formal oral opinion was given, or an advisory opinion of the Iowa public information board, the attorney general, or the attorney for the government body, given in writing.

Sec. 4. **NEW SECTION. 23.1 Citation and purpose.**

This chapter may be cited as the “*Iowa Public Information Board Act*”. The purpose of this chapter is to provide an alternative means by which to secure compliance with and enforcement of the requirements of chapters 21 and 22 through the provision by the Iowa public information board to all interested parties of an efficient, informal, and cost-effective process for resolving disputes.

Sec. 5. **NEW SECTION. 23.2 Definitions.**

1. “*Board*” means the Iowa public information board created in section 23.3.
2. “*Complainant*” means a person who files a complaint with the board.
3. “*Complaint*” means a written and signed document filed with the board alleging a violation of chapter 21 or 22.
4. “*Custodian*” means a government body, government official, or government employee designated as the lawful custodian of a government record pursuant to section 22.1.
5. “*Government body*” means the same as defined in section 22.1.
6. “*Governmental body*” means the same as defined in section 21.2.
7. “*Person*” means an individual, partnership, association, corporation, legal representative, trustee, receiver, custodian, government body, or official, employee, agency, or political subdivision of this state.
8. “*Respondent*” means any agency or other unit of state or local government, custodian, government official, or government employee who is the subject of a complaint.

Sec. 6. **NEW SECTION. 23.3 Board appointed — executive director.**

1. An Iowa public information board is created consisting of nine members appointed by the governor, subject to confirmation by the senate. No more than three members appointed shall be representatives from the media including newspapers and no more than three members appointed shall be representatives of cities, counties, and other political subdivisions of the state.

2. Appointments to the board shall be subject to sections 69.16 and 69.16A.

3. Members appointed to the board shall serve staggered four-year terms beginning and ending as provided in section 69.19.

4. A quorum of the board shall consist of five members.

5. A vacancy on the board shall be filled by the governor, as provided in subsection 1.

6. The board shall select one of its members to serve as chairperson and shall employ a person who shall be an attorney admitted to practice law before the courts of this state to serve as the executive director of the board.

7. The board shall meet at least quarterly and at the call of the chairperson.

8. The board shall be an independent agency.

Sec. 7. **NEW SECTION. 23.4 Compensation and expenses.**

Board members appointed by the governor shall be paid a per diem as specified in section 7E.6 and shall be reimbursed for actual and necessary expenses incurred while on official board business. Such per diem and expenses shall be paid from funds appropriated to the board.

Sec. 8. **NEW SECTION. 23.5 Election of remedies.**

1. An aggrieved person, any taxpayer to or citizen of this state, the attorney general, or any county attorney may seek enforcement of the requirements of chapters 21 and 22 by electing either to file an action pursuant to section 17A.19, 21.6, or 22.10, whichever is applicable, or in the alternative, to file a timely complaint with the board.

2. If more than one person seeks enforcement of chapter 21 or 22 with respect to the same incident involving an alleged violation, and one or more of such persons elects to do so by filing an action under section 17A.19, 21.6, or 22.10, and one or more of such persons elects to do so by filing a timely complaint with the board, the court in which the action was filed shall stay the action pending resolution of the complaint with the board, authorizing the complainant to file a complaint with respect to the same incident with the board without regard to the timeliness of the filing of the complaint at the time the action in court is stayed.

3. If a person files an action pursuant to section 22.8 seeking to enjoin the inspection of a public record, the respondent or person requesting access to the record which is the subject of the request for injunction may remove the proceeding to the board for its determination by filing, within thirty days of the commencement of the judicial proceeding, a complaint with the board alleging a violation of chapter 22 in regard to the same matter.

**Sec. 9. NEW SECTION. 23.6 Board powers and duties.**

The board shall have all of the following powers and duties:

1. Employ one employee as executive director who is an attorney admitted to practice law in the courts of this state to execute its authority and prosecute respondents in proceedings before the board and to represent the board in proceedings before a court.

2. Adopt rules pursuant to chapter 17A calculated to implement, enforce, and interpret the requirements of chapters 21 and 22 and to implement any authority delegated to the board by this chapter.

3. Issue, consistent with the requirements of section 17A.9, declaratory orders with the force of law determining the applicability of chapter 21 or 22 to specified fact situations and issue informal advice to any person concerning the applicability of chapters 21 and 22.

4. Receive complaints alleging violations of chapter 21 or 22, seek resolution of such complaints through informal assistance or through mediation and settlement, formally investigate such complaints, decide after such an investigation whether there is probable cause to believe a violation of chapter 21 or 22 has occurred, and if probable cause has been found prosecute the respondent before the board in a contested case proceeding conducted according to the provisions of chapter 17A.

5. Request and receive from a governmental body or a government body assistance and information as necessary in the performance of its duties.

6. The board may examine a record of a government body that is the subject matter of a complaint, including any record that is confidential by law. Confidential records provided to the board by a government body shall continue to maintain their confidential status. Any member or employee of the board is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the government body.

7. Issue subpoenas enforceable in court for the purpose of investigating complaints and to facilitate the prosecution and conduct of contested cases before the board.

8. After appropriate board proceedings, issue orders with the force of law, determining whether there has been a violation of chapter 21 or 22, requiring compliance with specified provisions of those chapters, imposing civil penalties equivalent to and to the same extent as those provided for in section 21.6 or 22.10, as applicable, on a respondent who has been found in violation of chapter 21 or 22, and imposing any other appropriate remedies calculated to declare, terminate, or remediate any violation of those chapters.

9. Represent itself in judicial proceedings to enforce or defend its orders and rules through attorneys on its own staff, through the office of the attorney general, or through other attorneys retained by the board, at its option.

10. Make training opportunities available to lawful custodians, governmental bodies, government bodies, and other persons subject to the requirements of chapters 21 and 22 and require, in its discretion, appropriate persons who have responsibilities in relation to chapters 21 and 22 to receive periodic training approved by the board.

11. Disseminate information calculated to inform members of the public about the public's right to access government information in this state including procedures to facilitate this access and including information relating to the obligations of governmental bodies under chapter 21 and lawful custodians under chapter 22 and other laws dealing with this subject.

12. Prepare and transmit to the governor and to the general assembly, at least annually, reports describing complaints received, board proceedings, investigations, hearings conducted, decisions rendered, and other work performed by the board.

13. Make recommendations to the governor and the general assembly proposing legislation relating to public access to government information deemed desirable by the board in light of the policy of this state to provide as much public access as possible to government information as is consistent with the public interest.

**Sec. 10. NEW SECTION. 23.7 Filing of complaints with the board.**

1. The board shall adopt rules pursuant to chapter 17A providing for the timing, form, content, and means by which any aggrieved person, any taxpayer to or citizen of this state, the attorney general, or any county attorney may file a complaint with the board alleging a violation of chapter 21 or 22. The complaint must be filed within sixty days from the time the alleged violation occurred or the complainant could have become aware of the violation with reasonable diligence. All complaints filed with the board shall be public records.

2. All board proceedings in response to the filing of a complaint shall be conducted as expeditiously as possible.

**Sec. 11. NEW SECTION. 23.8 Initial processing of complaint.**

Upon receipt of a complaint alleging a violation of chapter 21 or 22, the board shall do either of the following:

1. Determine that, on its face, the complaint is within the board's jurisdiction, appears legally sufficient, and could have merit. In such a case the board shall accept the complaint, and shall notify the parties of that fact in writing.

2. Determine that, on its face, the complaint is outside its jurisdiction, is legally insufficient, is frivolous, is without merit, involves harmless error, or relates to a specific incident that has previously been finally disposed of on its merits by the board or a court. In such a case the board shall decline to accept the complaint. If the board refuses to accept a complaint, the board shall provide the complainant with a written order explaining its reasons for the action.

**Sec. 12. NEW SECTION. 23.9 Informal assistance — mediation and settlement.**

1. After accepting a complaint, the board shall promptly work with the parties through its employees to reach an informal, expeditious resolution of the complaint. If an informal resolution satisfactory to the parties cannot be reached, the board or the board's designee shall offer the parties an opportunity to resolve the dispute through mediation and settlement.

2. The mediation and settlement process shall enable the complainant to attempt to resolve the dispute with the aid of a neutral mediator employed and selected by the board, in its discretion, from either its own staff or an outside source.

3. Mediation shall be conducted as an informal, nonadversarial process and in a manner calculated to help the parties reach a mutually acceptable and voluntary settlement agreement. The mediator shall assist the parties in identifying issues and shall foster joint problem solving and the exploration of settlement alternatives.

**Sec. 13. NEW SECTION. 23.10 Enforcement.**

1. If any party declines mediation or settlement or if mediation or settlement fails to resolve the matter to the satisfaction of all parties, the board shall initiate a formal investigation concerning the facts and circumstances set forth in the complaint. The board shall, after an appropriate investigation, make a determination as to whether the complaint is within the board's jurisdiction and whether there is probable cause to believe that the facts and circumstances alleged in the complaint constitute a violation of chapter 21 or 22.

2. If the board finds the complaint is outside the board's jurisdiction or there is no probable cause to believe there has been a violation of chapter 21 or 22, the board shall issue a written order explaining the reasons for the board's conclusions and dismissing the complaint, and



shall transmit a copy to the complainant and to the party against whom the complaint was filed.

3. *a.* If the board finds the complaint is within the board's jurisdiction and there is probable cause to believe there has been a violation of chapter 21 or 22, the board shall issue a written order to that effect and shall commence a contested case proceeding under chapter 17A against the respondent. Notwithstanding section 17A.10A, if there are no material facts in dispute, the board may order that the contested case procedures relating to the presentation of evidence shall not apply. An attorney selected by the executive director of the board shall prosecute the respondent in the contested case proceeding. At the termination of the contested case proceeding the board shall, by a majority vote of its members, render a final decision as to the merits of the complaint. If the board finds that the complaint has merit, the board may issue any appropriate order to ensure enforcement of chapter 21 or 22 including but not limited to an order requiring specified action or prohibiting specified action and any appropriate order to remedy any failure of the respondent to observe any provision of those chapters.

*b.* If the board determines, by a majority vote of its members, that the respondent has violated chapter 21 or 22, the board may also do any or all of the following:

(1) Require the respondent to pay damages as provided for in section 21.6 or 22.10, whichever is applicable, to the extent that provision would make such damages payable if the complainant had sought to enforce a violation in court instead of through the board.

(2) Void any action taken in violation of chapter 21 if a court would be authorized to do so in similar circumstances pursuant to section 21.6.

(3) Require the respondent to take any remedial action deemed appropriate by the board.

*c.* The board shall not have the authority to remove a person from public office for a violation of chapter 21 or 22. The board may file an action under chapter 21 or 22 to remove a person from office for violations that would subject a person to removal under those chapters.

*d.* A final board order resulting from such proceedings may be enforced by the board in court and is subject to judicial review pursuant to section 17A.19.

**Sec. 14. NEW SECTION. 23.11 Defenses in a contested case proceeding.**

A respondent may defend against a proceeding before the board charging a violation of chapter 21 or 22 on the ground that if such a violation occurred it was only harmless error or that clear and convincing evidence demonstrated that grounds existed to justify a court to issue an injunction against disclosure pursuant to section 22.8.

**Sec. 15. NEW SECTION. 23.12 Jurisdiction.**

The board shall not have jurisdiction over the judicial or legislative branches of state government or any entity, officer, or employee of those branches, or over the governor or the office of the governor.

**Sec. 16. IOWA PUBLIC INFORMATION BOARD — TRANSITION PROVISIONS.**

1. The initial members of the Iowa public information board established pursuant to this Act shall be appointed by September 1, 2012.

2. Notwithstanding any provision of this Act to the contrary, the executive director of the board shall not be hired prior to July 1, 2013.

3. Prior to July 1, 2013, the board shall meet as necessary to organize and prepare a report to be submitted to the governor and the general assembly. The report shall include a job description for the executive director of the board, goals for board operations, procedures for the handling of confidential information by the executive director and members of the board, conflict of interest policies for board members, and performance measures to measure achievement of the board's goals.

**Sec. 17. EFFECTIVE DATE.** Except for the section of this Act establishing transition provisions for the Iowa public information board, this Act takes effect July 1, 2013.

**CHAPTER 1116**  
**RESIDENTIAL CONTRACTORS**  
S.F. 466

**AN ACT** relating to residential contractors and providing a penalty and including applicability provisions.

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

Section 1. NEW SECTION. **103A.71 Residential contractors.**

1. As used in this section:

a. “*Catastrophe*” means a natural occurrence including but not limited to fire, earthquake, tornado, windstorm, flood, or hail storm, which damages or destroys residential real estate.

b. “*Residential contractor*” means a person in the business of contracting to repair or replace residential roof systems or perform any other exterior repair, exterior replacement, or exterior reconstruction work resulting from a catastrophe on residential real estate or a person offering to contract with an owner or possessor of residential real estate to carry out such work.

c. “*Residential real estate*” means a new or existing building, including a detached garage, constructed for habitation by one to four families.

d. “*Roof system*” includes roof coverings, roof sheathing, roof weatherproofing, and roof insulation.

2. A residential contractor shall not advertise or promise to rebate any insurance deductible or any portion thereof as an inducement to the sale of goods or services. A promise to rebate any insurance deductible includes granting any allowance or offering any discount against the fees to be charged or paying a person directly or indirectly associated with the residential real estate any form of compensation, except for items of nominal value. A residential contractor may display a sign or any other type of advertisement on a person’s premises provided the person consents to the display and the person receives no compensation from the residential contractor for the placement of the sign or advertising.

3. A residential contractor shall not represent or negotiate on behalf of, or offer or advertise to represent or negotiate on behalf of, an owner or possessor of residential real estate on any insurance claim in connection with the repair or replacement of roof systems, or the performance of any other exterior repair, exterior replacement, or exterior reconstruction work on the residential real estate.

4. a. A residential contractor contracting to provide goods or services to repair damage resulting from a catastrophe shall provide the person with whom it is contracting a fully completed duplicate notice in at least ten-point bold type which shall contain the following statement:

**NOTICE OF CONTRACT OBLIGATIONS AND RIGHTS**

You may be responsible for payment to (insert name of residential contractor) for the cost of all goods and services provided whether or not you receive payment from any property and casualty insurance policy with respect to the damage. Pursuant to Iowa law your contract with (insert name of residential contractor) to provide goods and services to repair damage resulting from a naturally occurring catastrophe including but not limited to a fire, earthquake, tornado, windstorm, flood, or hail storm is void and you have no responsibility for payment under the contract if (insert name of residential contractor) either advertises or promises to rebate all or any portion of your insurance deductible, or represents or negotiates, or offers to represent or negotiate, on your behalf with your property and casualty insurance company on any insurance claim relating to the damage you have contracted to have repaired. Your signature below acknowledges your understanding of these legal obligations and rights.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

b. The notice shall be executed by the person with whom the residential contractor is contracting prior to or contemporaneously with entering into the contract.

5. A contract entered into with a residential contractor is void if the residential contractor violates subsection 2, 3, or 4.

6. a. A residential contractor violating this section is subject to the penalties and remedies prescribed by this chapter.

b. A violation of subsection 2 or 3 by a residential contractor is an unlawful practice pursuant to section 714.16.

Sec. 2. APPLICABILITY. This Act applies to contracts entered into on or after the effective date of this Act.

Approved May 25, 2012

## CHAPTER 1117

### SOCIAL AND CHARITABLE GAMBLING

*S.F. 2237*

**AN ACT** relating to social and charitable gambling concerning allowable prizes at annual game nights conducted by religious organizations and concerning the frequency of reporting and distribution of proceeds requirements for certain qualified organizations licensed to conduct social and charitable gambling.

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

Section 1. Section 99B.2, subsection 4, Code 2011, is amended to read as follows:

4. A licensee required by subsection 2 to maintain records shall submit an annual report to the department on forms furnished by the department. The annual report shall be due thirty days following the end of each state fiscal year. The annual report shall contain a compilation of the information required to be recorded by subsection 2, and shall include all of the transactions occurring during the previous state fiscal year for which the report is submitted. Failure to submit the annual report is grounds for revocation of the license. Willful failure to submit the annual report is a serious misdemeanor. A person who intentionally files a false or fraudulent report or application with the department commits a fraudulent practice.

Sec. 2. Section 99B.7, subsection 3, paragraph c, Code Supplement 2011, is amended to read as follows:

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~~ state fiscal year and remaining after deduction of reasonable expenses, charges, fees, taxes, and deductions allowed by this chapter, before the ~~quarterly~~ annual report required for that ~~quarter~~ state fiscal year 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~~ annual 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. 3. Section 99B.7B, subsection 3, paragraphs b and c, Code 2011, are amended to read as follows:

b. Each qualified organization representing veterans shall withhold that portion of the gross receipts subject to taxation pursuant to section 423.2, subsection 4, which shall be kept in a separate account and sent to the state along with the organization's quarterly annual report required by section 99B.2.

c. A qualified organization representing veterans licensed to conduct card game tournaments is allowed to withhold no more than five percent of the gross receipts from each card game tournament for qualified expenses. Qualified expenses include but are not limited to the purchase of supplies and materials used in conducting card games. Any money collected for expenses and not used by the end of the ~~calendar~~ state fiscal year shall be donated for educational, civic, public, charitable, patriotic, or religious uses as described in section 99B.7, subsection 3, paragraph "b". The qualified organization representing veterans shall attach a receipt for any donation made to the ~~fourth quarter~~ quarterly annual report required to be submitted pursuant to section 99B.2.

Sec. 4. Section 99B.8, subsection 6, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) A qualified organization that has been licensed under this chapter prior to January 1, 2012, and that is a religious organization.

Approved May 25, 2012

## CHAPTER 1118

### REGULATION OF NATURAL RESOURCES AND RECREATION ACTIVITIES

#### S.F. 2283

**AN ACT** relating to various recreation and conservation activities under the purview of the department of natural resources, providing for repeals, making penalties applicable, and including effective date provisions.

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

Section 1. Section 461A.35, Code 2011, is amended to read as follows:

#### **461A.35 Prohibited destructive acts.**

1. It shall be unlawful for any person to use, enjoy the privileges of, destroy, injure, or deface plant life, trees, buildings, or other natural or material property, or to construct or operate for private or commercial purposes any structure, or to remove any plant life, trees, buildings, sand, gravel, ice, earth, stone, wood, or other natural material, or to operate vehicles, within the boundaries of any state park, preserve, or stream or any other lands or waters under the jurisdiction of the commission for any purpose whatsoever, except upon the terms, conditions, limitations, and restrictions as set forth by the commission.

2. A person who violates this section commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8B, subsection 6, paragraph "c".

Sec. 2. Section 461A.42, subsection 2, Code 2011, is amended to read as follows:

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves.

3. A person violating this ~~subsection~~ section is guilty of a simple misdemeanor punishable as a scheduled violation pursuant to section 805.8B, subsection 6, paragraph "c". ~~In addition~~

~~to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars. The court shall order restitution if any damages were caused by the violation which may include, but is not limited to, community service.~~

Sec. 3. Section 461A.57, Code 2011, is amended to read as follows:

**461A.57 Penalties.**

Any person violating any of the provisions of sections ~~461A.35~~ 461A.36 to 461A.41, 461A.43, and 461A.45 to 461A.56 is guilty of a simple misdemeanor.

Sec. 4. Section 481A.1, subsection 7, Code 2011, is amended to read as follows:

7. "Bait" includes, but is not limited to, minnows, green sunfish, orange-spotted sunfish, gizzard shad, frogs, crayfish, and salamanders, ~~and mussels.~~

Sec. 5. Section 481A.6A, subsection 1, Code 2011, is amended to read as follows:

1. As used in this section, "pen-reared pheasant" means a Chinese ring-necked pheasant (*Phasianus colchicus torquatus*) and its subspecies which originates from a captive population and which has been propagated and held by a hatchery. For the purposes of this section "pen-reared pheasant" does not include a Reeves (Syrmaticus reevesii) or Lady Amherst (Chrysolophus amherstiae) pheasant, a subspecies of the Chinese ring-necked pheasant such as a Japanese (Phasianus versicolor) or a Black-necked (P. colchicus colchicus) pheasant, or a melanistic mutant (black, white, or other color mix) of the Chinese ring-necked pheasant. This subsection is not applicable to game birds released for officially sanctioned field meets or trials and retriever meets or trials on private land pursuant to section 481A.22, pen-raised game birds used on private land pursuant to section 481A.56, or game birds released on hunting preserves pursuant to chapter 484B.

Sec. 6. NEW SECTION. 481A.17 Target shooting sports program.

The department shall establish a target shooting sports program to promote recreational target shooting sports. The purposes of the program shall be to introduce more Iowans to target shooting sports, promote existing target shooting programs, provide more target shooting facilities, and improve existing target shooting facilities. The commission may adopt rules to achieve these purposes.

Sec. 7. Section 481A.131, Code 2011, is amended to read as follows:

**481A.131 Judgment — execution.**

1. In each case of conviction of unlawfully taking, catching, killing, injuring, destroying, or having in possession any fish, game, or fur-bearing animal, the court shall enter a judgment in favor of the state of Iowa for liquidated damages in an amount as provided in section 481A.130, ~~and it shall be the duty of the commission and the prosecuting attorney or attorney general, to collect the liquidated damages by execution or otherwise.~~ If two or more persons who have acted together are convicted of the unlawful taking, catching, killing, injuring, destroying, or having possession of any fish, game, or fur-bearing animal, the judgment shall be entered against them jointly.

2. Any liquidated damages ~~received~~ assessed under this section and section 481A.130 shall be ~~remitted~~ paid to the clerk of court. The clerk of court shall remit the damages paid to the treasurer of state who department of natural resources. The department of natural resources shall credit such damages to the state fish and game protection fund.

3. The return of any uninjured fish, game, or fur-bearing animal which has been unlawfully taken, caught, or possessed, to the place where taken or caught or to any other place approved by the commission, shall constitute the discharge of any liquidated damages provided under section 481A.130.

4. Civil suits for the collection of judgments may be prosecuted by the attorney general or by county attorneys.

Sec. 8. Section 481A.142, subsection 5, paragraph a, Code 2011, is amended to read as follows:

a. Sell bait, including minnows, ~~and~~ frogs, ~~and~~ clams, propagated or raised within the licensed unit without having to obtain a bait dealer's license. However, aquaculture units wishing to take bait from areas other than their licensed units must also obtain a bait dealer's license.

Sec. 9. Section 481A.144, subsection 1, Code 2011, is amended to read as follows:

1. A person shall not sell minnows, frogs, crayfish, ~~or~~ salamanders, ~~and~~ mussels for fish bait without first obtaining a bait dealer's license from the department upon payment of the license fee. A licensee shall comply with all laws pertaining to taking, possessing, and selling of bait handled by the licensee. If convicted of violating a provision of this chapter or a rule adopted pursuant to this chapter, a licensee shall forfeit the licensee's bait dealer license upon demand of the director.

Sec. 10. Section 482.4, subsection 3, Code 2011, is amended to read as follows:

3. Commercial fishers and commercial turtle harvesters shall ~~purchase gear tags from the commission to be affixed~~ provide and affix weather-resistant gear tags to each piece of gear in use. ~~Notwithstanding the fee rates for gear tags under subsection 6, the minimum fee is five dollars. All tags are valid for ten years from the date of issue. In addition to the gear tags, all gear shall be tagged with a~~ Each weather-resistant gear tag showing shall plainly show the name ~~and~~, address, and commercial license number of the licensee and whether the gear is fish or turtle gear.

Sec. 11. Section 482.4, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 12. Section 482.4, subsection 6, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

6. Commercial fish and turtle gear tags are required on the following units of commercial gear:

- a. Seine.
- b. Trammel net.
- c. Gill net.
- d. Entrapment nets.
- e. Commercial trotline.
- f. Commercial turtle trap.

Sec. 13. Section 482.4, subsection 7, Code 2011, is amended by striking the subsection.

Sec. 14. Section 483A.1, subsection 2, paragraph s, Code 2011, is amended by striking the paragraph.

Sec. 15. Section 484B.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 3A. "Elk" means an animal belonging to the cervidae family and classified as part of the canadensis species of the cervus genus.

Sec. 16. NEW SECTION. **484B.4A Minimum enclosed acreage — exceptions.**

1. A hunting preserve on which elk are kept must include at least three hundred twenty contiguous acres which are enclosed by a fence as required pursuant to section 484B.5. However, a person may keep elk only on a hunting preserve that includes a fewer number of enclosed acres if either of the following applies:

a. The commission grants a waiver for the hunting preserve according to terms and conditions required by the commission. The hunting preserve must include at least one hundred sixty contiguous acres.

b. (1) The hunting preserve was operated as a business on January 1, 2005.

(2) If the hunting preserve operated as a business on January 1, 2005, the landowner or the landowner's successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same

manner as the landowner. However, this subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to meet the licensing requirements of section 484B.4 each year.

Sec. 17. Section 484C.1, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 3A. "Elk" means an animal belonging to the cervidae family and classified as part of the canadensis species of the cervus genus.

Sec. 18. Section 484C.5, Code 2011, is amended to read as follows:

**484C.5 Minimum enclosed acreage — exceptions.**

1. A hunting preserve must include at least three hundred twenty contiguous acres which are enclosed by a fence certified pursuant to section 484C.6. However, the hunting preserve may include a fewer number of enclosed acres if any of the following applies:

1. a. The commission grants a waiver for the hunting preserve according to terms and conditions required by the commission. The hunting preserve must include at least one hundred sixty contiguous acres.

2. ~~a.~~ b. (1) The hunting preserve was operated as a business on January 1, 2005.

b. (2) If the hunting preserve operated as a business on January 1, 2005, the landowner or the landowner's successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this ~~paragraph~~ subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

3. ~~a.~~ c. (1) The hunting preserve was not operated as a business on January 1, 2005, and all of the following apply:

(1) (a) The hunting preserve has at least one hundred contiguous acres.

(2) (b) The hunting preserve's fence is certified by the department not later than September 1, 2005.

b. (2) If the hunting preserve complies with ~~paragraph "a"~~ subparagraph (1), the landowner or the landowner's successor in interest may sell or otherwise transfer ownership of the hunting preserve to another person who may continue to operate the hunting preserve in the same manner as the landowner. However, this ~~paragraph~~ subparagraph shall not apply if the owner of the hunting preserve or any successor in interest fails to register with the department as provided in section 484C.7 for three or more consecutive years.

2. Notwithstanding any other provision of this chapter or chapter 484B, a person may keep whitetail and elk together on a hunting preserve that includes less than three hundred twenty enclosed acres if the person receives a waiver as provided in subsection 1, paragraph "a" or meets the conditions specified in subsection 1, paragraph "b".

Sec. 19. Section 805.8B, subsection 6, paragraph c, Code 2011, is amended to read as follows:

c. For violations of ~~section~~ sections 461A.35, 461A.42, and 461A.44, the scheduled fine is fifty dollars.

Sec. 20. REPEAL. Chapter 568, Code and Code Supplement 2011, is repealed.

Sec. 21. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The sections of this Act amending sections 484B.1, 484C.1, and 484C.5.

2. The section of this Act enacting section 484B.4A.

Approved May 25, 2012

**CHAPTER 1119**

## EDUCATION — INSTRUCTION, ADMINISTRATION, PROGRAMS, AND ASSESSMENT

S.F. 2284

**AN ACT** relating to programs and activities under the purview of the department of education, the state board of education, the board of educational examiners, the state board of regents, school districts, and accredited nonpublic schools, and including effective date provisions.

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

## DIVISION I

## COMPETENCY-BASED INSTRUCTION

Section 1. Section 256.7, subsection 26, paragraph a, Code Supplement 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (02) The rules shall allow a school district or accredited nonpublic school to award high school credit to an enrolled student upon the demonstration of required competencies for a course or content area, as approved by a teacher licensed under chapter 272. The school district or accredited nonpublic school shall determine the assessment methods by which a student demonstrates sufficient evidence of the required competencies.

## Sec. 2. COMPETENCY-BASED INSTRUCTION TASK FORCE.

1. The department of education shall appoint a task force to conduct a study regarding competency-based instruction standards and options and the integration of competency-based instruction with the Iowa core curriculum, and to develop related assessment models and professional development focused on competency-based instruction.

2. At a minimum, the task force shall do all of the following:

- a. Redefine the Carnegie unit into competencies.
- b. Construct personal learning plans and templates.
- c. Develop student-centered accountability and assessment models.
- d. Empower learning through technology.

e. Develop supports and professional development for educators to transition to a competency-based system.

3. The task force shall be comprised of at least twelve members, nine of whom shall represent education stakeholders and practitioners knowledgeable about the Iowa core curriculum; one of whom shall be the deputy director and administrator of the division of learning and results of the department of education or the deputy director's designee; one of whom shall represent the area education agencies; and one of whom shall represent the Iowa state education association.

4. The person representing the area education agency shall convene the initial meeting. The task force shall elect one of its members as chairperson. After the initial meeting, the task force shall meet at the time and place specified by call of the chairperson. The department of education shall provide staffing services for the task force.

5. a. The task force shall submit a preliminary report that includes but is not limited to its findings and recommendations relating to subsection 2, paragraphs "b", "d", and "e", by January 15, 2013.

b. The task force shall submit its plan, findings, models, and recommendations in a final report to the state board of education, the governor, and the general assembly by November 15, 2013.

Sec. 3. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.



DIVISION II  
ASSESSMENT OF STUDENT PROGRESS ON CORE ACADEMIC INDICATORS

Sec. 4. Section 256.7, subsection 21, paragraph b, Code Supplement 2011, is amended to read as follows:

b. A set of core academic indicators in mathematics and reading in grades four, eight, and eleven, a set of core academic indicators in science in grades eight and eleven, and another set of core indicators that includes, but is not limited to, graduation rate, postsecondary education, and successful employment in Iowa. Annually, the department shall report state data for each indicator in the condition of education report. Rules adopted pursuant to this subsection shall specify that the approved district-wide assessment of student progress administered for purposes of this paragraph shall be the assessment utilized by school districts statewide in the school year beginning July 1, 2011. The state board may submit to the general assembly recommendations the state board deems appropriate for modifications of assessments of student progress administered for purposes of this paragraph.

DIVISION III  
TEACHER AND ADMINISTRATOR MATTERS

Sec. 5. Section 284.6, subsection 8, Code Supplement 2011, is amended to read as follows:

8. For each year in which a school district receives funds calculated and paid to school districts for professional development pursuant to section 257.10, subsection 10, or section 257.37A, subsection 2, the school district shall create quality professional development opportunities. Not less than thirty-six hours in the school calendar, held outside of the minimum school day, shall be set aside during nonpreparation time or designated professional development time to allow practitioners to collaborate with each other to deliver educational programs and assess student learning, or to engage in peer review pursuant to section 284.8, subsection 1. The goal for the use of the funds is to provide one additional contract day or the equivalent thereof for professional development, and use of the funds is limited to providing professional development to teachers, including additional salaries for time beyond the normal negotiated agreement; pay for substitute teachers, professional development materials, speakers, and professional development content; and costs associated with implementing the individual professional development plans. The use of the funds shall be balanced between school district, attendance center, and individual professional development plans, making every reasonable effort to provide equal access to all teachers.

Sec. 6. Section 284.8, subsection 1, Code 2011, is amended to read as follows:

1. A school district shall provide for an annual review a of each 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 resources provided to implement the plan; and shall include supporting documentation from parents, students, and other teachers. The first and second year of review shall be conducted by a peer group of teachers. The peer group shall review all of the peer group members. Peer group reviews shall be formative and shall be conducted on an informal, collaborative basis that is focused on assisting each peer group member in achieving the goals of the teacher's individual professional development plan. Peer group reviews shall not be the basis for recommending that a teacher participate in an intensive assistance program, and shall not be used to determine the compensation, promotion, layoff, or termination of a teacher, or any other determination affecting a teacher's employment status. However, as a result of a peer group review, a teacher may elect to participate in an intensive assistance program. Members of the peer group shall be reviewed every third year by at least one evaluator certified in accordance with section 284.10.

Sec. 7. Section 284A.7, Code 2011, is amended to read as follows:

**284A.7 Evaluation requirements for administrators.**

A school district shall conduct an annual evaluation of an administrator who holds a professional administrator license issued under chapter 272 ~~at least once every three years~~ for purposes of assisting the administrator in making continuous improvement, documenting continued competence in the Iowa standards for school administrators adopted pursuant to section 256.7, subsection 27, or to determine whether the administrator's practice meets school district expectations. The ~~review~~ evaluation shall include, at a minimum, an assessment of the administrator's competence in meeting the Iowa standards for school administrators and the goals of the administrator's individual professional development plan, including supporting documentation or artifacts aligned to the Iowa standards for school administrators and the individual administrator's professional development plan.

Sec. 8. REPEAL. Section 284.14A, Code 2011, is repealed.

Sec. 9. STATEWIDE EDUCATOR EVALUATION SYSTEM TASK FORCE.

1. The director of the department of education shall convene a task force to conduct a study regarding a statewide teacher evaluation system and a statewide administrator evaluation system.

2. The task force shall be comprised of at least twelve members as follows:

a. Eight members shall be appointed by the director to represent education stakeholders and practitioners knowledgeable about the Iowa core curriculum and may include members currently serving on the department's teacher quality partnership teacher evaluation team.

b. One member shall be the deputy director and administrator of the division of learning and results of the department of education or the deputy director's designee.

c. One member shall represent the area education agencies.

d. One member shall represent a certified employee organization representing teachers licensed under chapter 272.

e. One member shall represent a statewide organization representing school administrators licensed under chapter 272.

3. The person representing the area education agency shall convene the initial meeting. The task force shall elect one of its members as chairperson. After the initial meeting, the task force shall meet at the time and place specified by call of the chairperson. The department of education shall provide staffing services for the task force.

4. To the extent possible, appointments shall be made to provide geographical area representation and to comply with sections 69.16, 69.16A, and 69.16C.

5. The task force shall develop a statewide teacher evaluation system and a statewide administrator evaluation system that standardize the instruments and processes used by school districts, charter schools, and accredited nonpublic schools throughout the state to evaluate teachers and administrators. The components of the statewide teacher evaluation system shall include but not be limited to the following:

a. Direct observation of classroom teaching behaviors.

b. Balanced consideration of student growth measures, when available for tested subjects and grades, to supplement direct observation of classroom teaching behaviors.

c. Integration of the Iowa teaching standards.

d. System applicability to teachers in all content areas taught in a school.

6. The task force, at a minimum, shall include in its recommendations and proposal a tiered evaluation system that differentiates ineffective, minimally effective, effective, and highly effective performance by teachers and administrators.

7. The task force shall submit its findings, recommendations, and a proposal for each system to the general assembly by October 15, 2012.

Sec. 10. IOWA TEACHING STANDARDS AND CRITERIA REVIEW TASK FORCE.

1. The department of education shall convene a task force to identify and recommend measures to improve the Iowa teaching standards and criteria and align the Iowa teaching standards with best practices and nationally accepted standards, and to identify and recommend measures to improve the educator evaluations conducted based on the

Iowa teaching standards. The task force shall recommend changes to the Iowa Code as appropriate.

2. The task force shall consist of teachers, administrators, and representatives of the department of education, the board of educational examiners, an organization representing teachers, an organization representing school boards, accredited institutions of higher education, and any other appropriate educational stakeholders.

3. The task force shall submit its findings and recommendations, including recommendations for changes to the Iowa Code as appropriate, to the general assembly by November 15, 2012.

#### Sec. 11. TEACHER PERFORMANCE, COMPENSATION, AND CAREER DEVELOPMENT TASK FORCE.

1. The director of the department of education shall appoint, and provide staffing services for, a teacher performance, compensation, and career development task force to develop recommendations for a new teacher compensation system to replace the current teacher compensation system which addresses, at a minimum, the following:

- a. The duties and responsibilities of apprentice, career, mentor, and master teachers.
- b. Utilizing retired teachers as mentors.
- c. Strategic and meaningful uses of finite resources and the realignment of resources currently available.
- d. Mechanisms to substantially increase the average salary of teachers who assume leadership roles within the profession.
- e. Standardizing implementation of task force recommendations in all of Iowa's school districts and public charter schools.

2. The task force shall also propose a peer coaching pilot project to expand excellence in the teaching profession. The proposal shall include recommendations for peer coaching criteria goals, strategies, documentation of progress, incentives for participation, and program evaluation.

3. The director of the department of education shall appoint and provide staffing services for a task force whose members shall represent teachers, parents, school administrators, and business and community leaders. Insofar as practicable, appointments shall be made to provide geographical area representation and to comply with sections 69.16, 69.16A, and 69.16C.

4. The task force shall submit its findings, recommendations, and pilot project proposal in a report to the state board of education, the governor, and the general assembly by October 15, 2012.

Sec. 12. EFFECTIVE UPON ENACTMENT. The section of this division of this Act providing for the appointment of the teacher performance, compensation, and career development task force, being deemed of immediate importance, takes effect upon enactment.

#### DIVISION IV ONLINE LEARNING

Sec. 13. Section 256.2, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 2A. "*Online learning*" and "*online coursework*" mean educational instruction and content which are delivered primarily over the internet. "*Online learning*" and "*online coursework*" do not include print-based correspondence education, broadcast television or radio, videocassettes, or stand-alone educational software programs that do not have a significant internet-based instructional component.

Sec. 14. Section 256.7, subsection 7, paragraph d, Code Supplement 2011, is amended to read as follows:

d. For the purpose purposes of the rules adopted by the state board, telecommunications this chapter, "*telecommunications*" means narrowcast communications through systems that are directed toward a narrowly defined audience and includes interactive live

communications. For purposes of this chapter, “telecommunications” does not include online learning.

Sec. 15. Section 256.7, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 33. *a.* Adopt rules for online learning in accordance with sections 256.24, 256.24A, and 256.27, and criteria for waivers granted pursuant to section 256.24.

*b.* Except as provided in paragraph “c”, adopt rules prohibiting the open enrollment of students whose educational instruction and course content are delivered primarily over the internet.

*c.* Adopt rules that limit the statewide enrollment of pupils in educational instruction and course content that are delivered primarily over the internet to not more than eighteen one-hundredths of one percent of the statewide enrollment of all pupils, and that limit the number of pupils participating in open enrollment for purposes of receiving educational instruction and course content that are delivered primarily over the internet to no more than one percent of a sending district’s enrollment. Until June 30, 2015, students who meet the requirements of section 282.18 may participate in open enrollment under this paragraph “c” for purposes of enrolling only in the CAM community school district or the Clayton Ridge community school district.

(1) School districts providing educational instruction and course content that are delivered primarily over the internet pursuant to this paragraph “c” shall annually submit to the department, in the manner prescribed by the department, data that includes but is not limited to student achievement and demographic characteristics, retention rates, and the percentage of enrolled students’ active participation in extracurricular activities.

(2) The department shall conduct annually a survey of not less than ten percent of the total number of students enrolled as authorized under this paragraph “c” and section 282.18, and not less than one hundred percent of the students in those districts who are enrolled as authorized under this paragraph “c” and section 282.18 and who are eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. §§ 1751-1785, to determine whether students are enrolled under this paragraph “c” and section 282.18 to receive educational instruction and course content primarily over the internet or are students who are receiving competent private instruction from a licensed practitioner provided through a school district pursuant to chapter 299.<sup>1</sup>

(3) The department shall compile and review the data collected pursuant to this paragraph “c” and shall submit its findings and recommendations for the continued delivery of instruction and course content by school districts pursuant to this paragraph “c”, in a report to the general assembly by January 15 annually.

(4) This paragraph “c” is repealed July 1, 2015.

Sec. 16. Section 256.9, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 65. Develop and establish an online learning program model in accordance with rules adopted pursuant to section 256.7, subsection 33, paragraph “a”, and in accordance with section 256.27.

Sec. 17. NEW SECTION. 256.24 **Iowa learning online initiative.**

1. An Iowa learning online initiative is established within the department to partner with school districts and accredited nonpublic schools to provide distance education to high school students statewide. The department shall utilize a variety of content repositories, including those maintained by the area education agencies and the public broadcasting division, in administering the initiative.

2. The initiative shall include an online learning program model designed to prepare teachers to meet the needs of students in an online learning environment, including but not

<sup>1</sup> According to enrolled Act; the phrase “chapter 299A” probably intended

limited to building community interaction and support, developing strategies for working with virtual students, and assessing virtual students.

3. Coursework offered under the initiative shall be taught by a teacher licensed under chapter 272 who has completed an online-learning-for-Iowa-educators-professional-development project offered by area education agencies, a teacher preservice program, or comparable coursework.

4. Each participating school district and accredited nonpublic school shall submit its online curricula to the department for review. Each participating school district and accredited nonpublic school shall include in its comprehensive school improvement plan submitted pursuant to section 256.7, subsection 21, a list and description of the online coursework offered by the district.

5. Under the initiative, students must be enrolled in a participating school district or accredited nonpublic school, which is responsible for recording grades received for initiative coursework in a student's permanent record, awarding high school credit for initiative coursework, and issuing high school diplomas to students enrolled in the district or school who participate and complete coursework under the initiative. Each participating school shall identify a site coordinator to serve as a student advocate and as a liaison between the initiative staff and teachers and the school district or accredited nonpublic school.

6. Coursework offered under the initiative shall be rigorous and high quality, and the department shall annually evaluate the quality of the courses, ensure that coursework is aligned with the state's core curriculum and core content requirements and standards, as well as national standards of quality for online courses issued by an internationally recognized association for kindergarten through grade twelve online learning.

7. The department may waive for one year the provisions of section 256.11, subsection 5, which require that specified subjects be offered and taught by professional staff of a school district or school, if the school district or school makes every reasonable and good faith effort to employ a teacher licensed under chapter 272 for such a subject, and the school district or school proves to the satisfaction of the department that the school district or school is unable to employ such a teacher. The specified subject shall be provided by the initiative.

**Sec. 18. NEW SECTION. 256.24A Online learning requirements — legislative findings and declarations.**

1. The general assembly finds and declares the following:

a. That prior legislative enactments on the use of telecommunications in elementary and secondary school classes and courses did not contemplate and were not intended to authorize participation in open enrollment under section 282.18 for purposes of attending online schools, contracts to provide exclusively or predominantly online coursework to students, or online coursework that does not use teachers licensed under chapter 272 for instruction and supervision.

b. That online learning technology has moved ahead of Iowa's statutory framework and the current administrative rules of the state board, promulgated over twenty years ago, are inadequate to regulate today's virtual opportunities.

2. Online learning curricula shall be provided and supervised by a teacher licensed under chapter 272.

**Sec. 19. NEW SECTION. 256.27 Online learning program model.**

1. *Online learning program model established.* The director, pursuant to section 256.9, subsection 65, shall establish an online learning program model that provides for the following:

a. Online access to high-quality content, instructional materials, and blended learning.

b. Coursework customized to the needs of the student using online content.

c. A means for a student to demonstrate competency in completed online coursework.

d. High-quality online instruction taught by teachers licensed under chapter 272.

e. Online content and instruction evaluated on the basis of student learning outcomes.

f. Use of funds available for online learning for program development, implementation, and innovation.

g. Infrastructure that supports online learning.

h. Online administration of online course assessments.

i. Criteria for school districts or schools to use when choosing providers of online learning to meet the online learning program requirements specified in rules adopted pursuant to section 256.7, subsection 33, paragraph "a".

2. *Private providers.* At the discretion of the school board or authorities in charge of an accredited nonpublic school, after consideration of circumstances created by necessity, convenience, and cost-effectiveness, courses developed by private providers may be utilized by the school district or school in implementing a high-quality online learning program. Courses obtained from private providers shall be taught by teachers licensed under chapter 272.

3. *Grading.* Grades in online courses shall be based, at a minimum, on whether a student mastered the subject, demonstrated competency, and met the standards established by the school district. Grades shall be conferred only by teachers licensed under chapter 272.

4. *Accreditation criteria.* All online courses and programs shall meet existing accreditation standards.

Sec. 20. Section 256.33, subsection 3, Code 2011, is amended to read as follows:

3. Priority shall be given to programs integrating ~~telecommunications~~ educational technology into the classroom. The department may award grants to school corporations and higher education institutions to perform the functions listed in this section.

Sec. 21. ONLINE LEARNING — INTERIM STUDY. The legislative council is requested to establish an interim study committee relating to online learning and programming for school districts and related educational issues. The objective of the study shall be to review the appropriate use of online learning by school districts, the appropriate levels and sources of funding for online learning, partnerships between school districts and private providers of online programs, and the potential use of online learning as the exclusive means to provide coursework required under the state's educational standards. The study shall identify opportunities between interested agencies and entities involved in or potentially involved in online learning activities, including but not limited to K-12 schools, area education agencies, institutions of higher learning, the public broadcasting division of the department of education, the department of education, and the Iowa communications network. The committee shall review the benefits of using the department of education's Iowa learning online initiative as the sole source of online learning for Iowa's school districts. The committee shall submit recommendations for the establishment of an online learning program model in accordance with section 256.27 to the director of the department of education by December 14, 2012. The committee is directed to submit its findings and recommendations in a report to the general assembly by December 14, 2012.

#### DIVISION V BOARD OF EDUCATIONAL EXAMINERS PROVISIONS

Sec. 22. Section 272.5, Code 2011, is amended to read as follows:

##### **272.5 Compensation of board, — executive director.**

1. Members shall be reimbursed for actual and necessary expenses incurred while engaged in their official duties and may be entitled to per diem compensation as authorized under section 7E.6. For duties performed during an ordinary school day by a member who is employed by a school corporation or state university, the member shall also receive regular compensation from the school or university. However, the member shall reimburse the school or university in the amount of the per diem compensation received.

2. The governor shall appoint an executive director of the board of educational examiners subject to confirmation by the senate. The director shall possess a background in education licensure and administrative experience and shall serve at the pleasure of the governor. The board of educational examiners shall set the salary of the executive director within the range established for the position by the general assembly.

Sec. 23. Section 272.25, subsection 1, Code 2011, is amended to read as follows:

1. A requirement that each student admitted to an approved practitioner preparation program must participate in field experiences that include both observation and participation in teaching activities in a variety of school settings. These field experiences shall comprise a total of at least fifty hours in duration, at least ten hours of which shall occur prior to a student's acceptance in an approved practitioner preparation program. The student teaching experience shall be a minimum of ~~twelve~~ fourteen weeks in duration during the student's final year of the practitioner preparation program. The program must make every reasonable effort to offer the student teaching experience prior to a student's last semester, or equivalent, in the program, and to expand the student's student teaching opportunities beyond one semester or the equivalent.

#### DIVISION VI SCHOOL ADMINISTRATION MANAGER

Sec. 24. Section 256.7, subsection 30, Code Supplement 2011, is amended to read as follows:

30. Set standards and procedures for the approval of training programs for individuals who seek an authorization issued by the board of educational examiners for ~~employment~~ the following:

a. Employment as a school business official responsible for the financial operations of a school district.

b. Employment as a school administration manager responsible for assisting a school principal in performing noninstructional duties.

Sec. 25. Section 272.1, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 11A. "School administration manager" means a person who is authorized to assist a school principal in performing noninstructional administrative duties.

Sec. 26. Section 272.31, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 2A. The board shall issue a school administration manager authorization to an individual who successfully completes a training program that meets the standards set by the state board pursuant to section 256.7, subsection 30, and who complies with rules adopted by the state board pursuant to subsection 3.

#### DIVISION VII STATE BOARD OF REGENTS PROVISIONS

Sec. 27. Section 262.9, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 36. Implement continuous improvement in every undergraduate program offered by an institution of higher education governed by the board.

a. A continuous improvement plan shall be developed and implemented built upon the results of the institution's student outcomes assessment program using the following phase-in timeline:

(1) For each course with typical annual enrollment of three hundred or more, whether in one or multiple sections, a continuous improvement plan shall be developed and implemented beginning in the fall semester of 2013.

(2) For each course with typical annual enrollment of two hundred or more but less than three hundred, whether in one or multiple sections, a continuous improvement plan shall be developed and implemented beginning in the fall semester of 2014.

(3) For each course with a typical annual enrollment of one hundred or more but less than two hundred, whether in one or multiple sections, a continuous improvement plan shall be developed and implemented beginning in the fall semester of 2015.

b. For each undergraduate course the institution shall collect and use the results of formative and summative assessments in its continuous improvement plan. The board shall annually evaluate the effectiveness of the plans and shall submit an executive summary of

its findings and recommendations in its annual strategic plan progress report, a copy of which shall be submitted to the general assembly.

**Sec. 28. NEW SECTION. 262.94 College readiness and awareness programs.**

The state board of regents may establish or contract to establish programs designed to increase college readiness and college awareness in potential first-generation college students and underrepresented populations. The programs may include but shall not be limited to college go center programs and science bound programs.

DIVISION VIII  
NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS AWARDS

Sec. 29. Section 256.44, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. If a teacher registers for national board for professional teaching standards certification ~~by after~~ December 31, 2007, a one-time initial reimbursement award in the amount of up to one-half of the registration fee paid by the teacher for registration for certification by the national board for professional teaching standards. The teacher shall apply to the department within one year of registration in a manner and according to procedures required by the department, submitting to the department any documentation the department requires. A teacher who receives an initial reimbursement award shall receive a one-time final registration award in the amount of the remaining national board registration fee paid by the teacher if the teacher notifies the department of the teacher's certification achievement and submits any documentation requested by the department.

Sec. 30. Section 256.44, subsection 1, paragraph b, subparagraph (1), subparagraph division (b), Code 2011, is amended to read as follows:

(b) If the teacher registers for national board for professional teaching standards certification ~~between January 1, 1999, and December 31, 2007~~, and achieves certification within the timelines and policies established by the national board for professional teaching standards, an annual award in the amount of two thousand five hundred dollars upon achieving certification by the national board of professional teaching standards.

DIVISION IX  
EARLY CHILDHOOD LITERACY

Sec. 31. Section 256.7, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 32. a.** By July 1, 2013, adopt by rule guidelines for school district implementation of section 279.69, including but not limited to basic levels of reading proficiency on approved locally determined or statewide assessments and identification of tools that school districts may use in evaluating and reevaluating any student who may be or who is determined to be deficient in reading, including but not limited to initial assessments and subsequent assessments, alternative assessments, and portfolio reviews. The state board shall adopt standards that provide a reasonable expectation that a student's progress toward reading proficiency under section 279.69 is sufficient to master appropriate grade four level reading skills prior to the student's promotion to grade four.

b. Adopt rules for the Iowa reading research center and for implementation of the intensive summer literacy program developed and administered pursuant to section 256.9, subsection 53.

Sec. 32. Section 256.9, subsection 53, Code Supplement 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH. c.** Establish, subject to an appropriation of funds by the general assembly, an Iowa reading research center.

(1) The purpose of the center shall be to apply current research on literacy to provide for the development and dissemination of all of the following:



(a) Instructional strategies for prekindergarten through grade twelve to achieve literacy proficiency that includes reading, reading comprehension, and writing for all students.

(b) Strategies for identifying and providing evidence-based interventions for students, beginning in kindergarten, who are at risk of not achieving literacy proficiency.

(c) Models for effective school and community partnerships to improve student literacy.

(d) Reading assessments.

(e) Professional development strategies and materials to support teacher effectiveness in student literacy development.

(f) Data reports on attendance center, school district, and statewide progress toward literacy proficiency in the context of student, attendance center, and school district demographic characteristics.

(g) An intensive summer literacy program. The center shall establish program criteria and guidelines for implementation of the program by school districts, under rules adopted by the state board pursuant to section 256.7, subsection 32.

(2) The first efforts of the center shall focus on kindergarten through grade three. The center shall draw upon national and state expertise in the field of literacy proficiency, including experts from Iowa's institutions of higher education and area education agencies with backgrounds in literacy development. The center shall seek support from the Iowa research community in data report development and analysis of available information from Iowa education data sources. The center shall work with the department to identify additional needs for tools and technical assistance for Iowa schools to help schools achieve literacy proficiency goals and seek public and private partnerships in developing and accessing necessary tools and technical assistance.

(3) The center shall submit a report of its activities to the general assembly by January 15 annually.

Sec. 33. Section 279.60, Code 2011, is amended to read as follows:

**279.60 Kindergarten assessment Assessments — access to data — reports.**

1. Each school district shall administer a kindergarten readiness assessment prescribed by the department of education to every resident prekindergarten or four-year-old child whose parent or guardian enrolls the child in the district. The assessment shall be aligned with state early learning standards and preschool programs shall be encouraged to administer the assessment at least at the beginning and end of the preschool program, with the assessment information entered into the statewide longitudinal data system. The department shall work to develop agreements with head start programs to incorporate similar information about four-year-old children served by head start into the statewide longitudinal data system.

2. *a.* Each school district shall administer the dynamic indicators of basic early literacy skills kindergarten benchmark assessment or other kindergarten benchmark assessment adopted by the department of education in consultation with the early childhood Iowa state board to every kindergarten student enrolled in the district not later than the date specified in section 257.6, subsection 1. The school district shall also collect information from each parent, guardian, or legal custodian of a kindergarten student enrolled in the district, including but not limited to whether the student attended preschool, factors identified by the early childhood Iowa office pursuant to section 256I.5, and other demographic factors. Each school district shall report the results of the assessment and the preschool information collected to the department of education in the manner prescribed by the department not later than January 1 of that school year. The early childhood Iowa office in the department of management shall have access to the raw data. The department shall review the information submitted pursuant to this section and shall submit its findings and recommendations annually in a report to the governor, the general assembly, the early childhood Iowa state board, and the early childhood Iowa area boards.

*b.* This subsection is repealed July 1, 2013.

3. Each school district shall administer the Iowa assessments, created by the state university of Iowa, to all students enrolled in grade ten.

Sec. 34. **NEW SECTION. 279.69 Student progression — remedial instruction — reporting requirements — promotion.**

1. *Reading deficiency and parental notification.*

a. A school district shall assess all students enrolled in kindergarten through grade three at the beginning of each school year for their level of reading or reading readiness on locally determined or statewide assessments, as provided in section 256.7, subsection 32. A school district shall provide intensive reading instruction to any student who exhibits a substantial deficiency in reading, based upon the assessment or through teacher observations. The student's reading proficiency shall be reassessed by locally determined or statewide assessments. The student shall continue to be provided with intensive reading instruction until the reading deficiency is remedied.

b. The parent or guardian of any student in kindergarten through grade three who exhibits a substantial deficiency in reading, as described in paragraph "a", shall be notified at least annually in writing of the following:

(1) That the child has been identified as having a substantial deficiency in reading.

(2) A description of the services currently provided to the child.

(3) A description of the proposed supplemental instructional services and supports that the school district will provide to the child that are designed to remediate the identified area of reading deficiency.

(4) Strategies for parents and guardians to use in helping the child succeed in reading proficiency, including but not limited to the promotion of parent-guided home reading.

c. Beginning May 1, 2017, unless the school district is granted a waiver pursuant to subsection 2, paragraph "e", if the student's reading deficiency is not remedied by the end of grade three, as demonstrated by scoring on a locally determined or statewide assessment as provided in section 256.7, subsection 32, the school district shall notify the student's parent or guardian that the parent or guardian may enroll the student in an intensive summer reading program offered in accordance with subsection 2, paragraph "e". If the parent or guardian does not enroll the student in the intensive summer reading program and the student is ineligible for the good cause exemption under subsection 5, the student shall be retained in grade three pursuant to subsection 3. If the student is exempt from participating in an intensive summer reading program for good cause, pursuant to subsection 5, or completes the intensive summer reading program but is not reading proficient upon completion of the program, the student may be promoted to grade four, but the school district shall continue to provide the student with intensive reading instruction until the student is proficient in reading as demonstrated by scoring on locally determined or statewide assessments.

2. *Successful progression for early readers.* If funds are appropriated by the general assembly for purposes of implementing this subsection, a school district shall do all of the following:

a. Provide students who are identified as having a substantial deficiency in reading under subsection 1, paragraph "a", with intensive instructional services and supports, free of charge, to remediate the identified areas of reading deficiency, including a minimum of ninety minutes daily of scientific, research-based reading instruction and other strategies prescribed by the school district which may include but are not limited to the following:

(1) Small group instruction.

(2) Reduced teacher-student ratios.

(3) More frequent progress monitoring.

(4) Tutoring or mentoring.

(5) Extended school day, week, or year.

(6) Summer reading programs.

b. At regular intervals, apprise the parent or guardian of academic and other progress being made by the student and give the parent or guardian other useful information.

c. In addition to required reading enhancement and acceleration strategies, provide parents of students who are identified as having a substantial deficiency in reading under subsection 1, paragraph "a", with a plan outlined in a parental contract, including participation in regular parent-guided home reading.

d. Establish a reading enhancement and acceleration development initiative designed to offer intensive accelerated reading instruction to each kindergarten through grade three student who is assessed as exhibiting a substantial deficiency in reading. The initiative shall comply with all of the following criteria:

(1) Be provided to all kindergarten through grade three students who exhibit a substantial deficiency in reading under this section. The assessment initiative shall measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(2) Be provided during regular school hours in addition to the regular reading instruction.

(3) Provide a reading curriculum that meets guidelines adopted pursuant to section 256.7, subsection 32, and at a minimum has the following specifications:

(a) Assists students assessed as exhibiting a substantial deficiency in reading to develop the skills to read at grade level.

(b) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(c) Includes a scientifically based and reliable assessment.

(d) Provides initial and ongoing analysis of each student's reading progress.

(e) Is implemented during regular school hours.

(f) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

e. Offer each summer, beginning in the summer of 2017, unless the school district receives a waiver from this requirement from the department of education for the summer of 2017, an intensive summer literacy program for students assessed as exhibiting a substantial deficiency in reading. The program shall meet the criteria and follow the guidelines established pursuant to section 256.9, subsection 53, paragraph "c", subparagraph (1), subparagraph division (g).

f. Report to the department of education the specific intensive reading interventions and supports implemented by the school district pursuant to this section. The department shall annually prescribe the components of required or requested reports.

3. *Promotion to grade four.* In determining whether to promote a student in grade three to grade four, a school district shall place significant weight on any reading deficiency identified pursuant to subsection 1, paragraph "a", that is not yet remediated. The school district shall also weigh the student's progress in other subject areas, as well as the student's overall intellectual, physical, emotional, and social development. A decision to retain a student in grade three shall be made only after direct personal consultation with the student's parent or guardian and after the formulation of a specific plan of action to remedy the student's reading deficiency.

4. *Ensuring continuous improvement in reading proficiency.*

a. To ensure all children are reading proficiently by the end of third grade, each school district shall address reading proficiency as part of its comprehensive school improvement plan, drawing upon information about children from assessments conducted pursuant to subsection 1 and the prevalence of deficiencies identified by classroom, elementary school, and other student characteristics. As part of its comprehensive school improvement plan, each school district shall review chronic early elementary absenteeism for its impact on literacy development. If more than fifteen percent of an attendance center's students are not proficient in reading by the end of third grade, the comprehensive school improvement plan shall include strategies to reduce that percentage, including school and community strategies to raise the percentage of students who are proficient in reading.

b. Each school district, subject to an appropriation of funds by the general assembly, shall provide professional development services to enhance the skills of elementary teachers in responding to children's unique reading issues and needs and to increase the use of evidence-based strategies.

5. *Good cause exemption.*

a. The school district shall exempt students from the retention and intensive summer reading program requirements of subsection 1, paragraph "c", for good cause. Good cause exemptions shall be limited to the following:

(1) Limited English proficient students who have had less than two years of instruction in an English as a second language program.

(2) Students requiring special education whose individualized education program indicates that participation in a locally determined or statewide assessment as provided in section 256.7, subsection 32, is not appropriate, consistent with the requirements of rules adopted by the state board of education for the administration of chapter 256B.

(3) Students who demonstrate an acceptable level of performance on an alternative performance measure approved pursuant to section 256.7, subsection 32.

(4) Students who demonstrate mastery through a student portfolio under alternative performance measures approved pursuant to section 256.7, subsection 32.

(5) Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade one, grade two, or grade three. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The school district shall assist attendance centers and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

b. Requests for good cause exemptions from the retention requirement of subsection 1, paragraph "c", for students described in paragraph "a", subparagraphs (3) and (4), shall include documentation from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's academic record. Such documentation shall include but not be limited to the individualized education program, if applicable, report card, or student portfolio.

Sec. 35. CROSS-AGENCY ASSESSMENT INSTRUMENT PLANNING GROUP. The department of education and the early childhood Iowa state board shall collaborate to form a cross-agency planning group. Members of the planning group shall include teachers and school leaders, and representatives from the departments of public health, human services, and education, the Iowa early childhood state and area boards, the state board of regents, applicable nonprofit groups, and experts in early childhood assessment and educational assessment. The planning group shall study and select one standard, multidomain assessment instrument for implementation by all school districts for purposes of section 279.60, subsection 1. The instrument shall align with agreed upon state and national curriculum standards. The planning group shall study all costs associated with implementing a universal assessment instrument. The assessment instrument shall be administered at least at the beginning and at the end of the school year to measure student skills and academic growth. The planning group shall submit its findings and recommendations in a report to the general assembly by November 15, 2012.

#### DIVISION X SCHOOL INSTRUCTIONAL TIME TASK FORCE

##### Sec. 36. SCHOOL INSTRUCTIONAL TIME TASK FORCE.

1. The director of the department of education shall appoint a school instructional time task force comprised of at least seven members to conduct a study regarding the minimum requirements of the school day and the school year. The study shall include but not be limited to an examination of the following:

a. Whether the minimum length of an instructional day should be extended and, if so, whether the instructional day should be extended for all students or for specific groups of students.

b. Whether the minimum number of instructional days or hours in a school year should be increased and, if so, whether the minimum number of days or hours in a school year should be increased for all students or for specific groups of students.

c. Whether the minimum number of instructional days or hours should be rearranged to result in a shorter summer break, with other days or weeks off throughout the school year.

d. Whether the minimum school year should be defined by a number of days or by a number of instructional hours.

e. Whether there should be a uniform, statewide start date for the school year that can only be waived for the purpose of implementing an innovative educational program.

f. Whether resources necessary to extend the minimum length of an instructional day or the minimum length of a school year are justified when compared to competing education priorities.

2. Based upon the examination conducted pursuant to subsection 1, the task force shall design, propose, and establish goals for a pilot project on extending the school day or year to expand instructional time for prekindergarten through grade twelve.

3. The appointment of members to the task force shall be made in a manner which provides geographical area representation and complies with sections 69.16, 69.16A, and 69.16C.

4. The task force shall submit its findings, recommendations, and pilot project proposal in a report to the state board of education, the governor, and the general assembly by October 15, 2012.

#### DIVISION XI CLASS SHARING AGREEMENTS

Sec. 37. Section 257.11, subsection 3, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. A school district that collaborates with a community college to provide a college-level class that uses an activities-based, project-based, and problem-based learning approach and that is offered through a partnership with a nationally recognized provider of rigorous and innovative science, technology, engineering, and mathematics curriculum for schools, which provider is exempt from taxation under section 501(c)(3) of the Internal Revenue Code, is eligible to receive additional weighting under a supplementary weighting plan adopted pursuant to this subsection.

Sec. 38. Section 261E.8, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A student enrolled in a career and technical course made available pursuant to subsection 1 is exempt from the proficiency requirements of section 261E.3, subsection 1, paragraph "e". However, a community college may require a student who applies for enrollment under a district-to-community college sharing or concurrent enrollment program to complete an initial assessment administered by the community college receiving the application to determine the applicant's readiness to enroll in career and technical coursework, and the community college may deny the enrollment.

#### DIVISION XII PRACTITIONER PREPARATION PROGRAM ASSESSMENTS

Sec. 39. Section 256.16, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. (1) Administer a basic skills test a preprofessional skills test offered by a nationally recognized testing service to practitioner preparation program admission candidates. Rules adopted shall require institutions to deny admission to the program to any candidate who does not successfully pass the test.

(2) Administer, prior to a student's completion of the practitioner preparation program and subject to the director's approval, subject assessments designed by a nationally recognized testing service that measure pedagogy and knowledge of at least one subject area; or, a valid and reliable subject-area-specific, performance-based assessment for preservice teacher candidates, centered on student learning. A student shall not successfully complete the program unless the student achieves scores above the twenty-fifth percentile nationally on the assessments administered pursuant to this subparagraph.

#### DIVISION XIII KINDERGARTEN REQUIREMENT

Sec. 40. Section 299.1A, Code 2011, is amended to read as follows:

**299.1A Compulsory attendance age.**

1. Except as provided in subsection 2, a child who has reached the age of six and is under sixteen years of age by September 15 is of compulsory attendance age. However, if a child enrolled in a school district or accredited nonpublic school reaches the age of sixteen on or

after September 15, the child remains of compulsory age until the end of the regular school calendar.

2. A child who has reached the age of five by September 15 and who is enrolled in a school district shall be considered to be of compulsory attendance age unless the parent or guardian of the child notifies the school district in writing of the parent's or guardian's intent to remove the child from enrollment in the school district.

DIVISION XIV  
STATE MANDATE

Sec. 41. 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 the 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 25, 2012

**CHAPTER 1120**

PUBLICLY FUNDED MENTAL HEALTH AND DISABILITY SERVICES

S.F. 2315

**AN ACT** relating to redesign of publicly funded mental health and disability services by requiring certain core services and addressing other services and providing for establishment of regions, revising related property tax levy provisions, and including effective date and applicability provisions.

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

DIVISION I  
CORE SERVICES

Section 1. Section 225C.2, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. “*Mental health and disability services region*” means a mental health and disability services region formed in accordance with section 331.438B.

NEW SUBSECTION. 7B. “*Mental health and disability services regional service system*” means the mental health and disability service system for a mental health and disability services region.

NEW SUBSECTION. 9. “*Regional administrator*” means the same as defined in section 331.438A.

Sec. 2. Section 225C.4, subsection 1, paragraphs a, b, c, f, h, j, q, and s, Code 2011, are amended to read as follows:

a. Prepare and administer the comprehensive mental health and disability services plan as provided in section 225C.6B, including state mental health and mental retardation plans for the provision of disability services within the state and the state developmental disabilities plan. The administrator shall consult with take into account any related planning activities implemented by the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education,

the department of workforce development and any other appropriate governmental body, in order to facilitate coordination of disability services provided in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, and shall ~~incorporate county disability services~~ take into account mental health and disability services regional service system management plans.

~~b. Assist county boards of supervisors and mental health and developmental disabilities regional planning councils~~ mental health and disability services region governing boards and regional administrators in planning for community-based disability services.

c. Emphasize the provision of evidence-based outpatient and community support services by community mental health centers and local mental retardation providers as a preferable alternative to acute inpatient hospital services and services provided in large institutional settings.

~~f. Promote coordination of~~ Coordinate community-based services with those of the state mental health institutes and state resource centers.

~~h. Administer and distribute state appropriations to~~ in connection with the mental health and developmental disabilities community disability regional services fund established by section ~~225C.7~~ 225C.7A.

j. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities. The system shall be used to identify, collect, and analyze service outcome data in order to assess the effects of the services on the persons utilizing the services. The administrator shall annually submit to the commission information collected by the department indicating the changes and trends in the disability services system. The administrator shall make the outcome data available to the public.

q. In cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to persons with mental illness ~~and or mental retardation~~ residing in county care facilities. The administrator shall also cooperate with the department of inspections and appeals in recommending minimum standards for care of and services provided to persons with mental illness or an intellectual disability living in a residential care facility regulated under chapter 135C.

~~s. Provide technical assistance concerning disability services and funding to counties and mental health and developmental disabilities regional planning councils~~ mental health and disability services region governing boards and regional administrators.

Sec. 3. Section 225C.4, subsection 1, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. u. Enter into performance-based contracts with regional administrators as described in section 331.438C. A performance-based contract shall require a regional administrator to fulfill the statutory and regulatory requirements of the regional service system under this chapter and chapter 331. A failure to fulfill the requirements may be addressed by remedies specified in the contract, including but not limited to suspension of contract payments or cancellation of the contract. The contract provisions may include but are not limited to requirements for the regional service system to attain outcomes within a specified range of acceptable performance in any of the following categories:

- (1) Access standards for the required core services.
- (2) Penetration rates for serving the number of persons expected to be served.
- (3) Utilization rates for inpatient and residential treatment.
- (4) Readmission rates for inpatient and residential treatment.
- (5) Employment of the persons receiving services.
- (6) Administrative costs.
- (7) Data reporting.
- (8) Timely and accurate claims processing.

NEW PARAGRAPH. v. Provide information through the internet concerning waiting lists for services implemented by mental health and disability services regions.

Sec. 4. Section 225C.6, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

~~b. Adopt~~ Pursuant to recommendations made for this purpose by the administrator, adopt necessary rules pursuant to chapter 17A which relate to disability programs and services, including but not limited to definitions of each disability included within the term “disability services” as necessary for purposes of state, county, and regional planning, programs, and services.

Sec. 5. Section 225C.6, subsection 1, paragraph l, Code Supplement 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

l. Pursuant to a recommendation made by the administrator, identify basic financial eligibility standards for the disability services provided by a mental health and disability services region. The initial standards shall be as specified in chapter 331.

Sec. 6. Section 225C.6A, unnumbered paragraph 1, Code 2011, is amended to read as follows:

1. The ~~commission~~ department shall do the following relating to ~~redesign of the data concerning the~~ disability services system in the state:

Sec. 7. Section 225C.6A, subsections 1 through 3, Code 2011, are amended to read as follows:

~~1. Identify sources of revenue to support statewide delivery of core disability services to eligible disability populations.~~

~~2. Ensure there is a continuous improvement process for development and maintenance of the disability services system for adults and children. The process shall include but is not limited to data collection and reporting provisions.~~

~~3. a.~~ Plan, collect, and analyze data as necessary to issue cost estimates for serving additional populations and providing core disability services statewide. The department shall maintain compliance with applicable federal and state privacy laws to ensure the confidentiality and integrity of individually identifiable disability services data. The department ~~shall regularly~~ may periodically assess the status of the compliance in order to assure that data security is protected.

b. In implementing a system under this ~~subsection~~ section for collecting and analyzing state, county and region, and private contractor data, the department shall establish a client identifier for the individuals receiving services. The client identifier shall be used in lieu of the individual’s name or social security number. The client identifier shall consist of the last four digits of an individual’s social security number, the first three letters of the individual’s last name, the individual’s date of birth, and the individual’s gender in an order determined by the department.

~~e. 2.~~ Each ~~county~~ regional administrator shall regularly report to the department ~~annually on or before December 1, for the preceding fiscal year~~ the following information for each individual served: demographic information, expenditure data, and data concerning the services and other support provided to each individual, as specified ~~in administrative rule adopted by the commission~~ department.

Sec. 8. Section 225C.6B, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. State and regional disability service systems. The publicly financed disability services for persons with mental illness, intellectual disability or other developmental disability, or brain injury in this state shall be provided by the department and the counties operating together as regions. The financial and administrative responsibility for such services is as follows:

a. Disability services for children and adults that are covered under the medical assistance program pursuant to chapter 249A are the responsibility of the state.

b. Adult mental health and intellectual disability services that are not covered under the medical assistance program are the responsibility of the county-based regional service system.

Sec. 9. NEW SECTION. 225C.7A Mental health and disability regional services fund.



1. A mental health and disability regional services fund is created in the office of the treasurer of state under the authority of the department, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the director of human services, in consultation with the commission, shall determine and include in the estimate the amount which in order to address the increase in the costs of providing services should be appropriated to the fund for the succeeding fiscal year.

2. The department shall distribute the moneys appropriated from the fund to mental health and disability services regions for funding of disability services in accordance with performance-based contracts with the regions and in the manner provided in the appropriations. If the allocation methodology includes a population factor, the definition of "population" in section 331.438A shall be applied.

Sec. 10. Section 331.439, subsection 1, paragraph a, Code Supplement 2011, 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 3, ~~paragraph "e"~~ 2, for the previous fiscal year in accordance with rules adopted by the state commission. The information reported shall conform with the cost principles for state, local, and Indian tribal governments issued by the United States office of management and budget. The information shall also segregate expenditures for administration, purchase of service, and enterprise costs in which the county is a service provider or is directly billing and collecting payments and shall be submitted on forms prescribed by the department of management. If the department of human services 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. 11. Section 331.439, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. a. Commencing during the fiscal year beginning July 1, 2012, the county management plan for mental health services shall provide that an individual's eligibility for individualized services shall be determined by a standardized functional assessment methodology approved for this purpose by the director of human services.

b. Commencing during the fiscal year beginning July 1, 2012, the county management plan for intellectual disability services shall provide that an individual's eligibility for individualized services shall be determined by a standardized functional assessment methodology approved for this purpose by the director of human services.

c. Commencing during the fiscal year beginning July 1, 2012, if a county management plan provides for brain injury services the plan shall provide that an individual's eligibility for individualized services shall be determined by a standardized functional assessment methodology approved for this purpose by the director of human services.

Sec. 12. NEW SECTION. **331.439A Regional service system management plan.**

1. The mental health and disability services provided by counties operating as a region shall be delivered in accordance with a regional service system management plan approved by the region's governing board and implemented by the regional administrator in accordance with this section. The requirements for a regional service system management plan and plan format shall be specified in rule adopted by the state commission pursuant to a recommendation made by the department. A regional management plan shall include an annual service and budget plan, a policies and procedures manual, and an annual report. Each region's initial plan shall be submitted to the department by April 1, 2014.

2. Each region shall submit to the department an annual service and budget plan approved by the region's governing board and subject to approval by the director of human services. Provisions for the director of human services' approval of the annual service and budget plan, and any amendments to the plan, and other requirements shall be specified in rule adopted

by the state commission. The provisions addressed in the annual plan shall include but are not limited to all of the following:

a. The region's budget and financing provisions for the next fiscal year. The provisions shall address how county, regional, state, and other funding sources will be used to meet the service needs within the region.

b. The scope of services included in addition to the required core services. Each service included shall be described and projection of need and the funding necessary to meet the need shall be included.

c. The location of the local access points for services.

d. The plan for assuring effective crisis prevention, response, and resolution.

e. The provider reimbursement provisions. A region's use of provider reimbursement approaches in addition to fee-for-service reimbursement and for compensating the providers engaged in a systems of care approach and other nontraditional providers shall be encouraged. A region also shall be encouraged to use and the department shall approve funding approaches that identify and incorporate all services and sources of funding used by persons receiving services, including medical assistance program funding.

f. Financial forecasting measures.

g. The targeted case managers designated for the region.

3. Each region shall submit an annual report to the department on or before December 1. The annual report shall provide information on the actual numbers of persons served, moneys expended, and outcomes achieved.

4. The region shall have in effect a policies and procedures manual for the regional service system. The manual shall be approved by the region's governing board and is subject to approval by the director of human services. An approved manual shall remain in effect subject to amendment. An amendment to the manual shall be submitted to the department at least forty-five days prior to the date of implementation of the amendment. Prior to implementation of an amendment to the manual, the amendment must be approved by the director of human services in consultation with the state commission. The manual shall include but is not limited to all of the following:

a. A description of the region's policies and procedures for financing and delivering the services included in the annual service and budget plan.

b. The enrollment and eligibility process.

c. The method of annual service and budget plan administration.

d. The process for managing utilization and access to services and other assistance. The process shall also describe how coordination between the services included in the annual service and budget plan and the disability services administered by the state and others will be managed.

e. The quality management and improvement processes.

f. The risk management provisions and fiscal viability of the annual service and budget plan, if the region contracts with a private entity.

g. The requirements for designation of targeted case management providers and for implementation of evidence-based models of case management. The requirements shall be designed to provide the person receiving the case management with a choice of providers, allow a service provider to be the case manager but prohibit the provider from referring a person receiving the case management only to services administered by the provider, and include other provisions to ensure compliance with but not exceed federal requirements for conflict-free case management. The qualifications of targeted case managers and other persons providing service coordination under the management plan shall be specified in the rules. The rules shall also include but are not limited to all of the following relating to targeted case management and service coordination services:

(1) Performance and outcome measures relating to the health, safety, work performance, and community residency of the persons receiving the services.

(2) Standards for delivery of the services, including but not limited to social history, assessment, service planning, incident reporting, crisis planning, coordination, and monitoring for persons receiving the services.

(3) Methodologies for complying with the requirements of this paragraph "g" which may include the use of electronic recordkeeping and remote or internet-based training.

*h.* A plan for a systems of care approach in which multiple public and private agencies partner with families and communities to address the multiple needs of the persons and their families involved with the regional service system.

*i.* Measures to provide services in a decentralized manner that utilize the strengths and assets of the administrators and service providers within and available to the region.

*j.* A plan for provider network formation and management.

*k.* Service provider payment provisions.

*l.* A process for resolving grievances.

*m.* Measures for implementing interagency and multisystem collaboration and care coordination.

5. The provisions of a regional service system management plan shall include measures to address the needs of persons who have two or more co-occurring mental health, intellectual or other developmental disability, brain injury, or substance-related disorders and individuals with specialized needs. Implementation of measures to meet the needs of persons with a developmental disability other than intellectual disability, brain injury, or substance-related disorders is contingent upon identification of a funding source to meet those needs and implementation of provisions to engage the entity under contract with the state to provide services to address substance-related disorders within the regional service system.

6. If a county has been exempted pursuant to section 331.438B from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all requirements under this chapter for a regional service system, regional service system management plan, regional governing board, and regional administrator, and any other provisions applicable to a region of counties providing local mental health and disability services.

7. The region may either directly implement a system of service management and contract with service providers, or contract with a private entity to manage the regional service system, provided all requirements of this section are met by the private entity. The regional service system shall incorporate service management and functional assessment processes developed in accordance with applicable requirements.

8. A region may provide assistance to service populations with disabilities to which the counties comprising the region have historically provided assistance but who are not included in the core services required under section 331.439D, subject to the availability of funding.

9. If a region determines that the region cannot provide services for the fiscal year in accordance with the regional plan and remain in compliance with applicable budgeting requirements, the region may implement a waiting list for the services. The procedures for establishing and applying a waiting list shall be specified in the regional plan. If a region implements a waiting list for services, the region shall notify the department of human services. The department shall maintain on the department's internet site an up-to-date listing of the regions that have implemented a waiting list and the services affected by each waiting list.

10. The director's approval of a regional plan shall not be construed to constitute certification of the respective county budgets or of the region's budget.

**Sec. 13. NEW SECTION. 331.439B Financial eligibility requirements.**

A person must comply with all of the following financial eligibility requirements to be eligible for services under the regional service system:

1. The person must have an income equal to or less than one hundred fifty 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, to be eligible for regional service system public funding. It is the intent of the general assembly to consider increasing this income eligibility provision to two hundred percent of the federal poverty level.

2. *a.* A region or a service provider contracting with the region shall not apply a copayment, sliding fee scale, or other cost sharing requirement for a particular service to a person with an income equal to or less than one hundred fifty percent of the federal poverty level.

*b.* Notwithstanding subsection 1, a person with an income above one hundred fifty percent of the federal poverty level may be eligible for services subject to a copayment, sliding fee scale, or other cost-sharing requirement approved by the department.

c. A provider under the regional service system of a service that is not funded by the medical assistance program under chapter 249A may waive the copayment or other cost-sharing arrangement if the provider is not reimbursed for the cost with public funds.

3. A person who is eligible for federally funded services and other support must apply for such services and support.

4. The person is in compliance with resource limitations identified in rule adopted by the state commission. The limitation shall be derived from the federal supplemental security income program resource limitations. A person with resources above the federal supplemental security income program resource limitations may be eligible subject to limitations adopted in rule by the state commission pursuant to a recommendation made by the department. If a person does not qualify for federally funded services and other support but meets income, resource, and functional eligibility requirements for regional services, the following types of resources shall be disregarded:

- a. A retirement account that is in the accumulation stage.
- b. A burial, medical savings, or assistive technology account.

**Sec. 14. NEW SECTION. 331.439C Diagnosis — functional assessment.**

1. A person must comply with all of the following requirements to be eligible for mental health services under the regional service system:

- a. The person complies with financial eligibility requirements under section 331.439B.
- b. The person is at least eighteen years of age and is a resident of this state. However, a person who is seventeen years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the person's eighteenth birthday in order to provide a smooth transition from children's to adult services.
- c. The person has had at any time during the preceding twelve-month period a mental health, behavioral, or emotional disorder or, in the opinion of a mental health professional, may now have such a diagnosable disorder. The diagnosis shall be made in accordance with the criteria provided in the diagnostic and statistical manual of mental disorders, fourth edition text revised, published by the American psychiatric association, and shall not include the manual's "V" codes identifying conditions other than a disease or injury. The diagnosis shall also not include substance-related disorders, dementia, antisocial personality, or developmental disabilities, unless co-occurring with another diagnosable mental illness.
- d. The person's eligibility for individualized services shall be determined in accordance with the standardized functional assessment methodology approved for mental health services by the director of human services in consultation with the state commission.

2. A person must comply with all of the following requirements to be eligible for intellectual disability services under the regional service system:

- a. The person complies with financial eligibility requirements under section 331.439B.
- b. The person is at least eighteen years of age and is a resident of this state. However, a person who is seventeen years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the person's eighteenth birthday in order to provide a smooth transition from children's to adult services.
- c. The person has a diagnosis of intellectual disability.
- d. The person's eligibility for individualized services shall be determined in accordance with the standardized functional assessment methodology approved for intellectual disability and developmental disability services by the director of human services.

3. A person must comply with all of the following requirements to be eligible for brain injury services under the regional service system:

- a. The person complies with financial eligibility requirements under section 331.439B.
- b. The person is at least eighteen years of age and is a resident of this state. However, a person who is seventeen years of age, is a resident of this state, and is receiving publicly funded children's services may be considered eligible for services through the regional service system during the three-month period preceding the person's eighteenth birthday in order to provide a smooth transition from children's to adult services.
- c. The person has a diagnosis of brain injury.

d. The person's eligibility for individualized services shall be determined in accordance with a standardized functional assessment methodology approved for this purpose by the director of human services.

Sec. 15. NEW SECTION. **331.439D Regional core services.**

1. For the purposes of this section, unless the context otherwise requires, "*domain*" means a set of similar services that can be provided depending upon a person's service needs.

2. a. (1) A region shall work with service providers to ensure that services are available to residents of the region, regardless of potential payment source for the services.

(2) Subject to the available appropriations, the director of human services shall ensure the initial core service domains listed in subsection 4 are covered services for the medical assistance program under chapter 249A to the greatest extent allowable under federal regulations. Within funds available, the region shall pay for such services for eligible persons when payment through the medical assistance program or another third-party payment is not available, unless the person is on a waiting list for such payment or it has been determined that the person does not meet the eligibility criteria for any such service.

b. Until funding is designated for other service populations, eligibility for the service domains listed in this section shall be limited to such persons who are in need of mental health or intellectual disability services. However, if a county in a region was providing services to an individual person with a developmental disability other than intellectual disability or a brain injury prior to formation of the region, the individual person shall remain eligible for the services provided when the region is formed, provided that funds are available to continue such services.

c. It is the intent of the general assembly to address the need for funding so that the availability of the service domains listed in this section may be expanded to include such persons who are in need of developmental disability or brain injury services.

3. Pursuant to recommendations made by the director of human services, the state commission shall adopt rules as required by section 225C.6 to define the services included in the initial and additional core service domains listed in this section. The rules shall provide consistency, to the extent possible, with similar service definitions under the medical assistance program. The rules relating to the credentialing of a person directly providing services shall require all of the following:

a. The person shall provide services and represent the person as competent only within the boundaries of the person's education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

b. The person shall provide services in substantive areas or use intervention techniques or approaches that are new only after engaging in appropriate study, training, consultation, and supervision from a person who is competent in those areas, techniques, or approaches.

c. If generally recognized standards do not exist with respect to an emerging area of practice, the person shall exercise careful judgment and take responsible steps, including obtaining appropriate education, research, training, consultation, and supervision, in order to ensure competence and to protect from harm the persons receiving the services in the emerging area of practice.

4. The initial core service domains shall include the following:

a. Treatment designed to ameliorate a person's condition, including but not limited to all of the following:

- (1) Assessment and evaluation.
- (2) Mental health outpatient therapy.
- (3) Medication prescribing and management.
- (4) Mental health inpatient treatment.

b. Basic crisis response provisions, including but not limited to all of the following:

- (1) Twenty-four-hour access to crisis response.
- (2) Evaluation.
- (3) Personal emergency response system.

c. Support for community living, including but not limited to all of the following:

- (1) Home health aide.
- (2) Home and vehicle modifications.

- (3) Respite.
- (4) Supportive community living.
- d. Support for employment, including but not limited to all of the following:
  - (1) Day habilitation.
  - (2) Job development.
  - (3) Supported employment.
  - (4) Prevocational services.
- e. Recovery services, including but not limited to all of the following:
  - (1) Family support.
  - (2) Peer support.
- f. Service coordination including coordinating physical health and primary care, including but not limited to all of the following:
  - (1) Case management.
  - (2) Health homes.
- 5. A region shall ensure that access is available to providers of core services that demonstrate competencies necessary for all of the following:
  - a. Serving persons with co-occurring conditions.
  - b. Providing evidence-based services.
  - c. Providing trauma-informed care that recognizes the presence of trauma symptoms in persons receiving services.
- 6. A region shall ensure that services within the following additional core service domains are available to persons not eligible for the medical assistance program under chapter 249A or receiving other third-party payment for the services, when public funds are made available for such services:
  - a. Comprehensive facility and community-based crisis services, including but not limited to all of the following:
    - (1) Twenty-four-hour crisis hotline.
    - (2) Mobile response.
    - (3) Twenty-three-hour crisis observation and holding, and crisis stabilization facility and community-based services.
    - (4) Crisis residential services.
  - b. Subacute services provided in facility and community-based settings.
  - c. Justice system-involved services, including but not limited to all of the following:
    - (1) Jail diversion.
    - (2) Crisis intervention training.
    - (3) Civil commitment prescreening.
  - d. Advances in the use of evidence-based treatment, including but not limited to all of the following:
    - (1) Positive behavior support.
    - (2) Assertive community treatment.
    - (3) Peer self-help drop-in centers.
- 7. A regional service system may provide funding for other appropriate services or other support. In considering whether to provide such funding, a region may consider the following criteria:
  - a. Applying a person-centered planning process to identify the need for the services or other support.
  - b. The efficacy of the services or other support is recognized as an evidence-based practice, is deemed to be an emerging and promising practice, or providing the services is part of a demonstration and will supply evidence as to the services' effectiveness.
  - c. A determination that the services or other support provides an effective alternative to existing services that have been shown by the evidence base to be ineffective, to not yield the desired outcome, or to not support the principles outlined in *Olmstead v. L.C.*, 527 U.S. 581 (1999).

Sec. 16. NEW SECTION. **331.440B Regional service system financing.**

- 1. The financing of a regional mental health and disability service system is limited to a fixed budget amount. The fixed budget amount shall be the amount identified in a regional

service system management plan and budget for the fiscal year. A region shall receive state funding for growth in non-Medicaid expenditures through the mental health and disability regional services fund created in section 225C.7A to address increased service costs, additional service populations, additional core service domains, and increased numbers of persons receiving services.

2. A region shall implement its regional service system management plan in a manner so as to provide adequate funding of services for the entire fiscal year by budgeting for ninety-nine percent of the funding anticipated to be available for the regional plan for the fiscal year. A region may expend all of the funding anticipated to be available for the regional plan.

Sec. 17. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this division of this Act.

Sec. 18. CODE EDITOR. The Code editor may codify the provisions of this division of this Act and any other provisions of this Act involving chapter 331 as one or more new parts of chapter 331, division III.

Sec. 19. APPLICABILITY. The provisions of this division of this Act enacting new Code sections 331.439A through 331.439D, and section 331.440B apply beginning on July 1, 2013.

Sec. 20. APPLICABILITY. The provisions of this division of this Act amending chapter 225C are applicable prior to July 1, 2013, for purposes of adopting rules to be effective on or after July 1, 2013.

Sec. 21. EFFECTIVE DATE. The following provisions of this Act take effect July 1, 2013:

1. The sections of this division of this Act amending chapter 225C.

## DIVISION II REDESIGN PLANNING, SUPPORT, AND IMPLEMENTATION

Sec. 22. REDESIGN SUPPORT.

1. The department of human services shall work with the Iowa state association of counties in providing training, support, and technical assistance to counties in developing the mental health and disability services regional services system as provided in this Act and in evaluating whether any barriers exist that would prevent or restrict the community services network developed by the association from being used as the data system for the service system.

2. The department of human services shall identify third-party coverage sources and develop estimates and financing options for maximizing the use of the third-party coverage sources in adding eligibility for core services under the mental health and disability services regional service system for adults with a developmental disability other than intellectual disability and for adults with brain injury. The estimates and financing options shall be submitted to the governor and general assembly on or before December 14, 2012.

3. a. The department of human services shall create a transition committee of appropriate stakeholders with whom to consult on the transition from the current mental health and disability services system to the regional service system as provided in this Act. In addition, the transition committee shall consider the data collected for the current system and for the new regional system and whether improvements are warranted.

b. In designating the committee members, the director of human services shall consult with the chairpersons and ranking members of the committees on human resources of the senate and house of representatives and other members of the general assembly identified by the majority or minority leader of the senate or the speaker or minority leader of the house of representatives. In addition, the membership shall include four members of the general assembly, with one each appointed by the majority and minority leader of the senate and the speaker and minority leader of the house of representatives.

Sec. 23. MENTAL HEALTH AND DISABILITY SERVICES REDESIGN TRANSITION FUND.

1. A mental health and disability services redesign transition fund is created under the authority of the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013. Moneys credited to the fund shall be used as provided in appropriations made from the fund, to be enacted by the general assembly, for allocation by the department to counties for one-time assistance for continuation of current core county mental health and disability services to targeted populations that are not funded by the Medicaid program.

2. The eligibility provisions for a county to receive moneys from the fund shall include but are not limited to all of the following:

a. The application and application materials submitted are approved by the county board of supervisors.

b. The county levy certified for the county's services fund under section 331.424A for the fiscal year is the maximum amount authorized by law.

c. The county financial information provided with the application is independently verified. The financial information to be provided shall be specified by the department and may include actual and projected cash and accrued fund balances, detailed accounts receivable and payable information, budgeted revenues and expenditures, identification of the need for the amount requested, and costs for the county's services administration.

d. The required county service information is provided with the application. The county service information to be provided shall be specified by the department and may include the following:

(1) The type, amount, and scope of services provided by the county as compared with other counties.

(2) The extent to which the county subsidizes the services directly provided or authorized by the county.

(3) The extent to which the services funded by the county are included in the county's management plan approved under section 331.439.

(4) The extent to which services are provided to persons other than adults with an intellectual disability or mental illness with income that is at or below 150 percent of the federal poverty level.

e. The application contains a sustainability plan in accordance with the requirements specified by the department. The requirements shall include but are not limited to explanation as to how the moneys requested will be used during this transition year to provide services in a manner that will allow the county to remain within the funding available to the county under per capita funding provisions, applicable to the county as enacted by this Act, commencing with the fiscal year beginning July 1, 2013.

f. The application is submitted on or before the specified application date. The initial application date specified shall be on or after October 15, 2012. The department shall complete the application process and make a recommendation by December 1, 2012, to the governor and general assembly for an appropriate amount of funding to meet the need for assistance under this section as determined by the department's analysis of the applications, which amount may be addressed by an appropriation by the Eighty-fifth General Assembly, 2013 Regular Session.

g. Other items specified by rule. The department shall consult with the transition committee created by this division of this Act in recommending the adoption of rules by the mental health and disability services commission delineating the requirements for funding under this section.

3. The department may provide for distribution provisions in which the amount awarded is distributed in more than one payment based upon actual expenditures and submission of required information.

4. The mental health and disability services commission may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this section, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this subsection 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 7, and section 17A.8, subsection 9, shall be



applicable to a delay imposed under this subsection, 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 subsection shall also be published as notice of intended action as provided in section 17A.4.

#### Sec. 24. MENTAL HEALTH AND DISABILITY SERVICES WORKFORCE DEVELOPMENT WORKGROUP.

1. The department of public health shall create and provide support to a mental health and disability services workforce development workgroup to address issues in connection with assuring that an adequate workforce is available in the state to provide mental health and disability services. The membership of the workgroup shall include the other state agencies involved with the services and other appropriate stakeholders designated by the director of public health in consultation with the chairpersons and ranking members of the committees on human resources of the senate and house of representatives and other members of the general assembly identified by the majority or minority leader of the senate or the speaker or minority leader of the house of representatives. In addition, the membership shall include four members of the general assembly with one each appointed by the majority and minority leader of the senate and the speaker and minority leader of the house of representatives. The workgroup shall report to the governor and general assembly providing findings and recommendations and financing information concerning the findings and recommendations. A preliminary report shall be submitted on or before December 14, 2012, and a final report on or before December 16, 2013.

2. The workgroup shall consider the recommendations of the direct care worker task force created pursuant to 2005 Iowa Acts, chapter 88, and the direct care worker advisory council created pursuant to 2008 Iowa Acts, chapter 69,<sup>1</sup> regarding training, level of competency, core curricula, and certification, including but not limited to those provisions relating to the use of the college of direct support and other internet-based training.

#### Sec. 25. REGIONAL SERVICE SYSTEM — OUTCOMES AND PERFORMANCE MEASURES COMMITTEE.

1. The department of human services shall establish an outcomes and performance measures committee to make recommendations for specific outcomes and performance measures to be utilized by the mental health and disability services regional service system. The membership of the committee shall include appropriate stakeholders designated by the director of human services in consultation with the chairpersons and ranking members of the committees on human resources of the senate and house of representatives and other members of the general assembly identified by the majority or minority leader of the senate or the speaker or minority leader of the house of representatives. In addition, the membership shall include four members of the general assembly with one each appointed by the majority and minority leader of the senate and the speaker and minority leader of the house of representatives.

2. The committee’s recommendations shall incorporate the outcome measurement methodologies previously developed by the mental health and disability services commission. To the extent possible, the committee shall seek to provide outcome and performance measures recommendations that are consistent across the mental health and disability services populations addressed. The committee shall also evaluate data collection requirements utilized in the mental health and disability regional service system to identify the requirements that could be eliminated or revised due to the administrative burden involved or the low degree of relevance to outcomes or other reporting requirements.

3. The committee recommendations shall be submitted to the governor, general assembly, and policymaking bodies. Initial recommendations shall be submitted on or before December 14, 2012, and final recommendations on or before December 16, 2013. The mental health and disability services commission and other policymaking bodies shall consider the recommendations in eliminating or otherwise revising data collection requirements.

<sup>1</sup> According to enrolled Act; the phrase “2008 Iowa Acts, chapter 1188, section 69” probably intended

Sec. 26. CHILDREN'S DISABILITY SERVICES WORKGROUP. The December 2012 report of the workgroup created by the department of human services pursuant to 2011 Iowa Acts, chapter 121, section 1, to develop a proposal for publicly funded children's disability services shall include an analysis of service and cost effects of transitioning the behavioral health intervention services formerly known as remedial services and the psychiatric medical institution for children services to the Iowa plan. The report shall also provide a specific proposal for developing services in this state to meet the needs of children who are placed out-of-state due to the lack of treatment services in this state. The workgroup membership shall be expanded to include up to four legislators, with one each appointed by the majority leader and the minority leader of the senate and the speaker and the minority leader of the house of representatives.

Sec. 27. DISPUTED BILLINGS.

1. To the extent allowable under federal law or regulation, if the costs of a service are payable in whole or in part by a county in accordance with a chapter of the Code listed in this section, the service was rendered prior to July 1, 2011, and the county that would be obligated to pay for the costs of the service has not been billed for the service or has disputed the billing prior to the effective date of this section, or the state has fully charged off the cost of the service or has not provided information to appropriately document the basis for the billing, the county shall have no obligation to pay for the service.

2. This section is applicable to service costs that are a county obligation for services provided under any of the following chapters of the Code:

- a. Chapter 221.
- b. Chapter 222.
- c. Chapter 229.
- d. Chapter 230.
- e. Chapter 233B.
- f. Chapter 249A.
- g. Chapter 812.

Sec. 28. NEW SECTION. **225C.6E Regional service system — regulatory requirements.**

1. The departments of inspections and appeals, human services, and public health shall comply with the requirements of this section in their efforts to improve the regulatory requirements applied to the mental health and disability regional service system administration and service providers.

2. The three departments shall work together to establish a process to streamline accreditation, certification, and licensing standards applied to the regional service system administration and service providers.

3. The departments of human services and inspections and appeals shall jointly review the standards and inspection process applicable to residential care facilities.

4. The three departments shall do all of the following in developing regulatory requirements applicable to the regional service system administration and service providers:

a. Consider the costs to administrators and providers in the development of quality monitoring efforts.

b. Implement the use of uniform, streamlined, and statewide cost reporting standards and tools by the regional service system and the department of human services.

c. Make quality monitoring information, including services, quality, and location information, easily available and understandable to all citizens.

d. Establish standards that are clearly understood and are accompanied by interpretive guidelines to support understanding by those responsible for applying the standards.

e. Develop a partnership with providers in order to improve the quality of services and develop mechanisms for the provision of technical assistance.

f. Develop consistent data collection efforts based on statewide standards and make information available to all providers. The efforts under this paragraph shall be made with representatives of the Iowa state association of counties.

g. Evaluate existing provider qualification and monitoring efforts to identify duplication and gaps, and align the efforts with valued outcomes.

- h. Streamline and enhance existing standards.
- i. Consider allowing providers to seek accreditation from a national accrediting body in lieu of state accreditation or certification.

DIVISION III  
COMMUNITY MENTAL HEALTH CENTER AMENDMENTS

Sec. 29. Section 230A.110, subsection 1, as enacted by 2011 Iowa Acts, chapter 121, section 20, is amended to read as follows:

1. The division shall recommend and the commission shall adopt standards for designated community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high-quality mental health services within a framework of accountability to the community it serves. The standards adopted shall conform with federal standards applicable to community mental health centers and shall be in substantial conformity with the applicable behavioral health standards adopted by the joint commission, formerly known as the joint commission on accreditation of health care organizations, and or other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the division, with approval of the commission, there are sound reasons for departing from the standards.

DIVISION IV  
REGIONAL SERVICE SYSTEM

Sec. 30. Section 97B.1A, subsection 8, paragraph a, Code Supplement 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) Employees of a regional administrator formed in accordance with section 331.438E, determined to be an instrumentality of the political subdivision forming the regional administrator.

Sec. 31. NEW SECTION. **331.438A Definitions.**

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

1. “*Department*” means the department of human services.
2. “*Disability services*” means the same as defined in section 225C.2.
3. “*Population*” means the population shown by the latest preceding certified federal census or the latest applicable population estimate issued by the United States census bureau, whichever is most recent.
4. “*Regional administrator*” means the administrative office, organization, or entity formed by agreement of the counties participating in a region to function on behalf of those counties in accordance with this part.
5. “*State commission*” means the mental health and disability services commission created in section 225C.5.

Sec. 32. NEW SECTION. **331.438B Mental health and disability services regions — criteria.**

1. a. Local access to mental health and disability services for adults shall be provided either by counties organized into a regional service system or by individual counties that are exempted as provided by this subsection. The department of human services shall encourage counties to enter into a regional system when the regional approach is likely to increase the availability of services to residents of the state who need the services. It is the intent of the general assembly that the adult residents of this state should have access to needed mental health and disability services regardless of the location of their residence.

b. (1) The director of human services shall exempt a county from being required to enter into a regional service system if the county furnishes evidence that the county complies with the requirements in subsection 3, paragraphs “c”, “d”, “e”, and “f”, and is able to provide the core services required by law to the county’s residents in a manner that is as cost effective and with outcomes that are at least equal to what could be provided to the residents if the county would provide the services through a regional service system. The director shall identify

criteria for evaluating the evidence provided by counties applying for the exemption. The criteria identified shall be specified in rule adopted by the state commission.

(2) To be considered for an exemption under subparagraph (1), a county must file a written statement of intent to apply for an exemption with the department on or before May 1, 2013, and the county's exemption application must be filed with the department on or before June 30, 2013. The director of human services shall issue a decision on the application within forty-five days of receiving the application. This subparagraph is repealed July 1, 2013.

c. If a county has been exempted pursuant to this subsection from the requirement to enter into a regional service system, the county and the county's board of supervisors shall fulfill all requirements under this chapter and chapter 225C for a regional service system, regional service system management plan, regional governing board, and regional administrator, and any other provisions applicable to a region of counties providing local mental health and disability services.

2. The director of human services shall approve any region meeting the requirements of subsection 3. However, the director of human services, in consultation with the state commission, may grant a waiver from the requirement relating to the minimum number of counties if there is convincing evidence that compliance with such requirement is not workable.

3. Each county in the state shall participate in an approved mental health and disability services region, unless exempted pursuant to subsection 1. A mental health and disability services region shall comply with all of the following requirements:

a. The counties comprising the region are contiguous.

b. The region has at least three counties.

c. The region has the capacity to provide required core services and perform required functions.

d. At least one community mental health center or a federally qualified health center with providers qualified to provide psychiatric services, either directly or through contractual arrangements with mental health professionals qualified to provide psychiatric services, is located within the region, has the capacity to provide outpatient services for the region, and is either under contract with the region or has provided documentation of intent to contract with the region to provide the services.

e. A hospital with an inpatient psychiatric unit or a state mental health institute is located in or within reasonably close proximity to the region, has the capability to provide inpatient services for the region, and is either under contract with the region or has provided documentation of intent to contract with the region to provide the services.

f. The regional administrator structure proposed for or utilized by the region has clear lines of accountability and the regional administrator functions as a lead agency utilizing shared county staff or other means of limiting administrative costs.

4. County formation of a mental health and disability services region is subject to all of the following:

a. On or before April 1, 2013, counties voluntarily participating in a region have complied with all of the following formation criteria:

(1) The counties forming the region have been identified and the board of supervisors of the counties have approved a written letter of intent to join together to form the region.

(2) The proposed region complies with the requirements in subsection 3.

(3) The department provides written notice to the boards of supervisors of the counties identified for the region in the letter of intent that the counties have complied with the requirements in subsection 3.

b. Upon compliance with the provisions of paragraph "a", the participating counties are eligible for technical assistance provided by the department.

c. During the period of April 2, 2013, through July 1, 2013, the department shall work with any county that has not agreed to be part of a region in accordance with paragraph "a" and with the regions forming around the county to resolve issues preventing the county from joining a region. By July 1, 2013, a county that has not agreed to be part of a region in accordance with paragraph "a" shall be assigned by the department to a region, unless exempted pursuant to subsection 1.

d. On or before December 31, 2013, all counties shall be part of a region that is in compliance with the provisions of paragraph "a" other than meeting the April 1, 2013, date.

e. On or before June 30, 2014, unless exempted pursuant to subsection 1, all counties shall be in compliance with all of the following mental health and disability services region implementation criteria:

(1) The board of supervisors of each county participating in the region has voted to approve a chapter 28E agreement.

(2) The duly authorized representatives of all the counties participating in the region have signed the chapter 28E agreement that is in compliance with section 331.438C.

(3) The county board of supervisors' or supervisors' designee members and other members of the region's governing board have been appointed in accordance with section 331.438C.

(4) Executive staff for the region's regional administrator have been identified or engaged.

(5) An initial draft of a regional service management transition plan has been developed which identifies the steps to be taken by the region to do all of the following:

(a) Designate local access points for the disability services administered by the region.

(b) Designate the region's targeted case manager providers funded by the medical assistance program.

(c) Identify the service provider network for the region.

(d) Define the service access and service authorization process to be utilized for the region.

(e) Identify the information technology and data management capacity to be employed to support regional functions.

(f) Establish business functions, funds accounting procedures, and other administrative processes.

(g) Comply with data reporting and other information technology requirements identified by the department.

(6) The department has approved the region's chapter 28E agreement and the initial draft of the regional management transition plan.

f. If the department, in consultation with the state commission, determines that a region is in substantial compliance with the implementation criteria in paragraph "e" and has sufficient operating capacity to begin operations, the region may commence partial or full operations prior to July 2014.

5. If the department determines that a region or an exempted county is not adequately fulfilling the requirements under this chapter for a regional service system, the department shall address the region or county in the following order:

a. Require compliance with a corrective action plan.

b. Reduce the amount of the annual state funding provided for the regional service system, not to exceed fifteen percent of the amount.

c. Withdraw approval for the region or for the county exemption, as applicable.

**Sec. 33. NEW SECTION. 331.438C Regional governance structure.**

1. The counties comprising a mental health and disability services region shall enter into an agreement under chapter 28E to form a regional administrator under the control of a governing board to function on behalf of those counties.

2. The governing board shall comply with all of the following requirements:

a. The voting membership of the governing board shall consist of at least one board of supervisors member from each county comprising the regions or their designees.

b. The membership of the governing board shall also include one individual who utilizes mental health and disability services or is an actively involved relative of such an individual. This member shall be designated by the advisory committee or committees formed by the governing board pursuant to this section. The member designated in accordance with this paragraph shall serve in a nonvoting, ex officio capacity.

c. The membership of the governing board shall not include employees of the department of human services.

d. The membership of the governing board shall also consist of one member representing service providers in the region. This member shall be designated by the advisory committee or committees formed by the governing board pursuant to this section. The member designated in accordance with this paragraph shall serve in a nonvoting, ex officio capacity.

e. The governing board shall have a regional advisory committee consisting of individuals who utilize services or actively involved relatives of such individuals, service providers, and regional governing board members.

3. a. The regional administrator shall be under the control of the governing board. The regional administrator shall enter into performance-based contracts with the department in accordance with section 225C.4, subsection 1, paragraph “u” for the regional administrator to manage, on behalf of the counties comprising the region, the mental health and disability services that are not funded by the medical assistance program under chapter 249A and for coordinating with the department the provision of mental health and disability services that are funded under the medical assistance program.

b. The regional administrator staff shall include one or more coordinators of disability services. A coordinator shall possess a bachelor’s or higher level degree in a human services-related or administrative-related field, including but not limited to social work, psychology, nursing, or public or business administration, from an accredited college or university. However, in lieu of a degree in public or business administration, a coordinator may provide documentation of relevant management experience. An action of a coordinator involving a clinical decision shall be made in conjunction with a professional who is trained in the delivery of the mental health or disability service addressed by the clinical decision. The regional administrator shall determine whether referral to a coordinator of disability services is required for a person seeking to access a service through a local access point of the regional service system.

**Sec. 34. NEW SECTION. 331.438D Regional finances.**

1. The funding under the control of the governing board shall be maintained in a combined account, in separate county accounts that are under the control of the governing board, or pursuant to other arrangements authorized by law that limit the administrative burden of such control while facilitating public scrutiny of financial processes.

2. The accounting system and financial reporting to the department shall conform with the cost principles for state, local, and Indian tribal governments issued by the United States office of management and budget. The information shall segregate expenditures for administration, purchase of service, and enterprise costs for which the region is a service provider or is directly billing and collecting payments and shall be identified along with other financial information in a uniform chart of accounts prescribed by the department of management. Following periodic review of administrative costs, the department shall make recommendations, in consultation with the legislative services agency, for standards defining region administrative costs and the methodology for calculating a region’s administrative load. Such standards shall be specified in rule adopted by the state commission.

3. The funding provided pursuant to appropriations from the mental health and disability regional services fund created in section 225C.7A and from performance-based contracts with the department shall be credited to the account or accounts under the control of the governing board.

**Sec. 35. NEW SECTION. 331.438E Regional governance agreements.**

1. In addition to compliance with the applicable provisions of chapter 28E, the chapter 28E agreement entered into by the counties comprising a mental health and disability services region in forming the regional administrator to function on behalf of the counties shall comply with the requirements of this section.

2. The organizational provisions of the agreement shall include all of the following:

a. A statement of purpose, goals, and objectives of entering into the agreement.

b. Identification of the governing board membership and the terms, methods of appointment, voting procedures, and other provisions applicable to the operation of the governing board. The voting procedures may provide for a weighted vote on decisions identified by the governing board. A weighted vote may provide for assignment of a number of votes to each of the counties comprising the region equal to its population within the region, may require at least three-fourths of the total votes cast for approval of a decision, or may provide for another weighted vote option determined by the governing board.

- c. The identification of the process for selecting the executive staff of the regional administrator serving as the single point of accountability for the region.
  - d. The counties participating in the agreement.
  - e. The time period of the agreement and terms for termination or renewal of the agreement.
  - f. The circumstances under which additional counties may join the region.
  - g. Methods for dispute resolution and mediation.
  - h. Methods for termination of a county's participation in the region.
  - i. Provisions for formation and assigned responsibilities for one or more advisory committees consisting of individuals who utilize services or actively involved relatives of such individuals, service providers, governing board members, and other interests identified in the agreement.
3. The administrative provisions of the agreement shall include all of the following:
    - a. Responsibility of the governing board in appointing and evaluating the performance of the chief executive officer of the regional administrator.
    - b. A general list of the functions and responsibilities of the regional administrator's chief executive officer and other administrative staff.
    - c. Specification of the functions to be carried out by each party to the agreement and by any subcontractor of a party to the agreement. A contract with a provider network shall be separately addressed.
  4. The financial provisions of the agreement shall include all of the following:
    - a. Methods for pooling, management, and expenditure of the funding under the control of the regional administrator. If the agreement does not provide for pooling of the participating county moneys in a single fund, the agreement shall specify how the participating county moneys will be subject to the control of the regional administrator.
    - b. Methods for allocating administrative funding and resources.
    - c. Contributions and uses of initial funding or related contributions made by the counties participating in the region for purposes of commencing operations by the regional administrator.
    - d. Methods for acquiring or disposing of real property.
    - e. A process for determining the use of savings for reinvestment.
    - f. A process for performance of an annual independent audit of the regional administrator.
  5. If implementation of a region's regional administrator results in a change in the employer of county employees assigned to the central point of coordination administrator under section 331.440, Code Supplement 2011, to another public employer and the employees were covered under a collective bargaining agreement, such employees shall be retained and the agreement shall be continued by the successor employer as though there had not been a change in employer.

**Sec. 36. NEW SECTION. 331.438F County of residence — services to residents — service authorization appeals — disputes between counties or regions and the department.**

1. For the purposes of this section, unless the context otherwise requires:
  - a. "*County of residence*" means the county in this state in which, at the time a person applies for or receives services, the person is living and has established an ongoing presence with the declared, good faith intention of living in the county for a permanent or indefinite period of time. The county of residence of a person who is a homeless person is the county where the homeless person usually sleeps. A person maintains residency in the county in which the person last resided while the person is present in another county receiving services in a hospital, a correctional facility, a halfway house for community-based corrections or substance-related treatment, a nursing facility, an intermediate care facility for persons with an intellectual disability, or a residential care facility, or for the purpose of attending a college or university.
  - b. "*Homeless person*" means the same as defined in section 48A.2.
  - c. "*Mental health professional*" means the same as defined in section 228.1.
  - d. "*Person*" means a person who is a United States citizen or a qualified alien as defined in 8 U.S.C. § 1641.
2. If a person appeals a decision regarding a service authorization or other services-related decision made by a regional administrator that cannot be resolved informally, the appeal

shall be heard in a contested case proceeding by a state administrative law judge. The administrative law judge's decision shall be considered final agency action under chapter 17A.

3. If a service authorization or other services-related decision made by a regional administrator concerning a person varies from the type and amount of service identified to be necessary for the person in a clinical determination made by a mental health professional and the mental health professional believes that failure to provide the type and amount of service identified could cause an immediate danger to the person's health or safety, the person may request an expedited review of the regional administrator's decision to be made by the department of human services. An expedited review held in accordance with this subsection is subject to the following procedures:

a. The request for the expedited review shall be filed within five business days of receiving the notice of decision by the regional administrator. The request must be in writing, plainly state the request for an expedited review in the caption and body of the request, and be supported by written documentation from the mental health professional who made the clinical determination stating how the notice of decision on services could cause an immediate danger to the person's health or safety.

b. The expedited review shall be performed by a mental health professional, who is either the administrator of the division of mental health and disability services of the department of human services or the administrator's designee. If the administrator is not a mental health professional, the expedited review shall be performed by a designee of the administrator who is a mental health professional and is free of any conflict of interest to perform the expedited review. The expedited review shall be performed within two business days of the time the request is filed. If the reviewer determines the information submitted in connection with the request is inadequate to perform the review, the reviewer shall request the submission of additional information and the review shall be performed within two business days of the time that adequate information is submitted. The regional administrator and the person, with the assistance of the mental health professional who made the clinical determination shall each provide a brief statement of facts, conclusions, and reasons for the decision made. Supporting clinical information shall also be attached. All information related to the proceedings and any related filings shall be considered to be mental health information subject to chapter 228.

c. The administrator or designee shall issue an order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the order, to justify the decision made concerning the expedited review. If the decision concurs with the contention that there is an immediate danger to the person's health or safety, the order shall identify the type and amount of service which shall be provided for the person. The administrator or designee shall give such notice as is practicable to persons who are required to comply with the order. The order is effective when issued.

d. The decision of the administrator or designee shall be considered a final agency action and is subject to judicial review in accordance with section 17A.19. The record for judicial review consists of any documents regarding the matter that were considered or prepared by the administrator or designee. The administrator or designee shall maintain these documents as the official record of the decision. If the matter is appealed to the district court, the record shall be filed as confidential.

4. If a county of residence is part of a mental health and disability services region that has agreed to pool funding and liability for services, the responsibilities of the county under law regarding such services shall be performed on behalf of the county by the regional administrator. The county of residence or the county's mental health and disability services region, as applicable, is responsible for paying the public costs of the mental health and disability services that are not covered by the medical assistance program under chapter 249A and are provided in accordance with the region's approved service management plan to persons who are residents of the county or region.

5. a. The dispute resolution process implemented in accordance with this subsection applies to residency disputes. The dispute resolution process is not applicable to disputes involving persons committed to a state facility pursuant to chapter 812 or rule of criminal procedure 2.22, Iowa court rules, or to disputes involving service authorization decisions made by a region.



b. If a county, region, or the department, as applicable, receives a billing for services provided to a resident in another county or region, or objects to a residency determination certified by the department or another county's or region's regional administrator and asserts either that the person has residency in another county or region or the person is not a resident of this state or the person's residency is unknown so that the person is deemed a state case, the person's residency status shall be determined as provided in this subsection. The county or region shall notify the department of the county's or region's assertion within one hundred twenty days of receiving the billing. If the county or region asserts that the person has residency in another county or region, that county or region shall be notified at the same time as the department. If the department disputes a residency determination certification made by a regional administrator, the department shall notify the affected counties or regions of the department's assertion.

c. The department, county, or region that received the notification, as applicable, shall respond to the party that provided the notification within forty-five days of receiving the notification. If the parties cannot agree to a settlement as to the person's residency status within ninety days of the date of notification, on motion of any of the parties, the matter shall be referred to the department of inspections and appeals for a contested case hearing under chapter 17A before an administrative law judge assigned in accordance with section 10A.801 to determine the person's residency status.

d. (1) The administrative law judge's determination of the person's residency status shall be considered final agency action, notwithstanding contrary provisions of section 17A.15. The party that does not prevail in the determination or subsequent judicial review is liable for costs associated with the proceeding, including reimbursement of the department of inspections and appeals' actual costs associated with the administrative proceeding. Judicial review of the determination may be sought in accordance with section 17A.19.

(2) If following the determination of a person's residency status in accordance with this subsection, additional evidence becomes available that merits a change in that determination, the parties affected may change the determination by mutual agreement. Otherwise, a party may move that the matter be reconsidered by the department, county, or region, or by the administrative law judge.

e. (1) Unless a petition is filed for judicial review, the administrative law judge's determination of the person's residency status shall result in one of the following:

(a) If a county or region is determined to be the person's residence, the county or region shall pay the amounts due and shall reimburse any other amounts paid for services provided by the other county or region or the department on the person's behalf prior to the determination.

(b) If it is determined that the person is not a resident of this state or the person's residency is unknown so that the person is deemed to be a state case, the department shall pay the amounts due and shall reimburse the county or region, as applicable, for any payment made on behalf of the person prior to the determination.

(2) The payment or reimbursement shall be remitted within forty-five days of the date the determination was issued. After the forty-five-day period, a penalty of not greater than one percent per month may be added to the amount due.

6. a. The dispute resolution process implemented in accordance with this subsection applies beginning July 1, 2012, to billing disputes between the state and a county or region, other than residency disputes or other dispute processes under this section, involving the responsibility for service costs for services provided on or after July 1, 2011, under any of the following:

- (1) Chapter 221.
- (2) Chapter 222.
- (3) Chapter 229.
- (4) Chapter 230.
- (5) Chapter 249A.
- (6) Chapter 812.

b. If a county, region, or the department, as applicable, disputes a billing for service costs listed in paragraph "a", the dispute shall be resolved as provided in this subsection. The county or region shall notify the department of the county's or region's assertion within ninety

days of receiving the billing. However, for services provided on or after July 1, 2011, for which a county has received the billing as of July 1, 2012, the county shall notify the department of the county's assertion on or before October 1, 2012. If the department disputes such a billing of a regional administrator, the department shall notify the affected counties or regions of the department's assertion.

c. The department, county, or region that received the notification, as applicable, shall respond to the party that provided the notification within forty-five days of receiving the notification. If the parties cannot agree to a settlement as to the dispute within ninety days of the date of notification, on motion of any of the parties, the matter shall be referred to the department of inspections and appeals for a contested case hearing under chapter 17A before an administrative law judge assigned in accordance with section 10A.801 to determine facts and issue a decision to resolve the dispute.

d. (1) The administrative law judge's decision is a final agency action, notwithstanding contrary provisions of section 17A.15. The party that does not prevail in the decision or subsequent judicial review is liable for costs associated with the proceeding, including reimbursement of the department of inspections and appeals' actual costs associated with the administrative proceeding. Judicial review of the decision may be sought in accordance with section 17A.19.

(2) If following the decision regarding a dispute in accordance with this subsection, additional evidence becomes available that merits a change in that decision, the parties affected may change the decision by mutual agreement. Otherwise, a party may move that the matter be reconsidered by the department, county, or region, or by the administrative law judge.

e. (1) Unless a petition is filed for judicial review, the administrative law judge's decision regarding a disputed billing shall result in one of the following:

(a) If a county or region is determined to be responsible for the disputed amounts, the county or region shall pay the amounts due and shall reimburse any other amounts paid for services provided by the other county or region or the department on the person's behalf prior to the decision.

(b) If it is determined that the state is responsible for the disputed amounts, the state shall pay the amounts due and shall reimburse the county or region, as applicable, for any payment made on behalf of the person prior to the decision.

(2) The payment or reimbursement shall be remitted within forty-five days of the date the decision was issued. After the forty-five-day period, a penalty of not greater than one percent per month may be added to the amount due.

Sec. 37. CODE EDITOR. The Code editor may codify the provisions of this division of this Act and any other provisions of this Act involving chapter 331 as one or more new parts of chapter 331, division III.

Sec. 38. EMERGENCY RULES. The mental health and disability services commission may adopt administrative rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act enacting section 331.438B, that relate to criteria for evaluation of an application for an exemption from regionalization, and the rules shall become effective immediately upon filing or on a later effective date specified in the rules, unless the effective date is delayed by the administrative rules review committee. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. The delay authority provided to the administrative rules review committee under section 17A.4, subsection 7, 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. 39. **APPLICABILITY.** The provisions of this division of this Act enacting new sections in chapter 331, except as specifically provided by the provisions, are applicable beginning July 1, 2013.

DIVISION V  
SUBACUTE CARE FACILITIES FOR PERSONS WITH SERIOUS AND PERSISTENT  
MENTAL ILLNESS

Sec. 40. **NEW SECTION. 135P1 Definitions.**

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

1. “*Advanced registered nurse practitioner*” means a person currently licensed as a registered nurse under chapter 152 or 152E who is registered with the board of nursing as an advanced registered nurse practitioner.
2. “*Department*” means the department of inspections and appeals.
3. “*Direction*” means authoritative policy or procedural guidance for the accomplishment of a function or an activity.
4. “*Licensee*” means the holder of a license issued to operate a subacute care facility for persons with serious and persistent mental illness.
5. “*Mental health professional*” means the same as defined in section 228.1.
6. “*Mental health services*” means services provided by a mental health professional operating within the scope of the professional’s practice which address mental, emotional, medical, or behavioral problems.
7. “*Physician*” means a person licensed under chapter 148.
8. “*Physician assistant*” means a person licensed to practice under the supervision of a physician as authorized in chapters 147 and 148C.
9. “*Rehabilitative services*” means services to encourage and assist restoration of a resident’s optimum mental and physical capabilities.
10. “*Resident*” means a person who is eighteen years of age or older and has been determined by a mental health professional to need subacute mental health services.
11. “*Subacute care facility for persons with serious and persistent mental illness*” or “*subacute care facility*” means an institution, place, building, or agency with restricted means of egress providing subacute mental health services for a period exceeding twenty-four consecutive hours to persons in need of the services.
12. “*Subacute mental health services*” means the same as defined in section 225C.6.
13. “*Supervision*” means direct oversight and inspection of the act of accomplishing a function or activity.
14. “*Treatment care plan*” means a plan of care and services designed to eliminate the need for acute care by improving the condition of a person with serious and persistent mental illness. Services must be based upon a diagnostic evaluation, which includes an examination of the medical, psychological, social, behavioral, and developmental aspects of the person’s situation, reflecting the need for inpatient care.

Sec. 41. **NEW SECTION. 135P2 Purpose.**

The purpose of this chapter is to provide for the development, establishment, and enforcement of basic standards for the operation, construction, and maintenance of a subacute care facility which will ensure the safe and adequate diagnosis, evaluation, and treatment of persons with serious and persistent mental illness so that the persons are able to experience recovery and live successfully in the community.

Sec. 42. **NEW SECTION. 135P3 Nature of care — seclusion room — admissions.**

1. A subacute care facility shall utilize a team of professionals to direct an organized program of diagnostic services, subacute mental health services, and rehabilitative services to meet the needs of residents in accordance with a treatment care plan developed for each resident under the supervision of a licensed psychiatrist. The goal of a treatment care plan is to transition residents to a less restrictive environment, including a home-based community setting. Social and rehabilitative services shall be provided under the direction of a mental health professional.

2. The licensed psychiatrist providing supervision of the subacute care facility shall evaluate the condition of each resident as medically necessary and shall be available to residents of the facility on an on-call basis at all other times. Additional evaluation and treatment may be provided by a mental health professional. The subacute care facility may employ a seclusion room meeting the conditions described in 42 C.F.R. § 483.364(b) with approval of the licensed psychiatrist of the facility or by order of the resident's physician, a physician assistant, or an advanced registered nurse practitioner.

**Sec. 43. NEW SECTION. 135P4 Licensure.**

1. A person shall not establish, operate, or maintain a subacute care facility unless the person obtains a license for the subacute care facility under this chapter.

2. An intermediate care facility for persons with mental illness licensed under chapter 135C may convert to a subacute care facility by providing written notice to the department that the facility has employed a full-time psychiatrist and desires to make the conversion.

**Sec. 44. NEW SECTION. 135P5 Application for license.**

An application for a license under this chapter shall be submitted on a form requesting information required by the department, which may include affirmative evidence of the applicant's ability to comply with the rules for standards adopted pursuant to this chapter. An application for a license shall be accompanied by the required license fee which shall be credited to the general fund of the state. The initial and annual license fee is twenty-five dollars.

**Sec. 45. NEW SECTION. 135P6 Inspection — conditions for issuance.**

The department shall issue a license to an applicant under this chapter if the following conditions exist:

1. The department has ascertained that the applicant's facilities and staff are adequate to provide the care and services required of a subacute care facility.

2. *a.* The department of human services has submitted written approval of the application based upon the process used by the department of human services to identify the best qualified providers. The department of human services shall utilize a request for proposals process to identify the best qualified providers, limit the number of subacute care facility beds, and ensure the geographic dispersion of subacute mental health services.

*b.* The department of human services shall not give approval to an application which would cause the number of publicly funded subacute care facility beds licensed under this chapter to exceed fifty beds.

*c.* The subacute care facility beds identified by the request for proposals process shall be existing beds which have been awarded a certificate of need pursuant to chapter 135. Such beds shall not be required to obtain an additional certificate of need upon conversion to licensed subacute care facility beds.

**Sec. 46. NEW SECTION. 135P7 Denial, suspension, or revocation of license.**

The department may deny an application or suspend or revoke a license if the department finds that an applicant or licensee has failed or is unable to comply with this chapter or the rules establishing minimum standards pursuant to this chapter or if any of the following conditions apply:

1. It is shown that a resident is a victim of cruelty or neglect due to the acts or omissions of the licensee.

2. The licensee has permitted, aided, or abetted in the commission of an illegal act in the subacute care facility.

3. An applicant or licensee acted to obtain or to retain a license by fraudulent means, misrepresentation, or submitting false information.

4. The licensee has willfully failed or neglected to maintain a continuing in-service education and training program for persons employed by the subacute care facility.

5. The application involves a person who has failed to operate a subacute care facility in compliance with the provisions of this chapter.

**Sec. 47. NEW SECTION. 135P8 Provisional license.**

The department may issue a provisional license, effective for not more than one year, to a licensee whose subacute care facility does not meet the requirements of this chapter if, prior to issuance of the license, the applicant submits written plans to achieve compliance with the applicable requirements and the plans are approved by the department. The plans shall specify the deadline for achieving compliance.

**Sec. 48. NEW SECTION. 135P9 Notice and hearings.**

The procedure governing notice and hearing to deny an application or suspend or revoke a license shall be in accordance with rules adopted by the department pursuant to chapter 17A. A full and complete record shall be kept of the proceedings and of any testimony. The record need not be transcribed unless judicial review is sought. A copy or copies of a transcript may be obtained by an interested party upon payment of the cost of preparing the transcript or copies.

**Sec. 49. NEW SECTION. 135P10 Rules.**

1. The department of inspections and appeals and the department of human services shall collaborate in establishing standards for licensing of subacute care facilities to achieve all of the following objectives:

- a. Subacute mental health services are provided based on sound, proven clinical practice.
- b. Subacute mental health services are established in a manner that allows the services to be included in the federal medical assistance state plan.

2. It is the intent of the general assembly that subacute mental health services be included in the Medicaid state plan adopted for the implementation of the federal Patient Protection and Affordable Care Act, benchmark plan.

3. The department of inspections and appeals, in consultation with the department of human services and affected professional groups, shall adopt and enforce rules setting out the standards for a subacute care facility and the rights of the residents admitted to a subacute care facility. The department of inspections and appeals and the department of human services shall coordinate the adoption of rules and the enforcement of the rules in order to prevent duplication of effort by the departments and of requirements of the licensee.

**Sec. 50. NEW SECTION. 135P11 Complaints alleging violations.**

1. A person may request an inspection of a subacute care facility by filing with the department a complaint of an alleged violation of an applicable requirement of this chapter or a rule adopted pursuant to this chapter. The complaint shall state in a reasonably specific manner the basis of the complaint. A statement of the nature of the complaint shall be delivered to the subacute care facility involved at the time of or prior to the inspection.

2. Upon receipt of a complaint made in accordance with subsection 1, the department shall make a preliminary review of the complaint. Unless the department concludes that the complaint is intended to harass a subacute care facility or a licensee or is without reasonable basis, it shall within twenty working days of receipt of the complaint make or cause to be made an on-site inspection of the subacute care facility which is the subject of the complaint. The department of inspections and appeals may refer to the department of human services any complaint received by the department of inspections and appeals if the complaint applies to rules adopted by the department of human services. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with a developmental disability or mental illness. In any case, the complainant shall be promptly informed of the result of any action taken by the department in the matter.

3. An inspection made pursuant to a complaint filed under subsection 1 need not be limited to the matter or matters referred to in the complaint; however, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection. Upon arrival at the subacute care facility to be inspected, the inspector shall show identification to the person in charge of the subacute care facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to

this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of a resident of the subacute care facility to be inspected would be violated. The dignity of the resident shall be given first priority by the inspector and others.

Sec. 51. **NEW SECTION. 135P.12 Information confidential.**

1. The department's final findings regarding licensure shall be made available to the public in a readily available form and place. Other information relating to the subacute care facility is confidential and shall not be made available to the public except in proceedings involving licensure, a civil suit involving a resident, or an administrative action involving a resident.

2. The name of a person who files a complaint with the department shall remain confidential and is not subject to discovery, subpoena, or any other means of legal compulsion for release to a person other than an employee of the department or an agent involved in the investigation of the complaint.

3. Information regarding a resident who has received or is receiving care shall not be disclosed directly or indirectly except as authorized under section 217.30.

Sec. 52. **NEW SECTION. 135P.13 Judicial review.**

Judicial review of the action of the department may be sought pursuant to the Iowa administrative procedure Act, chapter 17A. Notwithstanding chapter 17A, a petition for judicial review of the department's actions under this chapter may be filed in the district court of the county in which the related subacute care facility is located or is proposed to be located. The status of the petitioner or the licensee shall be preserved pending final disposition of the judicial review.

Sec. 53. **NEW SECTION. 135P.14 Penalty.**

A person who establishes, operates, or manages a subacute care facility without obtaining a license under this chapter commits a serious misdemeanor. Each day of continuing violation following conviction shall be considered a separate offense.

Sec. 54. **NEW SECTION. 135P.15 Injunction.**

Notwithstanding the existence or pursuit of another remedy, the department may maintain an action for injunction or other process to restrain or prevent the establishment, operation, or management of a subacute care facility without a license.

Sec. 55. Section 225.15, unnumbered paragraph 1, Code 2011, is amended to read as follows:

When a respondent arrives at the state psychiatric hospital, the admitting physician shall examine the respondent and determine whether or not, in the physician's judgment, the respondent is a fit subject for observation, treatment, and hospital care. If, upon examination, the physician decides that the respondent should be admitted to the hospital, the respondent shall be provided a proper bed in the hospital; ~~and the~~. The physician who has charge of the respondent shall proceed with observation, medical treatment, and hospital care as in the physician's judgment are proper and necessary, in compliance with sections 229.13 to 229.16. After the respondent's admission, the observation, medical treatment, and hospital care of the respondent may be provided by a mental health professional, as defined in section 228.1, who is licensed as a physician, advanced registered nurse practitioner, or physician assistant.

Sec. 56. Section 225C.6, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 4. a.** The department shall coordinate with the department of inspections and appeals in the establishment of facility-based and community-based, subacute mental health services.

b. A person shall not provide community-based, subacute mental health services unless the person has been accredited to provide the services. The commission shall adopt standards for subacute mental health services and for accreditation of providers of community-based, subacute mental health services.

c. As used in this subsection, "*subacute mental health services*" means all of the following:

(1) A comprehensive set of wraparound services for persons who have had or are at imminent risk of having acute or crisis mental health symptoms that do not permit the persons to remain in or threatens removal of the persons from their home and community, but who have been determined by a mental health professional and a licensed health care professional, subject to the professional's scope of practice, not to need inpatient acute hospital services. For the purposes of this subparagraph, "*mental health professional*" means the same as defined in section 228.1 and "*licensed health care professional*" means a person licensed under chapter 148 to practice medicine and surgery or osteopathic medicine and surgery, an advanced registered nurse practitioner licensed under chapter 152 or 152E and registered with the board of nursing, or a physician assistant licensed to practice under the supervision of a physician as authorized in chapters 147 and 148C.

(2) Intensive, recovery-oriented treatment and monitoring of the person with direct or remote access to a psychiatrist or advanced registered nurse practitioner.

(3) An outcome-focused, interdisciplinary approach designed to return the person to living successfully in the community.

(4) Services that may be provided in a wide array of settings ranging from the person's home to a facility providing subacute mental health services.

(5) Services that are time limited to not more than ten days or another time period determined in accordance with rules adopted for this purpose.

d. Subacute mental health services and the standards for the services shall be established in a manner that allows for accessing federal Medicaid funding.

Sec. 57. SUBACUTE CARE FACILITY — REIMBURSEMENT METHODOLOGY. The department of human services shall develop a reimbursement methodology for subacute care facility for persons with serious and persistent mental illness services, as defined in this division of this Act. It is the intent of the general assembly that the reimbursement methodology will take effect during the fiscal year beginning July 1, 2012, and result in an initial reimbursement rate in the range of \$400 to \$500 per day. Such rate shall be subject to annual adjustment as provided by law.

Sec. 58. STUDY OF SUBACUTE FACILITIES. The department of human services shall conduct a feasibility study and cost analysis of providing institutional subacute services utilizing facilities available at one or more of the state mental health institutes or the Iowa veterans home, and shall submit a report of the study containing findings and recommendations to the governor and general assembly on or before December 1, 2012.

Sec. 59. STATE AGENCY ACTIVITIES CONCERNING SUBACUTE, CRISIS STABILIZATION, AND RESIDENTIAL CARE FACILITY SERVICES.

1. The department of human services shall work with the departments of public health and inspections and appeals and other relevant stakeholders to identify appropriate definitions and other regulatory provisions to address residential care facilities and both facility and nonfacility subacute and crisis stabilization services. The department shall consider the experience of the crisis stabilization program pilot project authorized by this division of this Act in identifying regulatory provisions for such programs. The appropriate department shall adopt rules to implement the provisions identified.

2. It is the intent of the general assembly that the Medicaid state plan adopted for the implementation of the federal Patient Protection and Affordable Care Act, Pub. L. No. 111-148, will include coverage of both facility and nonfacility subacute and crisis stabilization services.

3. The department of human services shall work with the entity under contract with the department to provide mental health managed care under the medical assistance program to ensure there is adequate reimbursement of both facility and nonfacility subacute and crisis stabilization services.

Sec. 60. CRISIS STABILIZATION PROGRAM PILOT PROJECT.

1. The department of human services shall authorize a facility-based, crisis stabilization program pilot project implemented by the regional service network initiated pursuant to 2008 Iowa Acts, chapter 1187, section 59, subsection 9. The facility operated by the program shall

not be required to be licensed under chapter 135B, 135C, or 231C. The purpose of the pilot project is to provide a prototype for the departments of human services, inspections and appeals, and public health to develop regulatory standards for such programs and facilities. The pilot project shall comply with appropriate standards associated with funding of the services provided by the project that are identified by the department of human services. The facility shall be limited to not more than 10 beds and shall be authorized to operate through June 30, 2013.

2. The network, in cooperation with the departments of human services, inspections and appeals, and public health, shall report to the governor, the general assembly, and the legislative services agency concerning the pilot project on or before December 14, 2012, providing findings and recommendations. The report shall include recommendations for criteria concerning admissions, staff qualifications, staffing levels, exclusion and inclusion of service recipients, lengths of stays, transition between services, and facility requirements, and for goals and objectives for such programs and facilities.

Sec. 61. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this division of this Act.

#### DIVISION VI CO-OCCURRING CONDITIONS

Sec. 62. Section 125.10, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in the prevention of substance abuse and the treatment of substance abusers, chronic substance abusers, and intoxicated persons. The director's actions to implement this subsection shall also address the treatment needs of persons who have a mental illness, an intellectual disability, brain injury, or other co-occurring condition in addition to a substance-related disorder.

Sec. 63. Section 125.12, subsection 3, Code Supplement 2011, is amended to read as follows:

3. The director shall provide for adequate and appropriate treatment for substance abusers, chronic substance abusers, intoxicated persons, and concerned family members admitted under sections 125.33 and 125.34, or under section 125.75, 125.81, or 125.91. Treatment shall not be provided at a correctional institution except for inmates. A mental health professional, as defined in section 228.1, who is employed by a treatment provider under the program may provide treatment to a person with co-occurring substance-related and mental health disorder. Such treatment may also be provided by a person employed by such a treatment provider who is receiving the supervision required to meet the definition of mental health professional but has not completed the supervision component.

Sec. 64. Section 226.10, Code 2011, is amended to read as follows:

**226.10 Equal treatment.**

The several patients of the state mental health institutes, according to their different conditions of mind and body, and their respective needs, shall be provided for and treated with equal care. If in addition to mental illness a patient has a co-occurring intellectual disability, brain injury, or substance abuse disorder, the care provided shall also address the co-occurring needs.

Sec. 65. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act authorizing a crisis stabilization program pilot project.



DIVISION VII  
BRAIN INJURY DEFINITION

Sec. 66. Section 135.22, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. “Brain injury” means the occurrence of injury clinically evident damage to the head brain resulting directly or indirectly from trauma, infection, anoxia, vascular lesions, or tumor of the brain, not primarily related to a degenerative disease or aging process that is documented in a medical record with one or more of the following conditions attributed to the head injury:

~~(1) An observed or self-reported decreased level of consciousness.~~

~~(2) Amnesia.~~

~~(3) A skull fracture.~~

~~(4) An objective neurological or neuropsychological abnormality.~~

(5) A diagnosed intracranial lesion, which temporarily or permanently impairs a person’s physical, cognitive, or behavioral functions, and is diagnosed by a physician. The diagnoses of clinically evident damage to the brain used for a diagnosis of brain injury shall be the same as specified by rule for eligibility for the home and community-based services waiver for persons with brain injury under the medical assistance program.

Sec. 67. Section 225C.23, subsection 2, Code 2011, is amended to read as follows:

2. For the purposes of this section ~~and section 135.22A, “brain injury” means the occurrence of injury to the head not primarily related to a degenerative disease or aging process that is documented in a medical record with one or more of the following conditions attributed to the head injury:~~

~~a. An observed or self-reported decreased level of consciousness.~~

~~b. Amnesia.~~

~~c. A skull fracture.~~

~~d. An objective neurological or neuropsychological abnormality.~~

~~e. A diagnosed intracranial lesion same as defined in section 135.22.~~

DIVISION VIII  
LEGAL SETTLEMENT

Sec. 68. Section 218.99, Code 2011, is amended to read as follows:

**218.99 Counties to be notified of patients’ personal accounts.**

The administrator in control of a state institution shall direct the business manager of each institution under the administrator’s jurisdiction which is mentioned in section 331.424, subsection 1, paragraph “a”, subparagraphs (1) and (2), and for which services are paid under section 331.424A, to quarterly inform the county of legal settlement’s entity designated to perform the county’s central point of coordination process residence of any patient or resident who has an amount in excess of two hundred dollars on account in the patients’ personal deposit fund and the amount on deposit. The administrators shall direct the business manager to further notify the entity designated to perform the county’s central point of coordination process county of residence at least fifteen days before the release of funds in excess of two hundred dollars or upon the death of the patient or resident. If the patient or resident has no county of legal settlement residency in this state or the person’s residency is unknown so that the person is deemed to be a state case, notice shall be made to the director of human services and the administrator in control of the institution involved.

Sec. 69. Section 222.10, Code 2011, is amended to read as follows:

**222.10 Duty of peace officer.**

When any person with mental retardation departs without proper authority from an institution in another state and is found in this state, any peace officer in any county in which such patient is found may take and detain the patient without warrant or order and shall report such detention to the administrator. The administrator shall provide for the return of the patient to the authorities in the state from which the unauthorized departure was made. Pending return, such patient may be detained temporarily at one of the institutions of this state governed by the administrator or by the administrator of the division of child and

family services of the department of human services. The provisions of this section relating to the administrator shall also apply to the return of other nonresident persons with mental retardation having legal ~~settlement~~ residency outside the state of Iowa.

Sec. 70. Section 222.13, subsection 1, Code 2011, is amended to read as follows:

1. If an adult person is believed to be a person with mental retardation, the adult person or the adult person's guardian may submit a request through the central point of coordination process for the county board of supervisors of the adult person's county of residence in writing to apply to the superintendent of any state resource center for the voluntary admission of the adult person either as an inpatient or an outpatient of the resource center. ~~After determining the legal settlement of the adult person as provided by this chapter, the~~ The board of supervisors shall, on forms prescribed by the department's administrator, apply to the superintendent of the resource center in the district for the admission of the adult person to the resource center. An application for admission to a special unit of any adult person believed to be in need of any of the services provided by the special unit under section 222.88 may be made in the same manner, upon request of the adult person or the adult person's guardian. The superintendent shall accept the application ~~providing~~ if a preadmission diagnostic evaluation, performed through the central point of coordination process, confirms or establishes the need for admission, except that an application ~~may~~ shall not be accepted if the institution does not have adequate facilities available or if the acceptance will result in an overcrowded condition.

Sec. 71. Section 222.31, subsection 1, paragraph b, subparagraph (1), Code 2011, is amended to read as follows:

(1) Commit the person to the state resource center designated by the administrator to serve the county in which the hearing is being held, or to a special unit. The court shall, prior to issuing an order of commitment, request that a diagnostic evaluation of the person be made by ~~the superintendent of the resource center or the special unit, or the superintendent's qualified designee~~ a person qualified to perform the diagnostic evaluation. ~~The evaluation shall be conducted at a place as the superintendent may direct.~~ The cost of the evaluation shall be defrayed by the committed person's county of legal settlement residence unless otherwise ordered by the court. The cost of the evaluation to be charged may be equal to but shall not exceed the actual cost of the evaluation. ~~Persons referred by a court to a resource center or the special unit for diagnostic evaluation shall be considered as outpatients of the institution.~~ ~~No~~ An order of commitment shall not be issued unless the superintendent of the institution recommends that the order be issued, and advises the court that adequate facilities for the care of the person are available.

Sec. 72. Section 222.49, Code 2011, is amended to read as follows:

**222.49 Costs paid.**

The costs of proceedings shall be ~~defrayed from the county treasury~~ paid by the county or the state, as determined in accordance with section 222.60, unless otherwise ordered by the court. When the person alleged to be mentally retarded is found not to be mentally retarded, the court shall render judgment for such costs against the person filing the petition except when the petition is filed by order of court.

Sec. 73. Section 222.50, Code 2011, is amended to read as follows:

**222.50 County of legal settlement residence or state to pay.**

When the proceedings are instituted in a county in which the person who is alleged to have mental retardation was found but which is not the county of ~~legal settlement residence~~ of the person, and the costs are not taxed to the petitioner, the person's county which is the legal settlement of the person of residence or the state, as determined in accordance with section 222.60, shall, on presentation of a properly itemized bill for such costs, repay the costs to the former county. ~~When the person's legal settlement is outside the state or is unknown, the costs shall be paid out of money in the state treasury not otherwise appropriated, itemized on vouchers executed by the auditor of the county which paid the costs, and approved by the administrator.~~

Sec. 74. Section 222.60, subsection 1, Code 2011, is amended to read as follows:

1. All necessary and legal expenses for the cost of admission or commitment or for the treatment, training, instruction, care, habilitation, support and transportation of persons with mental retardation, as provided for in the county management plan provisions implemented pursuant to section 331.439, subsection 1, in a state resource center, or in a special unit, or any public or private facility within or without the state, approved by the director of the department of human services, shall be paid by either:

a. ~~The person's county in which such person has legal settlement as defined in section 252.16 of residence.~~

b. ~~The state when such the person has no legal settlement or when such settlement is unknown is a resident in another state or in a foreign country or the residence is unknown. The payment responsibility shall be deemed to be a state case.~~

Sec. 75. Section 222.60, subsection 2, Code 2011, is amended to read as follows:

2. a. ~~Prior to a county of legal settlement residence approving the payment of expenses for a person under this section, the county may require that the person be diagnosed to determine if the person has mental retardation or that the person be evaluated to determine the appropriate level of services required to meet the person's needs relating to mental retardation. The diagnosis and the evaluation may be performed concurrently and shall be performed by an individual or individuals approved by the county who are qualified to perform the diagnosis or the evaluation. Following the initial approval for payment of expenses, the county of legal settlement may require that an evaluation be performed at reasonable time periods.~~

b. ~~The cost of a county-required diagnosis and an evaluation is at the county's expense. In the For a state case of a person without legal settlement or whose legal settlement is unknown, the state may apply the diagnosis and evaluation provisions of this subsection at the state's expense.~~

c. A diagnosis or an evaluation under this section may be part of a county's central point of coordination process under section 331.440, provided that a diagnosis is performed only by an individual qualified as provided in this section.

Sec. 76. Section 222.61, Code 2011, is amended to read as follows:

**222.61 Legal settlement Residency determined.**

When a county receives an application on behalf of any person for admission to a resource center or a special unit or when a court issues an order committing any person to a resource center or a special unit, the board of supervisors shall ~~utilize~~ refer the determination of residency to the central point of coordination process to determine and certify that the ~~legal settlement residence~~ legal settlement of the person is in one of the following:

1. In the county in which the application is received or in which the court is located.
2. In some other county of the state.
3. In another state or in a foreign country.
4. Unknown.

Sec. 77. Section 222.62, Code 2011, is amended to read as follows:

**222.62 Settlement Residency in another county.**

When the board of supervisors determines through the central point of coordination process that the ~~legal settlement~~ residency of the person is other than in the county in which the application is received, the determination shall be certified to the superintendent of the resource center or the special unit where the person is a patient. The certification shall be accompanied by a copy of the evidence supporting the determination. The superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the patient, to the county certified to be the county of ~~legal settlement~~ residency.

Sec. 78. Section 222.63, Code 2011, is amended to read as follows:

**222.63 Finding of settlement residency — objection.**

A board of supervisors' certification utilizing the central point of coordination process that a person's ~~legal settlement~~ residency is in another county shall be sent by ~~the board of supervisors~~ to the auditor of the county of ~~legal settlement~~ residence. The certification shall

be accompanied by a copy of the evidence supporting the determination. The auditor of the county of legal settlement residence shall submit the certification to the board of supervisors of the auditor's county and it shall be conclusively presumed that the patient has a legal settlement residency in that county unless that county disputes the determination of legal settlement residency as provided in section 225C.8 331.438F.

Sec. 79. Section 222.64, Code 2011, is amended to read as follows:

**222.64 Foreign state or country or unknown legal settlement residency.**

If the legal settlement residency of the person is determined by ~~the board of supervisors through the central point of coordination process~~ a county or the state to be in a foreign state or country or is determined to be unknown, the ~~board of supervisors county or the state~~ shall certify the determination to the administrator. The certification shall be accompanied by a copy of the evidence supporting the determination. The care of the person shall be as arranged by the ~~board of supervisors county or the state~~ or by an order as the court may enter. Application for admission or order of commitment may be made pending investigation by the administrator.

Sec. 80. Section 222.65, Code 2011, is amended to read as follows:

**222.65 Investigation.**

If an application is made for placement of a person in a state resource center or special unit, the department's administrator shall immediately investigate the legal settlement residency of the person and proceed as follows:

1. If the administrator concurs with a certified determination as to legal settlement residency of the person so that the person is deemed a state case under section 222.60, the administrator shall cause the person either to be transferred to a resource center or a special unit or to be transferred to the place of foreign settlement residency.

2. If the administrator disputes a certified determination of legal settlement residency, the administrator shall order the person transferred to a state resource center or a special unit until the dispute is resolved.

3. If the administrator disputes a certified determination of legal settlement residency, the administrator shall utilize the procedure provided in section 225C.8 331.438F to resolve the dispute. A determination of the person's legal settlement residency status made pursuant to section 225C.8 331.438F is conclusive.

Sec. 81. Section 222.66, Code 2011, is amended to read as follows:

**222.66 Transfers — state cases — expenses.**

1. The transfer to a resource center or a special unit or to the place of legal settlement residency of a person with mental retardation who has no legal settlement residence in this state or whose legal settlement residency is unknown, shall be made in accordance with such directions as shall be prescribed by the administrator and when practicable by employees of the state resource center or the special unit. The actual and necessary expenses of such transfers shall be paid by the department on itemized vouchers sworn to by the claimants and approved by the administrator and the approved amount is appropriated to the department from any funds in the state treasury not otherwise appropriated.

2. The case of a person with an intellectual disability who is determined to have no residence in this state or whose residence is unknown shall be considered a state case.

Sec. 82. Section 222.67, Code 2011, is amended to read as follows:

**222.67 Charge on finding of settlement residency.**

If a person has been received into a resource center or a special unit as a patient whose legal settlement is supposedly outside the state or residency is unknown and the administrator determines that the legal settlement residency of the patient was at the time of admission or commitment in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission or commitment and support of the patient to the county of legal settlement residence. The certification shall be sent to the county of legal settlement residence. The certification shall be accompanied by a copy of the evidence supporting the determination. If the person's legal settlement residency status has been determined in accordance with section 225C.8 331.438F, the legal costs and expenses

shall be charged to the county or as a state case in accordance with that determination. The costs and expenses shall be collected as provided by law in other cases.

Sec. 83. Section 222.68, Code 2011, is amended to read as follows:

**222.68 Costs paid in first instance.**

All necessary and legal expenses for the cost of admission or commitment of a person to a resource center or a special unit when the person's ~~legal settlement~~ residency is found to be in another county of this state shall in the first instance be paid by the county from which the person was admitted or committed. The county of ~~legal settlement~~ residence shall reimburse the county which pays for all such expenses. ~~Where any~~ If a county fails to make such reimbursement within forty-five days following submission of a properly itemized bill to the county of ~~legal settlement~~ residence, a penalty of not greater than one percent per month on and after forty-five days from submission of the bill may be added to the amount due.

Sec. 84. Section 222.69, Code 2011, is amended to read as follows:

**222.69 Payment by state.**

~~All~~ The amount necessary to pay the necessary and legal expenses for the cost of admission or commitment of a person to a resource center or a special unit when the person's ~~legal settlement~~ residence is outside this state or is unknown ~~shall be paid out of~~ is appropriated to the department from any money in the state treasury not otherwise appropriated. Such payments shall be made by the department on itemized vouchers executed by the auditor of the county from which the expenses have been paid and approved by the administrator.

Sec. 85. Section 222.70, Code 2011, is amended to read as follows:

**222.70 Legal settlement Residency disputes.**

If a dispute arises between counties or between the department and a county as to the ~~legal settlement~~ residency of a person admitted or committed to a resource center, a special unit, or a community-based service, the dispute shall be resolved as provided in section ~~225C.8~~ 331.438F.

Sec. 86. Section 222.73, subsection 2, paragraph a, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The superintendent shall certify to the department the billings to each county for services provided to patients chargeable to the county during the preceding calendar quarter. The county billings shall be based on the average daily patient charge and outpatient treatment charges computed pursuant to subsection 1, and the number of inpatient days and outpatient treatment service units chargeable to the county. The billings to a county of ~~legal settlement~~ residence are subject to adjustment for all of the following circumstances:

Sec. 87. Section 222.77, Code 2011, is amended to read as follows:

**222.77 Patients on leave.**

The cost of support of patients placed on convalescent leave or removed as a habilitation measure from a resource center, or a special unit, except when living in the home of a person legally bound for the support of the patient, shall be paid by the county of ~~legal settlement~~ residence or the state as provided in section 222.60. ~~If the patient has no county of legal settlement, the cost shall be paid from the support fund of the resource center or special unit and charged on abstract in the same manner as other state inpatients until the patient becomes self-supporting or qualifies for support under other statutes.~~

Sec. 88. Section 222.78, Code 2011, is amended to read as follows:

**222.78 Parents and others liable for support.**

1. The father and mother of any patient admitted or committed to a resource center or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract made for support of the patient are liable for the support of the patient. The patient and those legally bound for the support of the patient shall be liable to the county or state, as applicable, for all sums advanced ~~by the county to the state under~~ in accordance with the provisions of sections 222.60 and 222.77.

2. The liability of any person, other than the patient, who is legally bound for the support of a patient who is under eighteen years of age in a resource center or a special unit shall not exceed the average minimum cost of the care of a normally intelligent minor without a disability of the same age and sex as the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the family investment program. The father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. The father or mother of a patient shall not be liable for the support of the patient upon the patient attaining eighteen years of age. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for the patient with mental retardation.

Sec. 89. Section 222.79, Code 2011, is amended to read as follows:

**222.79 Certification statement presumed correct.**

In actions to enforce the liability imposed by section 222.78, ~~the certification statement sent from the superintendent to the county auditor pursuant to section 222.74 or the county of residence, as applicable, shall submit a certification statement stating the sums charged in such cases and the certification statement shall be considered presumptively correct.~~

Sec. 90. Section 222.80, Code 2011, is amended to read as follows:

**222.80 Liability to county or state.**

A person admitted or committed to a county institution or home or admitted or committed at county or state expense to a private hospital, sanitarium, or other facility for treatment, training, instruction, care, habilitation, and support as a patient with mental retardation shall be liable to the county or state, as applicable, for the reasonable cost of the support as provided in section 222.78.

Sec. 91. Section 222.82, Code 2011, is amended to read as follows:

**222.82 Collection of liabilities and claims.**

~~The~~ If liabilities and claims exist as provided in section 222.78 or other provision of this chapter, the county of residence or the state, as applicable, may proceed as provided in this section. If the liabilities and claims are owed to a county of residence, the county's board of supervisors of each county may direct the county attorney to proceed with the collection of said the liabilities and claims as a part of the duties of the county attorney's office when the board of supervisors deems such action advisable. If the liabilities and claims are owed to the state, the state shall proceed with the collection. ~~The board of supervisors or the state, as applicable, may and is hereby empowered to compromise any and all liabilities to the county or state arising under this chapter when such compromise is deemed to be in the best interests of the county or state.~~ Any collections and liens shall be limited in conformance to section 614.1, subsection 4.

Sec. 92. Section 222.86, Code 2011, is amended to read as follows:

**222.86 Payment for care from fund.**

If a patient is not receiving medical assistance under chapter 249A and the amount in the account of any patient in the patients' personal deposit fund exceeds two hundred dollars, the business manager of the resource center or special unit may apply any amount of the excess to reimburse the county of ~~legal settlement or the state in a case where no legal settlement exists~~ residence or the state for liability incurred by the county or the state for the payment of care, support, and maintenance of the patient, when billed by the county of ~~legal settlement or by the administrator for a patient having no legal settlement~~ or state, as applicable.

Sec. 93. Section 222.92, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. Moneys received by the state from billings to counties ~~under section 222.73.~~

Sec. 94. Section 225.23, Code 2011, is amended to read as follows:

**225.23 Collection for treatment.**

If the bills for a committed or voluntary private patient are paid by the state, the state psychiatric hospital shall file a certified copy of the claim for the bills with the ~~auditor of the patient's county of residence~~ department of administrative services. The ~~county of residence department~~ shall proceed to collect the claim in the name of the state psychiatric hospital and, ~~when collected, pay the amount collected to the director of the department of administrative services.~~ The hospital shall also, at the same time, forward a duplicate of the claim to the ~~director of the department of administrative services.~~

Sec. 95. Section 225C.6A, subsection 4, Code 2011, is amended by striking the subsection.

Sec. 96. Section 225C.16, subsection 2, Code 2011, is amended to read as follows:

2. The clerk of the district court in that county shall refer a person applying for authorization for voluntary admission, or for authorization for voluntary admission of another person, in accordance with section 229.42, to the appropriate entity designated through the central point of coordination process of the person's county of residence under section 225C.14 for the preliminary diagnostic evaluation unless the applicant furnishes a written statement from the appropriate entity which indicates that the evaluation has been performed and that the person's admission to a state mental health institute is appropriate. This subsection does not apply when authorization for voluntary admission is sought under circumstances which, in the opinion of the chief medical officer or that officer's physician designee, constitute a medical emergency.

Sec. 97. Section 226.9C, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

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

Sec. 98. Section 226.45, Code 2011, is amended to read as follows:

**226.45 Reimbursement to county or state.**

If a patient is not receiving medical assistance under chapter 249A and the amount to the account of any patient in the patients' personal deposit fund exceeds two hundred dollars, the business manager of the hospital may apply any of the excess to reimburse the county of ~~legal settlement~~ residence or the state ~~in a case where no legal settlement exists for a state case for liability incurred by the county or the state for the payment of care, support and maintenance of the patient, when billed by the county of legal settlement residence or by the administrator for a patient having no legal settlement state case.~~

Sec. 99. Section 229.9A, Code 2011, is amended to read as follows:

**229.9A Advocate informed.**

The court shall direct the clerk to furnish the advocate of the respondent's county of ~~legal settlement~~ residence with a copy of application and any order issued pursuant to section 229.8, subsection 3. The advocate may attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

Sec. 100. Section 229.12, subsection 2, Code 2011, is amended to read as follows:

2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the advocate from the respondent's county of ~~legal settlement~~ residence to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the

hearing during the testimony of any particular witness if the judge determines that witness's testimony is likely to cause the respondent severe emotional trauma.

Sec. 101. Section 229.19, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient's county of ~~legal settlement~~ residence to represent the interests of the patient. If a patient has no county of ~~legal settlement~~ residence or the patient is a state case, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient.

Sec. 102. Section 229.24, subsection 3, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If all or part of the costs associated with hospitalization of an individual under this chapter are chargeable to a county of ~~legal settlement~~ residence, the clerk of the district court shall provide to the ~~county of legal settlement~~ county of residence and to the county in which the hospitalization order is entered the following information pertaining to the individual which would be confidential under subsection 1:

Sec. 103. Section 229.31, Code 2011, is amended to read as follows:

**229.31 Commission of inquiry.**

A sworn complaint, alleging that a named person is not seriously mentally impaired and is unjustly deprived of liberty in any hospital in the state, may be filed by any person with the clerk of the district court of the county in which such named person is so confined, or of the county in which such named person ~~has a legal settlement, and thereupon a~~ is a resident. Upon receiving the complaint, a judge of said that court shall appoint a commission of not more than three persons to inquire into the truth of said the allegations. One of said the commissioners shall be a physician and if additional commissioners are appointed, one of such the additional commissioners shall be a lawyer.

Sec. 104. Section 229.42, Code 2011, is amended to read as follows:

**229.42 Costs paid by county.**

1. If a person wishing to make application for voluntary admission to a mental hospital established by chapter 226 is unable to pay the costs of hospitalization or those responsible for the person are unable to pay the costs, application for authorization of voluntary admission must be made through a central point of coordination process before application for admission is made to the hospital. The person's county of ~~legal settlement~~ residence shall be determined through the central point of coordination process and if the admission is approved through the central point of coordination process, the person's admission to a mental health hospital shall be authorized as a voluntary case. The authorization shall be issued on forms provided by the administrator. The costs of the hospitalization shall be paid by the county of ~~legal settlement~~ residence to the department of human services and credited to the general fund of the state, provided that the mental health hospital rendering the services has certified to the county auditor of the county of ~~legal settlement~~ residence the amount chargeable to the county and has sent a duplicate statement of the charges to the department of human services. A county shall not be billed for the cost of a patient unless the patient's admission is authorized through the central point of coordination process. The mental health institute and the county shall work together to locate appropriate alternative placements and services, and to educate patients and family members of patients regarding such alternatives.

2. All the provisions of chapter 230 shall apply to such voluntary patients so far as is applicable.

3. The provisions of this section and of section 229.41 shall apply to all voluntary inpatients or outpatients receiving mental health services either away from or at the institution.

4. If a county fails to pay the billed charges within forty-five days from the date the county auditor received the certification statement from the superintendent, the department of human services shall charge the delinquent county the penalty of one percent per month on



and after forty-five days from the date the county received the certification statement until paid. The penalties received shall be credited to the general fund of the state.

Sec. 105. Section 229.43, Code 2011, is amended to read as follows:

**229.43 Nonresidents or no-settlement Nonresident patients.**

The administrator may place patients of mental health institutes ~~who have no county of legal settlement~~, who are nonresidents, ~~or whose legal settlement is unknown~~ on convalescent leave to a private sponsor or in a health care facility licensed under chapter 135C, when in the opinion of the administrator the placement is in the best interests of the patient and the state of Iowa. If the patient was involuntarily hospitalized, the district court which ordered hospitalization of the patient must be informed when the patient is placed on convalescent leave, as required by section 229.15, subsection 5.

Sec. 106. Section 230.1, Code 2011, is amended to read as follows:

**230.1 Liability of county and state.**

1. The necessary and legal costs and expenses attending the taking into custody, care, investigation, admission, commitment, and support of a person with mental illness admitted or committed to a state hospital shall be paid by a county or by the state as follows:

a. ~~By the county in which such person has a legal settlement, if~~ If the person is eighteen years of age or older, by the person's county of residence.

b. By the state ~~when as a state case if~~ such person has no legal settlement residence in this state, ~~when if~~ the person's legal settlement residence is unknown, or if the person is under eighteen years of age.

2. The legal settlement county of residence of any person ~~found mentally ill with mental illness~~ who is a patient of any state institution shall be ~~that the person's county of residence~~ existing at the time of admission thereto to the institution.

3. A county of legal settlement residence is not liable for costs and expenses associated with a person with mental illness unless the costs and expenses are for services and other support authorized for the person through the central point of coordination process. For the purposes of this chapter, "*central point of coordination process*" means the same as defined in section 331.440.

Sec. 107. Section 230.2, Code 2011, is amended to read as follows:

**230.2 Finding of legal settlement residence.**

If a person's legal settlement residency status is disputed, ~~legal settlement the residency~~ shall be determined in accordance with section ~~225C.8~~ 331.438F. Otherwise, the district court may, when the person is ordered placed in a hospital for psychiatric examination and appropriate treatment, or as soon thereafter as the court obtains the proper information, determine and enter of record whether the legal settlement residence of the person is ~~one of the following in a county or the person is deemed to be a state case, as follows:~~

1. In the county from which the person was placed in the hospital;
2. In ~~some other~~ another county of the state;
3. In ~~some a~~ foreign state or country; ~~or~~ and deemed to be a state case.
4. Unknown and deemed to be a state case.

Sec. 108. Section 230.3, Code 2011, is amended to read as follows:

**230.3 Certification of settlement residence.**

If a person's legal settlement county of residence is determined ~~through by~~ the county's central point of coordination process to be in another county of this state, the county making the determination shall certify the determination to the superintendent of the hospital to which the person is admitted or committed. The certification shall be accompanied by a copy of the evidence supporting the determination. Upon receiving the certification, the superintendent shall charge the expenses already incurred and unadjusted, and all future expenses of the person, to the county determined to be the county of legal settlement residence.

Sec. 109. Section 230.4, Code 2011, is amended to read as follows:

**230.4 Certification to debtor county.**

A determination of a person's ~~legal settlement~~ county of residence made in accordance with section 230.2 or 230.3 shall be sent by the court or the county to the county auditor of the county of ~~legal settlement~~ residence. The certification shall be accompanied by a copy of the evidence supporting the determination. The auditor shall provide the certification to the board of supervisors of the auditor's county, and it shall be conclusively presumed that the person has a ~~legal settlement~~ residence in the notified county unless that county disputes the finding of ~~legal settlement~~ residence as provided in section ~~225C.8~~ 331.438F.

Sec. 110. Section 230.5, Code 2011, is amended to read as follows:

**230.5 Nonresidents.**

If a person's ~~legal settlement~~ residence is determined in accordance with section 230.2 or 230.3 to be in a foreign state or country, or is unknown, the court or the county shall immediately certify the determination to the department's administrator. The certification shall be accompanied by a copy of the evidence supporting the determination. A court order issued pursuant to section 229.13 shall direct that the patient be hospitalized at the appropriate state hospital for persons with mental illness.

Sec. 111. Section 230.6, Code 2011, is amended to read as follows:

**230.6 Investigation by administrator.**

The administrator shall immediately investigate the ~~legal settlement~~ residency of a patient and proceed as follows:

1. If the administrator concurs with a certified determination of ~~legal settlement~~ residency concerning the patient, the administrator shall cause the patient either to be transferred to a state hospital for persons with mental illness at the expense of the state, or to be transferred, with approval of the court as required by chapter 229 to the place of foreign ~~settlement~~ residence.

2. If the administrator disputes a certified ~~legal settlement~~ residency determination, the administrator shall order the patient to be maintained at a state hospital for persons with mental illness at the expense of the state until the dispute is resolved.

3. If the administrator disputes a ~~legal settlement~~ residency determination, the administrator shall utilize the procedure provided in section ~~225C.8~~ 331.438F to resolve the dispute. A determination of the person's ~~legal settlement~~ residency status made pursuant to section ~~225C.8~~ 331.438F is conclusive.

Sec. 112. Section 230.8, Code 2011, is amended to read as follows:

**230.8 Transfers of persons with mental illness — expenses.**

The transfer to any state hospitals or to the places of their ~~legal settlement~~ residence of persons with mental illness who have no ~~legal settlement~~ residence in this state or whose ~~legal settlement~~ residence is unknown and deemed to be a state case, shall be made according to the directions of the administrator, and when practicable by employees of the state hospitals, ~~and the~~. The actual and necessary expenses of such transfers shall be paid on itemized vouchers sworn to by the claimants and approved by the administrator, ~~and the amount of the~~ expenses is appropriated to the department from any funds in the state treasury not otherwise appropriated.

Sec. 113. Section 230.9, Code 2011, is amended to read as follows:

**230.9 Subsequent discovery of residence.**

If, after a person has been received by a state hospital for persons with mental illness as a state case patient whose ~~legal settlement~~ residence is supposed to be outside this state or ~~unknown~~, the administrator determines that the ~~legal settlement~~ residence of the person was, at the time of admission or commitment, in a county of this state, the administrator shall certify the determination and charge all legal costs and expenses pertaining to the admission or commitment and support of the person to the county of ~~legal settlement~~ residence. The certification shall be sent to the county of ~~legal settlement~~ residence. The certification shall be accompanied by a copy of the evidence supporting the determination. The costs and expenses shall be collected as provided by law in other cases. If the person's ~~legal settlement~~ residency status has been determined in accordance with section ~~225C.8~~ 331.438F, the legal costs and expenses shall be charged to the county of residence or as a state case in accordance with

that determination.

Sec. 114. Section 230.10, Code 2011, is amended to read as follows:

**230.10 Payment of costs.**

All legal costs and expenses attending the taking into custody, care, investigation, and admission or commitment of a person to a state hospital for persons with mental illness under a finding that ~~such~~ the person has a legal settlement residency in another county of this state shall be charged against the county of legal settlement residence.

Sec. 115. Section 230.11, Code 2011, is amended to read as follows:

**230.11 Recovery of costs from state.**

Costs and expenses attending the taking into custody, care, and investigation of a person who has been admitted or committed to a state hospital, United States department of veterans affairs hospital, or other agency of the United States government, for persons with mental illness and who has no legal settlement residence in this state or whose legal settlement residence is unknown, including cost of commitment, if any, shall be paid ~~out of~~ as a state case as approved by the administrator. The amount of the costs and expenses approved by the administrator is appropriated to the department from any money in the state treasury not otherwise appropriated, on itemized vouchers executed by the auditor of the county which has paid them, and approved by the administrator.

Sec. 116. Section 230.12, Code 2011, is amended to read as follows:

**230.12 ~~Legal settlement Residency disputes.~~**

If a dispute arises between different counties or between the administrator and a county as to the legal settlement residence of a person admitted or committed to a state hospital for persons with mental illness, the dispute shall be resolved as provided in section ~~225C.8~~ 331.438F.

Sec. 117. Section 230.32, Code 2011, is amended to read as follows:

**230.32 Support of nonresident patients on leave.**

The cost of support of patients without legal settlement residence in this state, who are placed on convalescent leave or removed from a state mental institute to any health care facility licensed under chapter 135C for rehabilitation purposes, shall be paid from the hospital support fund and shall be charged on abstract in the same manner as state inpatients, until such time as the patient becomes self-supporting or qualifies for support under existing statutes.

Sec. 118. Section 232.141, subsection 8, Code 2011, is amended to read as follows:

8. This subsection applies only to placements in a juvenile shelter care home which is publicly owned, operated as a county or multicounty shelter care home, organized under a chapter 28E agreement, or operated by a private juvenile shelter care home. If the actual and allowable costs of a child's shelter care placement exceed the amount the department is authorized to pay in accordance with law and administrative rule, the unpaid costs may be recovered from the child's county of legal settlement. However, the maximum amount of the unpaid costs which may be recovered under this subsection is limited to the difference between the amount the department is authorized to pay and the statewide average of the actual and allowable rates in effect in May of the preceding fiscal year for reimbursement of juvenile shelter care homes. In no case shall the home be reimbursed for more than the home's actual and allowable costs. The unpaid costs are payable pursuant to filing of verified claims against the county of legal settlement. A detailed statement of the facts upon which a claim is based shall accompany the claim. Any dispute between counties arising from filings of claims pursuant to this subsection shall be settled in the manner provided to determine legal settlement residency in section ~~225C.8~~ 331.438F.

Sec. 119. Section 249A.12, subsection 2, Code 2011, is amended to read as follows:

2. A county shall reimburse the department on a monthly basis for that portion of the cost of assistance provided under this section to a recipient with legal settlement in who is a resident of the county, which is not paid from federal funds, if the recipient's placement has been

approved by the appropriate review organization as medically necessary and appropriate. The department's goal for the maximum time period for submission of a claim to a county is not more than sixty days following the submission of the claim by the provider of the service to the department. The department's goal for completion and crediting of a county for cost settlement for the actual costs of a service under a home and community-based services waiver is within two hundred seventy days of the close of a fiscal year for which cost reports are due from providers. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds in the same manner and for any purpose for which the appropriation for medical assistance may be used.<sup>2</sup>

Sec. 120. Section 249A.12, subsection 6, paragraphs c and d, Code 2011, are amended to read as follows:

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

d. The county of ~~legal settlement~~ residence shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation provided under the medical assistance program.<sup>3</sup>

Sec. 121. Section 249A.12, subsections 7 and 8, Code 2011, are amended to read as follows:

7. When paying the necessary and legal expenses for intermediate care facility for persons with mental retardation services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with mental retardation, and the state or a county of ~~legal settlement~~ residence shall not be obligated for any amount in excess of the rates.

8. If a person with mental retardation has no ~~legal settlement~~ residence in this state or the legal settlement whose residency is unknown so that the person is deemed to be a state case and services associated with the mental retardation can be covered under a medical assistance home and community-based services waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.<sup>4</sup>

Sec. 122. Section 249A.26, subsection 2, Code 2011, is amended to read as follows:

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

b. The state shall pay for one hundred percent of the nonfederal share of the costs of case management provided for adults, day treatment, partial hospitalization, and the home and community-based services waiver services for persons who have no ~~legal settlement~~

<sup>2</sup> See chapter 1133, §69 herein

<sup>3</sup> See chapter 1133, §69 herein

<sup>4</sup> See chapter 1133, §69 herein

residence in this state or ~~the legal settlement~~ whose residence is unknown so that the persons are deemed to be state cases.

c. The case management services specified in this subsection shall be paid for by a county only if the services are provided outside of a managed care contract.<sup>5</sup>

Sec. 123. Section 249A.26, subsections 3, 4, 7, and 8, Code 2011, are amended to read as follows:

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

4. The county of ~~legal settlement~~ residence shall pay for one hundred percent of the nonfederal share of the cost of services provided to adult persons with chronic mental illness who qualify for habilitation services in accordance with the rules adopted for the services. The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons who have no ~~legal settlement~~ residency in this state or the legal settlement whose residency is unknown so that the persons are deemed to be state cases.

7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for persons with mental retardation under the county's mental health, mental retardation, and developmental disabilities services fund created in section 331.424A, or unless a county of ~~legal settlement~~ residence would become liable for the costs of services for a person at the level of care provided in an intermediate care facility for persons with mental retardation due to the person reaching the age of majority, the state shall pay for the nonfederal share of the costs of an eligible person's services under the home and community-based services waiver for persons with brain injury.

8. If a dispute arises between different counties or between the department and a county as to the ~~legal settlement~~ residency of a person who receives medical assistance for which the nonfederal share is payable in whole or in part by a county of ~~legal settlement~~ residence, and cannot be resolved by the parties, the dispute shall be resolved as provided in section ~~225C.8~~ 331.438F.<sup>6</sup>

Sec. 124. Section 252.23, Code 2011, is amended to read as follows:

**252.23 Legal settlement disputes.**

If the alleged settlement is disputed, then, within thirty days after notice as provided in section 252.22, a copy of the notices sent and received shall be filed in the office of the clerk of the district court of the county against which claim is made, and a cause docketed without other pleadings, and tried as an ordinary action, in which the county granting the assistance shall be plaintiff, and the other defendant, and the burden of proof shall be upon the county granting the assistance. However, a ~~legal settlement~~ dispute concerning the liability of a person's county of residence for assistance provided through the county's mental health and disability services system implemented under chapter 331 in connection with services initiated under chapter 222, 230, or 249A shall be resolved as provided in section 225C.8 331.438F.

Sec. 125. Section 252.24, Code 2011, is amended to read as follows:

**252.24 County of settlement liable.**

1. The county where the settlement is shall be liable to the county granting assistance for all reasonable charges and expenses incurred in the assistance and care of a poor person.

<sup>5</sup> See chapter 1133, §69 herein

<sup>6</sup> See chapter 1133, §69 herein

2. When assistance is furnished by any governmental agency of the county, township, or city, the assistance shall be deemed to have been furnished by the county in which the agency is located and the agency furnishing the assistance shall certify the correctness of the costs of the assistance to the board of supervisors of that county and that county shall collect from the county of the person's settlement. The amounts collected by the county where the agency is located shall be paid to the agency furnishing the assistance. This statute applies to services and supplies furnished as provided in section 139A.18.

3. Notwithstanding subsection 2, if assistance or maintenance is provided by a county through the county's mental health and disability services system implemented under chapter 331, liability for the assistance and maintenance is the responsibility of the person's county of residence.

Sec. 126. Section 331.440, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. "*County of residence*" means the county in this state in which, at the time an adult person applies for or receives services, the adult person is living and has established an ongoing presence with the declared, good faith intention of living for a permanent or indefinite period of time. The county of residence of an adult person who is a homeless person is the county where the homeless person usually sleeps. A person maintains residency in the county in which the person last resided while the person is present in another county receiving services in a hospital, a correctional facility, a halfway house for community-based corrections or substance-related treatment, a nursing facility, an intermediate care facility for persons with an intellectual disability, or a residential care facility, or for the purpose of attending a college or university.

Sec. 127. Section 331.502, subsection 11, Code 2011, is amended to read as follows:

11. Carry out duties relating to the determination of ~~legal settlement~~ residency, collection of funds due the county, and support of persons with mental retardation as provided in sections 222.13, 222.50, 222.61 to 222.66, 222.69, and 222.74.

Sec. 128. Section 347.16, subsection 3, Code 2011, is amended to read as follows:

3. Care and treatment may be furnished in a county public hospital to any sick or injured person who has legal settlement outside the county which maintains the hospital, subject to such policies and rules as the board of hospital trustees may adopt. If care and treatment is provided under this subsection to a person who is indigent, the county in which that person has legal settlement shall pay to the board of hospital trustees the fair and reasonable cost of the care and treatment provided by the county public hospital unless the cost of the indigent person's care and treatment is otherwise provided for. If care and treatment is provided to an indigent person under this subsection, the county public hospital furnishing the care and treatment shall immediately notify, by regular mail, the auditor of the county of legal settlement of the indigent person of the provision of care and treatment to the indigent person. However, if the care and treatment is provided by a county through the county's mental health and disability services system implemented under chapter 331, liability for the assistance and maintenance is the responsibility of the person's county of residence.

Sec. 129. REPEAL. Section 225C.8, Code 2011, is repealed.

Sec. 130. EFFECTIVE DATE. This division of this Act takes effect July 1, 2013.

#### DIVISION IX PROPERTY TAX-RELATED PROVISIONS

Sec. 131. MENTAL HEALTH AND DISABILITY SERVICES REDESIGN FISCAL VIABILITY ANALYSIS. The legislative council is requested to authorize a study committee to analyze the viability of the mental health and disability services redesign financing provisions in this Act, during the 2012 and 2013 legislative interims. The study committee may contract for an independent analysis to be performed. The study committee shall consider reports from the transition committee created by this division of this Act. Reports of

the analysis containing findings and recommendations shall be submitted for consideration by the Eighty-fifth General Assembly during the 2013 legislative session. The study committee may meet during the 2013 legislative interim to consider and determine whether revisions to 2013 redesign financing enactments are warranted and to make appropriate recommendations for consideration during the 2014 legislative session.

Sec. 132. Section 331.424A, Code Supplement 2011, is amended to read as follows:

**331.424A County mental health, ~~mental retardation~~, and developmental disabilities services fund.**

1. For the purposes of this chapter and chapter 426B, unless the context otherwise requires, ~~“services fund” means the county mental health, mental retardation, and developmental disabilities services fund created in subsection 2. The county finance committee created in section 333A.2 shall consult with the state commission in adopting rules and prescribing forms for administering the services fund.:~~

a. “Base year expenditures for mental health and disabilities services” means the same as defined in section 331.438, Code Supplement 2011, minus the amount the county received from the property tax relief fund pursuant to section 426B.1, Code 2011, for the fiscal year beginning July 1, 2008.

b. “County population expenditure target amount” means the product of the statewide per capita expenditure target amount multiplied by a county’s general population.

c. “County services fund” means a county mental health and disabilities services fund created pursuant to this section.

d. “Per capita growth amount” means the amount by which the statewide per capita expenditure target amount may grow from one year to the next.

e. “Statewide per capita expenditure target amount” means the dollar amount of a statewide expenditure target per person as established by statute.

2. The county finance committee created in section 333A.2 shall consult with the department of human services and the department of management in adopting rules and prescribing forms for administering the county services funds.

2. 3. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, county revenues from taxes and other sources designated by a county for mental health, ~~mental retardation~~, and developmental disabilities services shall be credited to the county mental health, ~~mental retardation~~, and developmental disabilities services fund of which shall be created by the county. The board shall make appropriations from the fund for payment of services provided under the county regional service system management plan approved pursuant to section 331.439 331.439A. The county may pay for the services in cooperation with other counties by pooling appropriations from the county services fund with appropriations from the county services fund of other counties or through county regional entities including but not limited to the county’s mental health and developmental disabilities regional planning council created pursuant to section 225C.18 through the county’s regional administrator, or through another arrangement specified in the regional governance agreement entered into by the county under section 331.438E.

3. 4. For the fiscal year beginning July 1, 1996, and succeeding fiscal years, receipts Receipts from the state or federal government for such the mental health and disability services administered or paid for by a county shall be credited to the county services fund, including moneys allotted distributed to the county from the state payment made pursuant to section 331.439 and moneys allotted to the county for property tax relief pursuant to section 426B.1 department of human services and moneys allocated under chapter 426B.

4. 5. For the fiscal year beginning July 1, 1996, and for each subsequent fiscal year, the county shall certify a levy for payment of services. For each fiscal year, county revenues from taxes imposed by the county credited to the services fund shall not exceed an amount equal to the amount of base year expenditures for mental health and disability services as defined in section 331.438, less the amount of property tax relief to be received pursuant to section 426B.2, in the fiscal year for which the budget is certified. The county auditor and the board of supervisors shall reduce the amount of the levy certified for the services fund by the amount of property tax relief to be received. A levy certified under this section is not subject to the

appeal provisions of section 331.426 or to any other provision in law authorizing a county to exceed, increase, or appeal a property tax levy limit.

5. ~~6.~~ Appropriations specifically authorized to be made from the mental health, ~~mental retardation,~~ and developmental disabilities services fund shall not be made from any other fund of the county.

6. ~~7.~~ This section is repealed July 1, 2013. Notwithstanding subsection 5, for the fiscal years beginning July 1, 2013, and July 1, 2014, county revenues from taxes levied by the county and credited to the county services fund shall not exceed the lower of the following amounts:

a. The amount of the county's base year expenditures for mental health and disabilities services.

b. The amount equal to the product of the statewide per capita expenditure target for the fiscal year beginning July 1, 2013, multiplied by the county's general population for the same fiscal year.

Sec. 133. Section 331.432, subsection 3, Code Supplement 2011, is amended to read as follows:

3. Except as authorized in section 331.477, transfers of moneys between the county mental health, ~~mental retardation,~~ and developmental disabilities services fund created pursuant to section 331.424A and any other fund are prohibited.

Sec. 134. Section 426B.1, subsection 2, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

2. Moneys shall be distributed from the property tax relief fund to counties for the mental health and disability regional service system for providing county base property tax equivalent equalization payments and the per capita growth amount established pursuant to section 426B.3, in accordance with the appropriations made to the fund and other statutory requirements.

Sec. 135. Section 426B.2, subsections 1 and 2, Code 2011, are amended by striking the subsections.

Sec. 136. Section 426B.2, subsection 3, Code 2011, 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~~ section 426B.3, 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 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. 137. Section 426B.3, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**426B.3 Per capita funding for fiscal years 2013-2014 and 2014-2015.**

1. For the fiscal years beginning July 1, 2013, and July 1, 2014, the state and county funding for the mental health and disability services administered or paid for by counties shall be provided based on a statewide per capita expenditure target amount computed in accordance with this section.

2. The statewide per capita expenditure target amount shall consist of the sum of the following:

a. A county base property tax equivalent to forty-seven dollars and twenty-eight cents per capita. Each per capita growth amount established by statute as provided in paragraph "b", shall be added to this amount.



b. A per capita growth amount, which may be stated as a percentage of the prior fiscal year's county base property tax per capita amount, as established by statute.

3. The per capita growth amount established by statute shall provide funding for increases in non-Medicaid expenditures from county services funds due to service costs, additional service populations, additional core service domains, and numbers of persons receiving services.

4. a. For the fiscal years beginning July 1, 2013, and July 1, 2014, a county with a county population expenditure target amount that exceeds the amount of the county's base year expenditures for mental health and disabilities services shall receive an equalization payment for the difference.

b. The equalization payments determined in accordance with this subsection shall be made by the department of human services for each fiscal year as provided in appropriations made from the property tax relief fund for this purpose.

Sec. 138. REPEAL. Section 426B.6, Code Supplement 2011, is repealed.

Sec. 139. EFFECTIVE DATE. The following provisions of this division of this Act take effect July 1, 2013:

1. The section of this Act amending section 331.424A.
2. The section of this Act amending section 331.432.
3. The section of this Act amending section 426B.1.
4. The sections of this Act amending section 426B.2.
5. The section of this Act amending section 426B.3.

Sec. 140. APPLICABILITY. The following provisions of this division of this Act are applicable commencing with the budget and tax levy certification process for the fiscal year beginning July 1, 2013:

1. The section of this Act amending section 331.424A.
2. The section of this Act amending section 426B.1.
3. The sections of this Act amending section 426B.2.
4. The section of this Act amending section 426B.3.

Approved May 25, 2012

## CHAPTER 1121

### TAX CREDITS AND EXEMPTIONS — SOLAR ENERGY SYSTEMS, GEOTHERMAL HEAT PUMPS, AND AUTO BODY REPAIR AND WASH AND WAX SERVICES

*S.F. 2342*

**AN ACT** relating to state taxation by providing specified tax credits for the construction and installation of solar energy systems and geothermal heat pumps, modifying sales and use tax provisions related to property purchased for resale, and creating a sales tax exemption for certain items purchased for use in providing vehicle wash and wax services and including effective date and retroactive and other applicability provisions.

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

#### DIVISION I GEOTHERMAL HEAT PUMP TAX CREDITS

Section 1. **NEW SECTION. 422.11I Geothermal heat pump tax credit.**

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a geothermal heat pump tax credit equal to twenty percent of the federal

residential energy efficient property tax credit allowed for geothermal heat pumps provided in section 25(D)(a)(5) of the Internal Revenue Code for residential property located in Iowa. 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 ten years or until depleted, whichever is earlier. The director of revenue shall adopt rules to implement this section.

Sec. 2. Section 427.1, Code Supplement 2011, is amended by adding the following new subsection:

**NEW SUBSECTION. 38. *Geothermal heating and cooling system.***

a. The value added by any new or refitted construction or installation of a geothermal heating or cooling system on or after July 1, 2012, on property classified as residential. The exemption shall be allowed for ten consecutive years. The exemption shall apply to any value added by the addition of mechanical, electrical, plumbing, ductwork, or other equipment, labor, and expenses included in or required for the construction or installation of the geothermal system, as well as the proportionate value of any well field associated with the system and attributable to the owner.

b. A person claiming an exemption under this subsection shall obtain the appropriate forms from the assessor. The forms shall be prescribed by the director of revenue. The claim shall be filed no later than February 1 of the first assessment year the exemption is requested and shall contain information pertaining to all costs and other information associated with construction and installation of the system. Once the exemption is allowed, the exemption shall continue to be allowed for ten consecutive years without further filing as long as the property continues to be classified as residential property.

c. The director shall adopt rules to implement this subsection.

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

Sec. 4. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 5. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to January 1, 2012, for tax years beginning on or after that date:

1. The section of this division of this Act enacting section 422.11I.

Sec. 6. APPLICABILITY. The following provision or provisions of this division of this Act apply to assessment years beginning on or after January 1, 2013:

1. The section of this division of this Act enacting section 427.1, subsection 38.

## DIVISION II SOLAR ENERGY SYSTEM TAX CREDITS

Sec. 7. **NEW SECTION. 422.11L Solar energy system tax credits.**

1. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by a solar energy system tax credit equal to the sum of the following:

a. Fifty percent of the federal residential energy efficient property credit related to solar energy provided in section 25D of the Internal Revenue Code, not to exceed three thousand dollars.

b. Fifty percent of the federal energy credit related to solar energy systems provided in section 48 of the Internal Revenue Code, not to exceed fifteen thousand dollars.

2. 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 ten years or until depleted, whichever is earlier. The director of revenue shall adopt rules to implement this section.

3. a. 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.

b. A taxpayer who is eligible to claim a credit under this section shall not be eligible to claim a renewable energy tax credit under chapter 476C.

4. The cumulative value of tax credits claimed annually by applicants pursuant to this section shall not exceed one million five hundred thousand dollars.

5. On or before January 1, annually, the department shall submit a written report to the governor and the general assembly regarding the number and value of tax credits claimed under this section, and any other information the department may deem relevant and appropriate.

Sec. 8. Section 422.33, Code 2011,<sup>1</sup> is amended by adding the following new subsection:  
NEW SUBSECTION. 29. a. The taxes imposed under this division shall be reduced by a solar energy system tax credit equal to fifty percent of the federal energy credit related to solar energy systems provided in section 48 of the Internal Revenue Code, not to exceed fifteen thousand dollars.

b. The taxpayer may claim the credit pursuant to this subsection according to the same requirements, conditions, and limitations as provided pursuant to section 422.11L.

Sec. 9. Section 476C.2, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A taxpayer who is eligible to claim a renewable energy tax credit under this chapter shall not be eligible to claim a solar energy system tax credit under section 422.11L or 422.33.

Sec. 10. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 11. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to tax years beginning on or after January 1, 2012.

### DIVISION III SALES TAX EXEMPTIONS

Sec. 12. Section 423.1, subsection 39, paragraphs b and c, Code Supplement 2011, are amended to read as follows:

b. The property is transferred to the user of the service in connection with the performance of the service in a form or quantity capable of a fixed or definite price value, or the property is entirely consumed in connection with the performance of an auto body repair service purchased by the ultimate user.

c. The sale is evidenced by a separate charge for the identifiable piece of property unless the property is entirely consumed in connection with the performance of an auto body repair service purchased by the ultimate user.

Sec. 13. Section 423.3, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 96. The sales price from the sale of water, electricity, chemicals, solvents, sorbents, or reagents to a retailer to be used in providing a service that includes a vehicle wash and wax, which vehicle wash and wax service is subject to section 423.2, subsection 6.

Sec. 14. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 25, 2012

<sup>1</sup> According to enrolled Act; the phrase "Code Supplement 2011" probably intended

**CHAPTER 1122**  
**CONTROLLED SUBSTANCES**  
*S.F. 2343*

**AN ACT** making changes to the controlled substance schedules, applying penalties, and including effective date provisions.

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

DIVISION I  
RECLASSIFICATION OF SUBSTANCES AND CONTROLLED SUBSTANCES

Section 1. Section 124.204, subsection 9, Code Supplement 2011, is amended by striking the subsection.

Sec. 2. Section 124.206, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Immediate precursor to fentanyl: 4-anilino-N-phenethyl-4-piperidine (ANPP).

Sec. 3. Section 124.208, subsection 6, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. bh. Boldione (androsta-1,4-diene-3,17-dione).

NEW PARAGRAPH. bi. Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol); also known as madol.

NEW PARAGRAPH. bj. 19-nor-4,9(10)-androstadienedione (estra-4,9(10)diene-3,17-dione).

Sec. 4. Section 124.210, subsection 3, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. oe. Carisoprodol.

Sec. 5. Section 124.212, subsection 5, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. oa. Ezogabine [N-[2-amino-4(4-fluorobenzylamino)-phenyl]carbamic acid ethyl ester].

Sec. 6. Section 124B.2, subsection 1, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. aa. Ergocristine and its salts.

DIVISION II  
SCHEDULE I CONTROLLED SUBSTANCES

Sec. 7. Section 124.201, subsection 4, Code 2011, is amended to read as follows:

4. If any new substance is designated as a controlled substance under federal law and notice of the designation is given to the board, the board shall similarly designate as controlled the new substance under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a new substance as a controlled substance, unless within that thirty-day period the board objects to the new designation. In that case the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing the board shall announce its decision. Upon publication of objection to a new substance being designated as a controlled substance under this chapter by the board, control under this chapter is stayed until the board publishes its decision. If a substance is designated as controlled by the board under this ~~paragraph~~ subsection the control shall be temporary and if within sixty days after the next regular session of the general assembly convenes it has not made the corresponding changes in this chapter, the temporary designation of control of the substance by the board shall be nullified.

Sec. 8. Section 124.204, subsection 4, paragraph ai, Code Supplement 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

ai. (1) *Salvia divinorum*.

(2) Salvinorin A.

(3) HU-210. [(6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl) 6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol].

(4) HU-211(dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c] chromen-1-ol).

(5) Unless specifically exempted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of cannabimimetic agents, or which contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(a) The term “*cannabimimetic agents*” means any substance that is a cannabinoid receptor type 1 (CB1) receptor) agonist as demonstrated by binding studies and functional assays within any of the following structural classes:

(i) 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

(ii) 3-(1-naphthoyl)indole or 3-(1-naphthylmethane)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

(iii) 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

(iv) 1-(1-naphthylmethylene)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

(v) 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.

(b) Such terms include:

(i) CP 47,497 and homologues 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]phenol.

(ii) JWH-018 and AM678 1-Pentyl-3-(1-naphthoyl)indole.

(iii) JWH-073 1-Butyl-3-(1-naphthoyl)indole.

(iv) JWH-200[1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone.

(v) JWH-19 1-hexyl-3-(1-naphthoyl)indole.

(vi) JWH-81 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole.

(vii) JWH-122 1-pentyl-3-(4-methyl-1-naphthoyl)indole.

(viii) JWH-250 1-pentyl-3-(2-methoxyphenylacetyl)indole.

(ix) RCS-4 and SR-19 1-pentyl-3-[(4methoxy)-benzoyl]indole.

(x) RCS-8 and SR 18 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole.

(xi) AM2201 1-(5-fluoropentyl)-3-(1-naphthoyl)indole.

(xii) JWH-203 1-pentyl-3-(2-chlorophenylacetyl)indole.

(xiii) JWH-398 1-pentyl-3-(4-chloro-1-naphthoyl)indole.

(xiv) AM694 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.

(xv) Cannabicyclohexanol or CP-47,497 C8-homolog 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol.

Sec. 9. Section 124.204, subsection 6, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Any substance, compound, mixture or preparation which contains any quantity of any synthetic cathinone that is not approved as a pharmaceutical, including but not limited to the following:

(1) Mephedrone, also known as 4-methylmethcathinone, (RS)-2-methylamino-1-(4-methylphenyl) propan-1-one.

(2) 3,4-methylenedioxypropylvalerone (MDPV)[(1-(1,3-Benzodioxol-5-yl)-2-(1-pyrrolidinyl)-1-pentanone)].

- (3) Methylone, also known as 3,4-methylenedioxyethcathinone.
- (4) Naphthylpyrovalerone (naphyrone).
- (5) 4-fluoromethcathinone (flephedrone) or a positional isomer of 4-fluoromethcathinone.
- (6) 4-methoxymethcathinone (methedrone; Bk-PMMA).
- (7) Ethcathinone.
- (8) 3,4-methylenedioxyethcathinone (ethylone).
- (9) Beta-keto-N-methyl-3,4-benzodioxolybutanamine (butylone).
- (10) N,N-dimethylcathinone (metamfepramone).
- (11) Alpha-pyrrolidinopropiophenone (alpha-PPP).
- (12) 4-methoxy-alpha-pyrrolidinopropiophenone (MOPPP).
- (13) 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (MDPPP).
- (14) Alpha-pyrrolidinovalerophenone (alpha-PVP).
- (15) 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (MDAI).
- (16) 3-fluoromethcathinone.
- (17) 4'-Methyl-alpha-pyrrolidinobutiophenone (MPBP).
- (18) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C-E).
- (19) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C-D).
- (20) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C-C).
- (21) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C-I).
- (22) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-2).
- (23) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C-T-4).
- (24) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H).
- (25) 2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine (2C-N).
- (26) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C-P).

Sec. 10. Section 124.401, subsection 1, paragraph d, Code Supplement 2011, is amended to read as follows:

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in section 124.204, subsection 4, paragraph "ai", section 124.204, subsection 6, paragraph "i", or classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving fifty kilograms or less of marijuana or involving flunitrazepam is a class "D" felony.

Sec. 11. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 25, 2012

## CHAPTER 1123

### TRUSTS AND ESTATES

#### H.F. 609

**AN ACT** relating to trusts and estates including the administration of small estates, and certain state inheritance tax provisions, and including applicability provisions.

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

Section 1. Section 422.7, subsection 4, Code Supplement 2011, is amended by striking the subsection.

Sec. 2. Section 450.4, subsections 7 and 8, Code 2011, are amended by striking the subsections.

Sec. 3. Section 633.237, subsections 1, 2, and 4, Code 2011, are amended to read as follows:

1. Following the appointment of a personal representative of the estate of the decedent, ~~who is not the spouse~~, the personal representative shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election in writing with the clerk of court electing the share as set forth in section 633.236 and sections 633.238 through 633.246, the spouse shall be deemed to take under the will or to receive the intestate share. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the personal representative shall make application to the court for an order pursuant to section 633.244.

2. Following the death of a settlor of a revocable trust, the trustee of such revocable trust ~~who is not the spouse~~ shall cause to be served a written notice upon the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse that unless, within four months after service of the notice, the spouse files an election with the trustee electing the share as set forth in section 633.236 and sections 633.238 through 633.246, the spouse shall be deemed to take under the terms of the revocable trust. If, within the four-month period following service of the notice, an affidavit is filed setting forth that the surviving spouse is incapable of making the election and does not have a conservator, the trustee shall make application to the court for an order pursuant to section 633.244.

4. The notice provisions under subsections 1 and 2 are not applicable if the surviving spouse ~~is a personal representative of the estate or a trustee of a revocable trust or if the surviving spouse or the spouse's conservator files, at any time, an election to take under the will, receive the intestate share, or take under the revocable trust.~~ If the surviving spouse fails to file an election under this section within four months of the ~~decedent's death~~ date notice is served, it shall be conclusively presumed that the surviving spouse elects to take under the will, receive the intestate share, or take under the revocable trust.

Sec. 4. Section 633.246, Code 2011, is amended to read as follows:

**633.246 Election not subject to change.**

1. An election by or on behalf of a surviving spouse to take the share provided in section 633.211, 633.212, 633.236, 633.238, 633.240, or 633.244 shall be binding and shall not be subject to change except for such causes as would justify an equitable decree for the rescission of a deed.

2. An affirmative election to take under the will, receive the intestate share, or take under the revocable trust shall be irrevocable when filed as provided in section 633.237.

Sec. 5. Section 633.350, Code 2011, is amended to read as follows:

**633.350 Title to decedent's estate — when property passes — possession and control thereof — liability for administration expenses, debts, and family allowance.**

Except as otherwise provided in this probate code, when a person dies, the title to the person's property, real and personal, passes to the person to whom it is devised by the person's last will, or, in the absence of such disposition, to the persons who succeed to the estate as provided in this probate code, but all of the property shall be subject to the possession of the personal representative as provided in section 633.351 and to the control of the court for the purposes of administration, sale, or other disposition under the provisions of law, and such property, except homestead and other exempt property, shall be chargeable with the payment of debts and charges against the estate. There shall be no priority as between real and personal property, except as provided in this probate code or by the will of the decedent. If real property is titled at any time in a decedent's estate, such property shall be treated as titled in the name of the personal representative of the estate.

Sec. 6. Section 633.351, Code 2011, is amended to read as follows:

**633.351 Possession of real and personal property.**

~~If there is no distributee of the real estate present and competent to take possession, or if there is a lease of such real estate outstanding, or if the distributees present and competent~~

~~consent thereto~~ During the period of administration, the personal representative shall take possession of such the decedent's real estate, except the homestead and other property exempt to the surviving spouse. Every personal representative shall take possession of all the personal property of the decedent, except the property exempt to the surviving spouse. The personal representative may maintain an action for the possession of such real and personal property or to determine the title to any property of the decedent. Until property is distributed, the personal representative shall take reasonable steps to safeguard such property, pay any expenses related to such property, and collect any income generated by such property. Unless otherwise provided by the decedent's will, all such expenses shall be paid from the residuary estate and all such income shall be considered a part of the residuary estate.

Sec. 7. Section 633.352, Code 2011, is amended to read as follows:

**633.352 Collection of rents and payment of taxes and charges.**

~~Unless otherwise provided by the will, the personal representative shall allocate and distribute provisions of chapter 637 that conflict with this part 3 shall not apply to the allocation and distribution of estate income of an estate in accordance with chapter 637.~~

Sec. 8. Section 633.355, Code 2011, is amended to read as follows:

**633.355 Delivery of specific devise after ~~nine~~ twelve months.**

~~Unless the court, for cause shown, determines that the possession of the personal representative shall continue for a longer period, the personal representative shall deliver all specifically devised property to the devisees entitled thereto after the expiration of ~~nine~~ twelve months from the date of appointment of the personal representative. This section shall not preclude the court from directing that such delivery be made before such period has expired, nor shall the personal representative be prevented from ~~sooner settling the estate and~~ delivering such property at an earlier time.~~

Sec. 9. Section 633.374, Code 2011, 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~~ The personal representative of the estate shall ~~cause written notice concerning support to be mailed mail~~ to the surviving spouse pursuant to section 633.40, subsection 5, a written notice regarding the right to request a spousal allowance. The notice shall inform the surviving spouse of the surviving spouse's right to ~~apply, submit an application to the court~~ 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 including assets held in a revocable trust of which the decedent is the settlor to the extent that estate assets are not sufficient as it deems reasonable for the proper support of the surviving spouse for the period of twelve months following the death of the decedent. ~~If the application is not made by the personal representative, notice~~ Notice of hearing upon the application shall be given to the surviving spouse, personal representative if the application is not made by the personal representative, trustee of any revocable trust of which the decedent is the settlor, and all other interested persons. The court shall take into consideration the station in life of the surviving spouse, and the assets and condition of the estate and any revocable trust of which the decedent is the settlor, the nonprobate assets received by the surviving spouse by reason of the death of the decedent, and the income and other resources of the surviving spouse. If the trustee of a revocable trust of which the decedent was a settlor has previously made payments under section 633A.3114 to the spouse, the court shall reduce the award by the amount of such payments. 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.

3. A surviving spouse who qualifies for a support allowance under this section may waive the right to such allowance for the surviving spouse and for the dependents of the decedent who reside with the surviving spouse by filing an affidavit acknowledging receipt of notice and irrevocably waiving the right to support under this section.

Sec. 10. Section 633.375, Code 2011, is amended to read as follows:

**633.375 Review of allowance to surviving spouse.**

The court may, upon the petition of the spouse, or other person interested any interested person, and after hearing pursuant to notice to all interested parties, review such the allowance and increase or decrease the same amount and make such other orders as it may deem proper.

Sec. 11. Section 633.376, Code 2011, is amended to read as follows:

**633.376 Allowance to children who do not reside with surviving spouse.**

1. The court may also make an allowance under the same terms and conditions as provided in section 633.374 of an amount the court deems reasonable in light of the assets and condition of the estate, to provide for proper support during the period of twelve months following the decedent's death to a child of the decedent who does not reside with the surviving spouse and is any of the following:

a. less Less than eighteen years of age.

b. or who is between Between the ages of eighteen and twenty-two years who is any of the following:

(1) regularly Regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent.

(2) or regularly Regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs.

(3) or is Is, in good faith, a full-time student in a college, university, or community college.

(4) or has Has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

c. or Is a child of any age who is dependent because of physical or mental disability; who does not reside with the surviving spouse, of an amount it deems reasonable in the light of the assets and condition of the estate, to provide for the child's proper support during the period of twelve months.

2. The estate's personal representative shall cause written notice to be mailed mail pursuant to section 633.40, subsection 5, to the legal guardian of each child qualified under subsection 1 and to each child or the guardian ad litem for such child if necessary, who has no legal guardian, a written notice regarding the right to request an allowance. The notice shall inform the child and the child's guardian, if applicable, of the right to apply submit an application to the court, within four months after service of the notice, for support for a period of twelve months following the decedent's death. If an application for support has not been filed within four months after service of the notice by or on behalf of the child qualifying for support under subsection 1, the child shall be deemed to have waived the right to support under this section. A child who qualifies for support under this section or the child's guardian ad litem may waive the child's right to such support by filing an affidavit acknowledging receipt of notice and irrevocably waiving the child's right to support under this section.

Sec. 12. Section 633.377, Code 2011, is amended to read as follows:

**633.377 Review of allowance to minor children.**

The court may, upon the petition of any interested person, and after hearing pursuant to notice to all interested parties, review the allowance made to the minor children who do not reside with the surviving spouse and may increase or decrease the same amount and make such other orders as it may deem proper.

Sec. 13. Section 633.471, Code 2011, is amended to read as follows:

**633.471 Right of retainer.**

When a distributee of an estate is indebted to the estate, or if a distributee takes as an heir of a deceased devisee indebted to the estate, the amount of such indebtedness, if due, or the present worth of the indebtedness, if not due, shall be treated as a setoff and retained by the personal representative out of any testate or intestate property, real or personal, of the estate to which such distributee is entitled. In intestate estates, the personal representative shall have the same right of setoff and retainer against an heir whose ancestor was indebted to the estate. The right of setoff and retainer shall be prior and superior to the rights of judgment creditors, heirs or assigns of such distributee ~~and shall not be barred by the statute of limitations, nor by a discharge in bankruptcy.~~

Sec. 14. Section 633.561, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If the court determines upon application that it is appropriate or necessary, the court may order that the attorney appointed pursuant to this section be given copies of and access to the proposed ward's health information by describing with reasonable specificity the health information to be disclosed or accessed, for the purpose of fulfilling the attorney's responsibilities pursuant to this section.

Sec. 15. Section 633A.2203, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A spendthrift provision, or a provision giving the trustee discretion to distribute income or principal to a beneficiary or among beneficiaries, in the terms of the trust is presumed to constitute a material purpose of the trust.

Sec. 16. Section 633A.3102, subsection 5, Code 2011, is amended to read as follows:

~~5. The settlor's powers with respect to revocation or modification may be exercised by an agent under a power of attorney only and to the extent the power of attorney expressly so authorizes. if all of the following apply:~~

a. The trust instrument expressly authorizes an agent under a power of attorney to exercise such powers.

b. The power of attorney expressly authorizes an agent acting under the power of attorney to exercise such powers.

Sec. 17. Section 633A.3104, subsection 2, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

2. Following the death of a settlor, if the settlor's estate is inadequate to satisfy the debts of the settlor and the charges of the settlor's estate, the property of a revocable trust, to the extent of the value of the property over which the settlor had a power of revocation, is subject to all of the following:

a. The charges of the settlor's estate.

b. The debts of the settlor unless barred as provided in section 633A.3109.

Sec. 18. Section 633A.3104, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The personal representative of the settlor's estate shall submit a statement to the trustee within the period for filing claims against the trust of the amount by which the assets of the estate are insufficient to pay the debts and charges. Subject to the provisions of section 633A.3111, the trustee shall remit to the personal representative the amount needed to pay the charges and shall pay the debts directly to the creditors unless the trustee and personal representative agree to a different manner of payment.

Sec. 19. Section 633A.3108, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**633A.3108 Limitation on contest of revocable trust.**

Unless previously barred by adjudication, consent, or other limitation, if notice is published or given as provided in section 633A.3110 within one year of the settlor's death, a proceeding to contest the validity of a revocable trust must be brought within the period specified in that

notice. If notice is not published or given within that period, a proceeding to contest the validity of a trust must be brought no later than one year following the death of the settlor.

Sec. 20. Section 633A.3109, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**633A.3109 Limitation on creditor rights against revocable trust assets after settlor's death.**

1. If notice is published or given as provided in section 633A.3110 within one year of the settlor's death, any claim against the trust assets will be forever barred unless the creditor files a claim as provided for and within the period specified in the notice.

2. If notice is not published or given, a creditor of a deceased settlor of a revocable trust must bring suit to enforce its claim against the assets of the decedent's trust within one year of the decedent's death or be forever barred from collecting against the trust assets. The one-year limitation period shall not be extended by the commencement of probate administration for the settlor.

3. The notice under sections 633.230 and 633.304 in probate of the settlor's estate does not affect a creditor's claim under this section.

Sec. 21. Section 633A.3110, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**633A.3110 Notice to creditors, heirs, and spouse.**

1. As used in this section, "heir" means only such person who would, in an intestate estate, be entitled to a share under section 633.219.

2. The trustee may give notice as described herein to creditors, heirs, and the surviving spouse of the settlor for the purpose of establishing their rights to contest the trust and to file claims against the trust assets.

a. No later than the end of the one-year period beginning with the settlor's date of death, the trustee may publish a notice once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the settlor was a resident at the time of death. If the settlor was not a resident of Iowa, but the principal place of administration is in Iowa, the trustee shall publish notice in the county that is the principal place of administration pursuant to section 633A.6102.

b. If notice is published pursuant to paragraph "a", the trustee shall also give notice by ordinary mail within one year of the settlor's death to the surviving spouse and the heirs of the decedent whose identities are reasonably ascertainable, at such person's last known address.

c. If notice is published pursuant to paragraph "a", the trustee shall also give notice to creditors of the settlor who are known or reasonably ascertainable within the period for filing claims specified in the published notice and who the trustee believes own or possess a claim, which will not or may not be paid or otherwise satisfied during the administration of the trust, by ordinary mail to each person at the person's last known address.

d. The notices described in this subsection shall, if given, include notification of the settlor's death, and the fact that any action to contest the validity of the trust must be brought within the later to occur of four months from the date of the second publication of the notice made pursuant to paragraph "a" or thirty days from the date of mailing of the notice pursuant to paragraph "b", and that any claim against the trust assets will be forever barred unless proof of a creditor's claim is mailed to the trustee by certified mail, return receipt requested, within the later to occur of four months from the second publication of notice pursuant to paragraph "a" or thirty days from the date of mailing the notice pursuant to paragraph "b", if required. A person who is not entitled to receive a mailed notice or who does not make a claim within the appropriate period is forever barred from asserting any claim against the trust or the trust assets.

3. If notice is published pursuant to paragraph "a",<sup>1</sup> claims of creditors that are discovered or which become reasonably ascertainable after the end of the notice period are barred.

<sup>1</sup> According to enrolled Act; the phrase 'subsection 2, paragraph "a"' probably intended

4. If notice is not published and given as provided in this section, the right to challenge the trust and file claims against the trust assets are limited as provided in sections 633A.3108 and 633A.3109.

5. The notice described in subsection 2 shall be substantially in the following form:

To all persons regarding ....., deceased, who died on or about ....., (year) ..... You are hereby notified that ..... is the trustee of the ..... Trust.

Any action to contest the validity of the trust must be brought in the District Court of .... County, Iowa, within the later to occur of four months from the date of second publication of this notice, or thirty days from the date of mailing this notice to all heirs of the decedent settlor and the spouse of the decedent settlor whose identities are reasonably ascertainable. Any suit not filed within this period shall be forever barred.

Notice is further given that any person or entity possessing a claim against the trust must mail proof of the claim to the trustee at the address listed below via certified mail, return receipt requested, by the later to occur of four months from the second publication of this notice or thirty days from the date of mailing this notice if required, or the claim shall be forever barred, unless paid or otherwise satisfied.

Dated this ..... day of ....., (year) .....  
..... Trust

.....  
Trustee  
Address: .....  
.....

Date of second publication ..... day of ....., (year) .....

6. The proof of claim must be in writing stating the party's name and address and describing the nature and amount of the claim, if ascertainable, and accompanied by an affidavit of the party or a representative of the party verifying the amount that is due, or when the amount will become due, that no payments have been made on the claim that are not credited, and that no offsets to the claim exist.

7. At any time after receipt by the trustee of a proof of claim, the trustee may give the party submitting the claim a written notice of disallowance of the claim. The notice shall be given by certified mail, return receipt requested, addressed to the party at the address stated in the claim, and to the attorney of record of the party submitting the claim. Such notice of disallowance shall advise the party submitting the claim that the claim has been disallowed and will be forever barred unless suit is filed against the trustee to enforce the claim within thirty days of the date of the mailing of the notice of disallowance. If suit is filed, the provisions in chapter 633 relating to actions to enforce a claim shall apply with the trust and trustee substituted for the estate and personal representative.

8. The trustee and creditor may agree to extend the limitations period for filing an action to enforce the claim. If the creditor fails to properly file its claim within the established time period or bring an action to enforce its claim within the established time period, the creditor's claim shall be forever barred.

9. The trustee shall give notice to the beneficiaries of the trust as required by section 633A.4213.

10. The trustee shall give notice to the spouse of the right to elect to take an elective share of the trust as required by section 633.237 and the right to a spousal allowance as required by section 633A.3114.

11. The trustee shall give notice to eligible children not residing with the surviving spouse of their right to an allowance as required by section 633A.3115.

Sec. 22. Section 633A.3111, Code 2011, is amended by striking the section and inserting in lieu thereof the following:

**633A.3111 Rights of trustee regarding claims in a probate administration.**

1. If administration of an estate is commenced in which a revocable trust or a trust in which a holder had at the date of the holder's death a presently exercisable general power of appointment could be held responsible for the payment of debts of the settlor or holder and

the charges of the settlor's or holder's estate, the trustee of the trust shall be an interested party in the administration of the estate.

2. The trustee shall receive notice of all potential claims against the trust assets from the personal representative of the estate and must either authorize the payments for which the trust may be found liable or be given the opportunity to dispute or defend any such payment.

3. If debts of the settlor are paid from trust property, the trustee or trust beneficiaries shall have a right to be reimbursed from the settlor's estate for such payment until the final report of the settlor's estate has been approved, unless the debts have been barred from being collected from the estate by notice pursuant to section 633.230 or 633.304.

Sec. 23. Section 633A.3112, Code Supplement 2011, is amended by striking the section and inserting in lieu thereof the following:

**633A.3112 Trustee's liability for distributions.**

1. A trustee who distributes trust assets without making adequate provisions for the payment of debts and charges that are known or reasonably ascertainable at the time of the distribution shall be jointly and severally liable with the beneficiaries to the extent of the distributions made.

2. A trustee shall be entitled to indemnification from the beneficiaries for all amounts paid for debts and charges under this section, to the extent of distributions made.

Sec. 24. NEW SECTION. **633A.3113 Definitions — revocable trusts.**

As used in this subchapter:

1. "*Charges*" means the same as defined in section 633.3.
2. "*Costs of administration*" means the same as defined in section 633.3.
3. "*Debts*" means the same as defined in section 633.3.

Sec. 25. NEW SECTION. **633A.3114 Allowance to surviving spouse.**

1. Unless a personal representative has been appointed for the settlor's estate, following the death of a settlor of a revocable trust, the trustee of such revocable trust shall mail a written notice to the surviving spouse pursuant to section 633.40, subsection 5, notifying the surviving spouse of the surviving spouse's right to submit an application to the trustee, within four months of service of the notice, for a support allowance for a period of twelve months following the death of the settlor, and for a support allowance for the settlor's dependents who reside with the spouse for the same period of time.

2. Upon receipt of an application for a support allowance, the trustee may set off and pay to the surviving spouse a sufficient amount of trust assets the trustee deems reasonable for the proper support of the surviving spouse for the period of twelve months following the death of the settlor. The trustee shall take into consideration the station of life of the settlor's surviving spouse, the assets and condition of the trust, the probate and nonprobate assets received by the surviving spouse by reason of the settlor's death, and the income and other resources of the surviving spouse. The allowance may also include such additional amount as the trustee deems reasonable for the proper support, during such period, of the dependents of the settlor who reside with the surviving spouse. If an application for a support allowance 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 settlor who reside with the surviving spouse, the surviving spouse and dependents of the settlor shall be deemed to have waived the right to apply for a support allowance during the administration of the trust.

3. A surviving spouse who qualifies for a support allowance under this section may waive the right to such allowance for the surviving spouse and for the dependents of the settlor who reside with the surviving spouse by submitting an affidavit with the trustee acknowledging receipt of notice and irrevocably waiving the right to an allowance under this section.

4. The opening of an estate for the settlor shall terminate the right of the surviving spouse to apply for a spousal allowance from the trustee of the settlor's revocable trust or to receive additional support payments from the trust unless the personal representative consents to a continuation of the support payments. If a spousal allowance has been paid from trust assets, the trustee or trust beneficiaries shall have a right subject to court approval to be reimbursed

from the settlor's estate for such payment until the final report of the settlor's estate has been approved.

**Sec. 26. NEW SECTION. 633A.3115 Allowance to children who do not reside with surviving spouse.**

1. If the trustee is required to give notice under section 633A.3114, the trustee shall also mail, pursuant to section 633.40, subsection 5, to the legal guardian of each child qualified under subsection 2 and to each such child or the guardian ad litem for such child if necessary, who has no legal guardian, a written notice regarding the right to request an allowance. The notice shall inform the child and the child's guardian, if applicable, of the right to submit an application to the trustee within four months after service of the notice, for a support allowance for a period of twelve months following the decedent's death.

2. Upon receipt of an application for a support allowance, the trustee may make an allowance of an amount the trustee deems reasonable in light of the assets and condition of the trust, to provide for proper support during the period of twelve months following the decedent's death to a child of the decedent who does not reside with the settlor's surviving spouse and is any of the following:

a. Less than eighteen years of age.

b. Between the ages of eighteen and twenty-two years who is any of the following:

(1) Regularly attending an accredited school in pursuance of a course of study leading to a high school diploma or its equivalent.

(2) Regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs.

(3) Is, in good faith, a full-time student in a college, university, or community college.

(4) Has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

c. Is a child of any age and dependent because of physical or mental disability.

3. If an application for a support allowance has not been filed within four months after service of the notice by or on behalf of the child qualifying for an allowance under subsection 2, the child shall be deemed to have waived the right to an allowance under this section. A child who qualifies for an allowance under this section or the guardian for the child, if any, may waive the child's right to such an allowance by submitting an affidavit to the trustee acknowledging receipt of notice and irrevocably waiving the child's right to an allowance under this section.

4. The opening of an estate for the settlor shall terminate the right of a child to apply for an allowance from the trustee of the settlor's revocable trust or to receive additional support payments from the trust unless the personal representative consents to a continuation of support payments. If an allowance has been paid from trust assets, the trustee or trust beneficiaries shall have a right to be reimbursed subject to court approval from the settlor's estate for such payment until the final report of the settlor's estate has been approved.

**Sec. 27.** Section 633A.4213, subsection 5, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

5. a. If the trustee has refused, after written request, to provide an accounting or other required notice under this section to a qualified beneficiary, the court may do any of the following:

(1) Order the trustee to comply with the trustee's duties under this section.

(2) Assess costs, including attorney fees, against the trustee personally.

b. Except as provided in paragraph "a", the only consequence to a trustee's failure to provide the required accounting or notice is that the trustee shall not be able to rely upon the statute of limitations under section 633A.4504.

**Sec. 28.** Section 633A.4504, Code 2011, is amended to read as follows:

**633A.4504 Limitation of action against trustee.**

1. Unless previously barred by adjudication, consent, or other limitation, a claim against a trustee for breach of trust is barred as to a beneficiary who has received a ~~final account an~~ accounting pursuant to section 633A.4213 or other report that adequately disclosing discloses

the existence of the claim, unless a proceeding to assert the claim is commenced within one year after the earlier of the receipt of the accounting or report of the termination of the trust relationship between the trustee and beneficiary. An account accounting or report adequately discloses the existence of a claim if it provides sufficient information so that the beneficiary knows of the claim or reasonably should have inquired into its existence.

2. For the purpose of subsection 1, a beneficiary is deemed to have received an account accounting or report in the following instances:

a. In the case of an adult who is reasonably capable of understanding the account accounting or report, if it is received by the adult personally.

b. In the case of an adult who is not reasonably capable of understanding the account accounting or report, if it is received by the adult's legal representative, including a guardian ad litem or other person appointed for this purpose.

c. In the case of a minor, if it is received by the minor's guardian or conservator or, if the minor does not have a guardian or conservator, if it is received by a parent of the minor who does not have a conflict of interest.

3. Any claim for breach of trust against a trustee who has presented a ~~final~~ an accounting or report to a beneficiary more than one year prior to July 1, ~~2000~~ 2011, shall be time barred unless some exception stated in this section applies which tolls the statute. Any claim arising under this section within one year of July 1, ~~2000~~ 2011, shall be time barred after one year unless an exception applies to toll the statute.

4. For the purposes of this section, "report" means a document including but not limited to a letter, delivered by or on behalf of the trustee to a beneficiary of the trust.

Sec. 29. NEW SECTION. 633A.4606 Interest as general partner.

1. Except as otherwise provided in subsection 3 or unless personal liability is imposed in the contract, a trustee who holds an interest as a general partner in a general or limited partnership is not personally liable on a contract entered into by the partnership after the trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a statement previously filed pursuant to section 486A.303 or 488.201.

2. Except as otherwise provided in subsection 3, a trustee who holds an interest as a general partner is not personally liable for torts committed by the partnership or for obligations arising from ownership or control of the interest unless the trustee is personally at fault.

3. The immunity provided by this section does not apply if an interest in the partnership is held by the trustee in a capacity other than that of trustee or is held by the trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse of any of the trustee's descendants, siblings, or parents.

4. If the trustee of a revocable trust holds an interest as a general partner, the settlor shall be personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

Sec. 30. Section 635.7, Code 2011, is amended to read as follows:

**635.7 Report and inventory — value and conversion.**

1. The personal representative is required to file the report and inventory for which provision is made in section 633.361, including all probate and nonprobate assets. This chapter does not exempt the personal representative from complying with the requirements of section 422.27, 450.22, 450.58, 633.480, or 633.481, and the administration of an estate whether converted to or from a small estate shall be considered one proceeding pursuant to section 633.330.

2. ~~If the~~ The report and inventory and report shows shall show the gross value of probate assets subject to the jurisdiction of this state ~~which exceed.~~

3. If the gross value of probate assets subject to the jurisdiction of this state exceeds the amount permitted for a small estate under section 635.1, the estate shall be administered as provided in chapter 633.

3. ~~4.~~ If the inventory report and inventory in an estate probated pursuant to chapter 633 indicates shows the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1, the estate shall be administered

as a small estate upon the filing of a statement by the personal representative that the estate is a small estate.

4. 5. Other interested parties may convert proceedings from a small estate to a regular estate or from a regular estate to a small estate only upon good cause shown with approval from the court.

Sec. 31. Section 635.8, Code 2011, is amended to read as follows:

**635.8 Closing by sworn statement.**

1. The personal representative shall file with the court a closing statement and proof of service thereof within a reasonable time from the date of issuance of the letters of appointment, ~~and the~~. The closing statement shall be verified or affirmed under penalty of perjury, stating all of the following:

a. To the best knowledge of the personal representative, the gross value of the probate assets subject to the jurisdiction of this state does not exceed the amount permitted under section 635.1.

b. The estate has been fully administered and will be ~~disbursed and~~ distributed to persons entitled to the estate thereto if no objection is filed to the closing statement ~~after the requisite time period has expired as provided in subsection 2~~ and the accounting and proposed distribution within thirty days after service thereof.

c. ~~A description of the disbursement and~~ An accounting and proposed distribution of the estate including an accurate description of all the real estate of which the decedent died seized, stating the nature and extent of the interest in the real estate and its disposition.

d. A copy of the closing statement and a notice of an opportunity to object to and request a hearing has been sent ~~by proper notice~~, as provided in section 633.40, to all interested parties.

e. ~~The personal representative has complied with~~ A statement as to whether or not all statutory requirements pertaining to taxes have been complied with, including whether federal estate tax was paid or a return was filed, whether Iowa inheritance tax was paid or a return was filed, whether the decedent's final personal income taxes were filed, whether fiduciary income tax returns for the estate were filed, and due has been paid, whether a lien continues to exist for any federal or state estate tax, and whether inheritance tax was paid or a tax return was filed in this state.

f. The amount of fees to be paid to the personal representative and the personal representative's attorney with the appropriate documentation showing compliance with subsection 4.

2. If no actions or proceedings involving the estate are pending in the court thirty days after ~~notice~~ service of the closing statement is filed, ~~the~~ the estate shall be distributed according to the closing statement.

3. The estate shall close and the personal representative shall be discharged ~~after distribution~~ 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~~ an affidavit of mailing or other proof of service of the closing statement and a statement of asset distribution by the personal representative.

b. ~~An additional thirty days have passed after notice of the~~ Sixty days after the filing of the closing statement is filed and an affidavit of mailing or other proof of service thereof.

3. 4. The closing statement shall include a statement as to the amount of fees to be paid for services rendered by the personal representative and the personal representative's attorney in administration of the estate. The fees for the personal representative shall not exceed three percent of the gross value of the probate assets of the estate, unless the personal representative itemizes the personal representative's services to the estate. The personal representative's attorney shall be paid reasonable fees as approved by the court or as agreed to in writing by the personal representative at or before and such writing shall be executed by the time of filing the probate inventory ~~or as approved by the court~~. All interested parties shall have the opportunity to object and request a hearing as to all fees reported in the closing statement.

4. 5. 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 section 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. 32. APPLICABILITY.**

1. The sections of this Act amending sections 422.7, 450.4, 633.237, 633.246, 633.374, 633.375, 633.376, 633.377 and 633.471 apply to estates of decedents dying on or after July 1, 2012.

2. The section of this Act amending section 633.561 applies to all judicial proceedings on or after July 1, 2012, in which an order for the appointment of a guardian is sought or has been issued.

3. The sections of this Act amending or enacting sections 633A.3104, 633A.3108, 633A.3109, 633A.3110, 633A.3112, 633A.3113, 633A.3114, and 633A.3115 apply to trusts of settlors dying on or after July 1, 2012.

4. The sections of this Act amending or enacting sections 633A.2203 and 633A.4606 apply to trusts in existence on or after July 1, 2012.

5. The section of this Act amending section 633A.3102 applies to revocable trusts and powers of attorney in existence on or after July 1, 2012.

Approved May 25, 2012

## **CHAPTER 1124**

### **URBAN RENEWAL AND TAXATION**

*H.F. 2460*

**AN ACT** relating to Iowa's urban renewal law and incremental taxes by modifying provisions relating to divisions of revenue, modifying provisions relating to the approval of urban renewal plans and projects and approval of the use of certain local sales and services tax revenue, requiring certain reporting and auditing, and including applicability provisions.

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

Section 1. Section 2.48, subsection 3, paragraph b, subparagraph (2), Code 2011, is amended by striking the subparagraph.

Sec. 2. Section 2.48, subsection 3, paragraph c, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Property tax revenue divisions for urban renewal areas under section 403.19.

Sec. 3. Section 11.11, Code Supplement 2011, is amended to read as follows:

**11.11 Scope of audits.**

The written report of the audit of a governmental subdivision shall include the auditor's opinion as to whether a governmental subdivision's financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles or with an other comprehensive basis of accounting. As a part of conducting an audit of a governmental subdivision, an evaluation of internal control and tests for compliance with laws and regulations shall be performed. As part of conducting an audit of a governmental subdivision, an examination of the governmental subdivision's compliance with the reporting requirements of section 331.403, subsection 3, or 384.22, subsection 2, if applicable, shall be performed.

Sec. 4. Section 24.21, Code 2011, is amended to read as follows:

**24.21 Transfer of inactive funds.**

Subject to the provisions of any law relating to municipalities, when the necessity for maintaining any fund of the municipality has ceased to exist, and a balance remains in said fund, the certifying board or levying board, as the case may be, shall so declare by resolution, and upon such declaration, such balance shall forthwith be transferred to the fund or funds of the municipality designated by such board, unless other provisions have been made in creating such fund in which such balance remains. In the case of a special fund created by a city or a county under section 403.19, such balance remaining in the fund shall be allocated to and paid into the funds for the respective taxing districts as taxes by or for the taxing district into which all other property taxes are paid.

Sec. 5. Section 331.403, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

3. a. Each county that had an urban renewal plan and area in effect at any time during the most recently ended fiscal year shall complete for each such urban renewal plan and area and file with the department of management an urban renewal report by December 1 following the end of such fiscal year. Each report shall be approved by the affirmative vote of a majority of the board and be prepared in the format and submitted electronically pursuant to the instructions prescribed by the department of management in consultation with the legislative services agency.

b. The report required under this subsection shall include all of the following as of June 30 of the most recently ended fiscal year or the information for such fiscal year, as applicable:

(1) Whether the urban renewal area is determined by the county to be a slum area, blighted area, economic development area or a combination of those areas, and the date such determination was made.

(2) A map clearly identifying the boundaries of the urban renewal area.

(3) A copy of the ordinance providing for a division of revenue in the urban renewal area under section 403.19.

(4) A copy of the urban renewal plan adopted for the urban renewal area, the date of each amendment to the plan, and a copy of such amendment.

(5) A list and description of all urban renewal projects within the urban renewal area that are in process and all urban renewal projects that were completed during the fiscal year.

(6) A description of each expenditure during the fiscal year from the county's special fund created in section 403.19. Each such expenditure shall be classified by the county according to categories established by the department of management and shall be designated as corresponding to the specific loan, advance, indebtedness, or bond which qualifies for payment from the special fund under section 403.19. Each such expenditure shall also be designated as corresponding to one or more specific urban renewal projects. This description shall not be required for the report required to be filed on or before December 1, 2012.

(7) The amount of loans, advances, indebtedness, or bonds, including interest negotiated on such loans, advances, indebtedness, or bonds, which qualify for payment from the special fund created in section 403.19, and which were incurred or issued during the fiscal year. Each such loan, advance, debt, or bond shall be classified by the county according to categories established by the department of management and shall be designated as corresponding to one or more specific urban renewal projects.

(8) The amount of loans, advances, indebtedness, or bonds that remain unpaid at the close of the fiscal year, and which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds.

(9) The total amount of property taxes that were exempted, rebated, refunded, or reimbursed by the county, used to fund a grant provided by the county, or directly paid by the county during the fiscal year for property in the urban renewal area using moneys in the county's special fund created in section 403.19 and such amounts agreed to by the county for future fiscal years.

(10) A list of all properties, including the owner of such properties, and the amount of property taxes due and payable for the fiscal year that were exempted, rebated, refunded, or reimbursed by the county, used to fund a grant provided by the county, or directly paid by

the county during the fiscal year using moneys in the county's special fund created in section 403.19 and information for such amounts agreed to by the county for future fiscal years.

(11) The balance of the county's special fund created in section 403.19.

(12) The aggregate assessed value of the taxable property in the urban renewal area, as shown on the assessment roll used to calculate the amount of taxes under section 403.19, subsection 1, for the fiscal year.

(13) The aggregate assessed value of each classification of taxable property located in the urban renewal area.

(14) That portion of the assessed value of all taxable property located in the urban renewal area that was used to calculate the amount of excess taxes under section 403.19, subsection 2.

(15) The amount of taxes determined under section 403.19, subsection 2, in excess of the amount required to pay the applicable loans, advances, indebtedness, and bonds, if any, and interest thereon, for the fiscal year that was paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(16) Interest or earnings received by each urban renewal area during the fiscal year on amounts deposited into the special fund created in section 403.19 and the net proceeds during the fiscal year from the sale of assets purchased using amounts deposited into the special fund created in section 403.19.

(17) For each taxing district for which the county divided taxes, the amount of taxes determined under section 403.19, subsection 2, that, in lieu of allocation to the taxing district, were deposited into the county's special fund during the fiscal year.

(18) The amount of expenditures by the county during the fiscal year for the purpose of providing or aiding in the provision of public improvements related to housing and residential development.

(19) The amount of assistance to low and moderate income housing provided by the county under section 403.22 during the fiscal year if applicable.

(20) When required as part of an urban renewal development or redevelopment agreement that includes the use of incremental taxes collected pursuant to section 403.19, subsection 2, the total number of jobs to be created, the wages associated with those jobs, the total private capital investment, and the total cost of the public infrastructure constructed.

(21) All other additional information or documentation relating to a county's urban renewal activities or use of divisions of revenue under chapter 403 deemed relevant by the department of management, in consultation with the county finance committee.

c. By December 1, 2012, the department of management, in collaboration with the legislative services agency, shall make publicly available on an internet site a searchable database of all such information contained in the reports required under this subsection. Reports from previous years shall be retained by the department and shall continue to be available and searchable on the internet site.

d. The legislative services agency, in consultation with the department of management, shall annually prepare a report for submission to the governor and the general assembly that summarizes and analyzes the information contained in the reports submitted under this subsection, section 357H.9, subsection 2, and section 384.22, subsection 2. The report prepared by the legislative services agency shall be submitted not later than February 15 following the most recently ended fiscal year for which the reports were filed.

e. For purposes of this subsection, "indebtedness" includes but is not limited to written agreements whereby the county agrees to exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund created in section 403.19, and bonds, notes, or other obligations that are secured by or subject to repayment from moneys appropriated by the county from moneys in the special fund created in section 403.19.

Sec. 6. Section 331.403, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The annual financial report shall be prepared on forms and pursuant to instructions prescribed by the department of management and shall be filed with the department of management. The urban renewal report shall be filed with the department of management. Each report must be filed prior to the publication and adoption of the county budget under section 331.434 for the fiscal year beginning July 1 following

the date such reports are due. If such reports are not filed pursuant to the requirements of this section, the department of management shall not certify the county's taxes back to the county auditor under section 24.17.

Sec. 7. Section 331.434, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Annually, the board of each county, subject to section 331.403, subsection 4, sections 331.423 through 331.426, and other applicable state law, shall prepare and adopt a budget, certify taxes, and provide appropriations as follows:

Sec. 8. Section 331.434, subsection 1, Code 2011, is amended to read as follows:

1. The budget shall show the amount required for each class of proposed expenditures, a comparison of the amounts proposed to be expended with the amounts expended for like purposes for the two preceding years, the revenues from sources other than property taxation, and the amount to be raised by property taxation, in the detail and form prescribed by the director of the department of management. For each county that has established an urban renewal area, the budget shall include estimated and actual tax increment financing revenues and all estimated and actual expenditures of the revenues, proceeds from debt and all estimated and actual expenditures of the debt proceeds, ~~and identification of any entity receiving a direct payment of taxes funded by tax increment financing revenues and shall include the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds.~~ For purposes of this subsection, "*indebtedness*" includes written agreements whereby the county agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each county reporting. The county finance committee, in consultation with the department of management and the legislative services agency, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. ~~The department shall make the information available by electronic means.~~

Sec. 9. Section 357H.9, Code 2011, is amended to read as follows:

**357H.9 Incremental property taxes.**

1. The board of trustees shall provide by resolution that taxes levied on the taxable property in a rural improvement zone each year by or for the benefit of the state, city, county, school district, or other taxing district after the effective date of the resolution shall be divided as provided in section 403.19, subsections 1 and 2, in the same manner as if the taxable property in the rural improvement zone was taxable property in an urban renewal area and the resolution was an ordinance within the meaning of those subsections. The taxes received by the board of trustees shall be allocated to, and when collected be paid into, a special fund and may be irrevocably pledged by the trustees to pay the principal of and interest on the certificates, contracts, or other obligations approved by the board of trustees to finance or refinance, in whole or in part, an improvement project. As used in this section, "*taxes*" includes, but is not limited to, all levies on an ad valorem basis upon land or real property located in the rural improvement zone.

2. a. Each board of trustees that has by resolution provided for a division of revenue in the rural improvement zone during the most recently ended fiscal year shall complete and file with the department of management a tax increment financing report by December 1 following the end of such fiscal year. The report shall be approved by the affirmative vote of a majority of the board of trustees and be prepared in the format and submitted electronically pursuant to the instructions prescribed by the department of management in consultation with the legislative services agency.

b. The report required under this subsection shall include substantially the same information required for counties under section 331.403, subsection 3, as of June 30 of the most recently ended fiscal year or the information for such fiscal year, as applicable.

c. By December 1, 2012, the department of management, shall make publicly available on an internet site a searchable database of all such information contained in the reports required under this subsection. Reports from previous years shall be retained by the department and shall continue to be available and searchable on the internet site.

d. A board of trustees that fails to satisfy the requirements of this subsection shall have all future incremental taxes withheld from payment into the rural improvement zone's special fund until such requirements are met.

Sec. 10. Section 384.16, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Annually, a city that has satisfied the requirements of section 384.22, subsection 3, shall prepare and adopt a budget, and shall certify taxes as follows:

Sec. 11. Section 384.16, subsection 1, paragraphs b and c, Code 2011, are amended to read as follows:

b. A budget must show comparisons between the estimated expenditures in each program in the following year, the latest estimated expenditures in each program in the current year, and the actual expenditures in each program from the annual ~~report reports~~ as provided in section 384.22, or as corrected by a subsequent audit report. Wherever practicable, as provided in rules of the committee, a budget must show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years. For each city that has established an urban renewal area, the budget shall include estimated and actual tax increment financing revenues and all estimated and actual expenditures of the revenues, proceeds from debt and all estimated and actual expenditures of the debt proceeds, ~~and identification of any entity receiving a direct payment of taxes funded by tax increment financing revenues and shall include the total amount of loans, advances, indebtedness, or bonds outstanding at the close of the most recently ended fiscal year, which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds. The amount of loans, advances, indebtedness, or bonds shall be listed in the aggregate for each city reporting. The city finance committee, in consultation with the department of management and the legislative services agency, shall determine reporting criteria and shall prepare a form for reports filed with the department pursuant to this section. The department shall make the information available by electronic means.~~

~~c. For purposes of this subsection, "indebtedness" includes written agreements whereby the city agrees to suspend, abate, exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund.~~

Sec. 12. Section 384.22, Code 2011, is amended to read as follows:

**384.22 Annual ~~report reports~~ — financial report — urban renewal report.**

1. Not later than December 1 of each year, a city shall publish an annual financial report as provided in section 362.3 containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the city, and all expenditures, the current public debt of the city, and the legal debt limit of the city for the current fiscal year. The annual financial report shall be prepared on forms and pursuant to instructions prescribed by the auditor of state. A copy of this report must be filed with the auditor of state not later than December 1 of each year.

A city that fails to meet the filing deadline imposed by this section shall have withheld from payments to be made to the county which are allocated to the city pursuant to section 425.1 an amount equal to five cents per capita until the annual report is filed with the auditor of state.

2. a. Each city that had an urban renewal plan and area in effect at any time during the most recently ended fiscal year shall complete for each such urban renewal plan and area and file with the department of management an urban renewal report by December 1 following the end of such fiscal year. Each report shall be approved by the affirmative vote of a majority of the city council and be prepared in the format and submitted electronically pursuant to the

instructions prescribed by the department of management in consultation with the legislative services agency.

b. The report required under this subsection shall include all of the following as of June 30 of the most recently ended fiscal year:<sup>1</sup>

(1) Whether the urban renewal area is determined by the city to be a slum area, blighted area, economic development area or a combination of those areas, and the date such determination was made.

(2) A map clearly identifying the boundaries of the urban renewal area.

(3) A copy of the ordinance providing for a division of revenue in the urban renewal area under section 403.19.

(4) A copy of the urban renewal plan adopted for the urban renewal area, the date of each amendment to the plan, and a copy of such amendment.

(5) A list and description of all urban renewal projects within the urban renewal area that are in process and all urban renewal projects that were completed during the fiscal year.

(6) A description of each expenditure during the fiscal year from the city's special fund created in section 403.19. Each such expenditure shall be classified by the city according to categories established by the department of management and shall be designated as corresponding to the specific loan, advance, indebtedness, or bond which qualifies for payment from the special fund under section 403.19. Each such expenditure shall also be designated as corresponding to one or more specific urban renewal projects. This description shall not be required for the report required to be filed on or before December 1, 2012.

(7) The amount of loans, advances, indebtedness, or bonds, including interest negotiated on such loans, advances, indebtedness, or bonds, which qualify for payment from the special fund created in section 403.19, and which were incurred or issued during the fiscal year. Each such loan, advance, debt, or bond shall be classified by the city according to categories established by the department of management and shall be designated as corresponding to one or more specific urban renewal projects.

(8) The amount of loans, advances, indebtedness, or bonds that remain unpaid at the close of the fiscal year, and which qualify for payment from the special fund created in section 403.19, including interest negotiated on such loans, advances, indebtedness, or bonds.

(9) The total amount of property taxes that were exempted, rebated, refunded, or reimbursed by the city, used to fund a grant provided by the city, or directly paid by the city during the fiscal year for property in the urban renewal area using moneys in the city's special fund created in section 403.19 and such amounts agreed to by the city for future fiscal years.

(10) A list of all properties, including the owner of such properties, and the amount of property taxes due and payable for the fiscal year that were exempted, rebated, refunded, or reimbursed by the city, used to fund a grant provided by the city, or directly paid by the city during the fiscal year using moneys in the city's special fund created in section 403.19 and information for such amounts agreed to by the city for future fiscal years.

(11) The balance of the city's special fund created in section 403.19.

(12) The aggregate assessed value of the taxable property in the urban renewal area, as shown on the assessment roll used to calculate the amount of taxes under section 403.19, subsection 1, for the fiscal year.

(13) The aggregate assessed value of each classification of taxable property located in the urban renewal area.

(14) That portion of the assessed value of all taxable property located in the urban renewal area that was used to calculate the amount of excess taxes under section 403.19, subsection 2.

(15) The amount of taxes determined under section 403.19, subsection 2, in excess of the amount required to pay the applicable loans, advances, indebtedness, and bonds, if any, and interest thereon, for the fiscal year that was paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(16) Interest or earnings received by each urban renewal area during the fiscal year on amounts deposited into the special fund created in section 403.19 and the net proceeds during the fiscal year from the sale of assets purchased using amounts deposited into the special fund created in section 403.19.

<sup>1</sup> See chapter 1133, §99 herein

(17) For each taxing district for which the city divided taxes, the amount of taxes determined under section 403.19, subsection 2, that, in lieu of allocation to the taxing district, were deposited into the city's special fund during the fiscal year.

(18) The amount of expenditures by the city during the fiscal year for the purpose of providing or aiding in the provision of public improvements related to housing and residential development.

(19) The amount and types of assistance to low and moderate income housing provided by the city under section 403.22 during the fiscal year if applicable.

(20) When required as part of an urban renewal development or redevelopment agreement that includes the use of incremental taxes collected pursuant to section 403.19, subsection 2, the total number of jobs to be created, the wages associated with those jobs, the total private capital investment, and the total cost of the public infrastructure constructed.

(21) All other additional information or documentation relating to a city's urban renewal activities or use of divisions of revenue under chapter 403 deemed relevant by the department of management, in consultation with the city finance committee.

c. By December 1, 2012, the department of management, in collaboration with the legislative services agency, shall make publicly available on an internet site a searchable database of all such information contained in the reports required under this subsection. Reports from previous years shall be retained by the department and shall continue to be available and searchable on the internet site.

d. For purposes of this subsection, "indebtedness" includes but is not limited to written agreements whereby the city agrees to exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund created in section 403.19, and bonds, notes, or other obligations that are secured by or subject to repayment from moneys appropriated by the city from moneys in the special fund created in section 403.19.

3. The annual financial report shall be prepared on forms and pursuant to instructions prescribed by the auditor of state and shall be filed with the auditor of state. The urban renewal report shall be filed with the department of management. Each report must be filed prior to the publication and adoption of the city budget under section 384.16 for the fiscal year beginning July 1 following the date such reports are due. If such reports are not filed pursuant to the requirements of this section, the department of management shall not certify the city's taxes back to the county auditor under section 24.17.

Sec. 13. Section 403.5, subsection 2, paragraph b, Code 2011, is amended to read as follows:

b. (1) Prior to its approval of an urban renewal plan which provides for a division of revenue pursuant to section 403.19, the municipality shall mail the proposed plan by regular mail to the affected taxing entities. The municipality shall include with the proposed plan notification of a consultation to be held between the municipality and affected taxing entities prior to the public hearing on the urban renewal plan. If the proposed urban renewal plan or proposed urban renewal project within the urban renewal area includes the use of taxes resulting from a division of revenue under section 403.19 for a public building, including but not limited to a police station, fire station, administration building, swimming pool, hospital, library, recreational building, city hall, or other public building that is exempt from taxation, including the grounds of, and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to, such a building, the municipality shall include with the proposed plan notification an analysis of alternative development options and funding for the urban renewal area or urban renewal project and the reasons such options would be less feasible than the proposed urban renewal plan or proposed urban renewal project. A copy of the analysis required in this subparagraph shall be included with the urban renewal report required under section 331.403 or 384.22, as applicable, and filed by December 1 following adoption of the urban renewal plan or project.

(2) Each affected taxing entity may appoint a representative to attend the consultation. The consultation may include a discussion of the estimated growth in valuation of taxable property included in the proposed urban renewal area, the fiscal impact of the division of revenue on the affected taxing entities, the estimated impact on the provision of services by each of the

affected taxing entities in the proposed urban renewal area, and the duration of any bond issuance included in the plan. The designated representative of the affected taxing entity may make written recommendations for modification to the proposed division of revenue no later than seven days following the date of the consultation. The representative of the municipality shall, no later than seven days prior to the public hearing on the urban renewal plan, submit a written response to the affected taxing entity addressing the recommendations for modification to the proposed division of revenue.

Sec. 14. Section 403.5, subsection 5, Code 2011, is amended to read as follows:

5. a. An Except as otherwise provided in this subsection, an urban renewal plan may be modified at any time:—Provided, that if. However, if the urban renewal plan is modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification may be conditioned upon such approval of the owner, lessee, or successor in interest as the municipality may deem advisable, and in any event such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or a lessee’s or purchaser’s successor or successors in interest, may be entitled to assert.

b. A municipality shall not approve an urban renewal project for an urban renewal area unless the governing body has amended or modified the adopted urban renewal plan to include the urban renewal project.

c. The municipality shall comply with the notification, and consultation, and hearing process provided in this section prior to the approval of any amendment or modification to an adopted urban renewal plan if such amendment or modification provides for refunding bonds or refinancing resulting in an increase in debt service or provides for the issuance of bonds or other indebtedness, to be funded primarily in the manner provided in section 403.19, or if such amendment or modification provides for the inclusion and approval of an urban renewal project under paragraph “b”. However, the review and recommendation process conducted by the municipality’s planning commission under subsection 2, paragraph “a”, shall not be required when amending or modifying an adopted urban renewal plan.

d. Once determined to be a blighted area, a slum area, or an economic development area by a municipality, an urban renewal area shall not be redetermined by the municipality throughout the duration of the urban renewal area.

Sec. 15. Section 403.17, subsection 1, Code 2011, is amended to read as follows:

1. *“Affected taxing entity”* means a city, ~~community college,~~ county, or school district which levied or certified for levy a property tax on any portion of the taxable property located within the urban renewal area in the fiscal year beginning prior to the calendar year in which a proposed urban renewal plan is submitted to the local governing body for approval.

Sec. 16. Section 403.19, subsection 2, Code Supplement 2011, as amended by 2012 Iowa Acts, Senate File 2137,<sup>2</sup> section 6, is amended to read as follows:

2. a. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, an urban renewal project within the area, and to provide assistance for low and moderate income family housing as provided in section 403.22. However, except as provided in paragraph “b”, taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to section 298.2 and taxes for the instructional support program of a school district imposed pursuant to section 257.19, taxes for the payment of bonds and interest of each taxing district, and taxes imposed under section 346.27, subsection 22, related to joint county-city buildings shall be collected against all taxable property within the taxing district without limitation by the provisions of this subsection.

b. (1) However, all All or a portion of the taxes for the physical plant and equipment levy shall be paid by the school district to the municipality if the auditor certifies to the school

<sup>2</sup> Chapter 1060 herein



district by July 1 the amount of such levy that is necessary to pay the principal and interest on bonds issued by the municipality to finance an urban renewal project, which bonds were issued before July 1, 2001. Indebtedness incurred to refund bonds issued prior to July 1, 2001, shall not be included in the certification. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district.

(2) (a) All or a portion of the taxes for the instructional support program levy of a school district shall be paid by the school district to the municipality if the auditor, pursuant to subsection 11, certifies to the school district by July 1 the amount of such levy that is necessary to pay the principal and interest on bonds issued or other indebtedness incurred by the municipality to finance an urban renewal project if such bonds or indebtedness were issued or incurred on or before April 24, 2012. Such school district shall pay over the amount certified by November 1 and May 1 of the fiscal year following certification to the school district.

(b) In lieu of payment to a municipality under subparagraph division (a), a school district may by resolution of the board of directors of the school district approve at a regular meeting of the board of directors the payment of all or a portion of the instructional support program property tax revenue excluded under paragraph "a", to the municipality for the payment of principal and interest on such bonds issued or such other indebtedness incurred by the municipality before, on, or after April 24, 2012.

c. Unless and until the total assessed valuation of the taxable property in an urban renewal area exceeds the total assessed value of the taxable property in such area as shown by the last equalized assessment roll referred to in subsection 1, all of the taxes levied and collected upon the taxable property in the urban renewal area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

d. In those instances where a school district has entered into an agreement pursuant to section 279.64 for sharing of school district taxes levied and collected from valuation described in this subsection and released to the school district, the school district shall transfer the taxes as provided in the agreement.

Sec. 17. Section 403.19, subsection 6, paragraph a, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) A municipality shall certify to the county auditor on or before December 1 the amount of loans, advances, indebtedness, or bonds, including interest negotiated on such loans, advances, indebtedness, or bonds, which qualify for payment from the special fund referred to in subsection 2, for each urban renewal area in the municipality, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year without further certification, except as provided in paragraphs "b" and "c", until the amount of the loans, advances, indebtedness, or bonds is paid to the special fund. Such certification shall include all amounts which qualify for payment from the special fund referred to in subsection 2 during the next fiscal year and all amounts which qualify for payment from the special fund in any subsequent fiscal year. If any loans, advances, indebtedness, or bonds are issued which qualify for payment from the special fund and which are in addition to amounts already certified, the municipality shall certify the amount of the additional obligations on or before December 1 of the year such obligations were issued, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year without further certification, except as provided in paragraphs "b" and "c", until the amount of the loans, advances, indebtedness, or bonds is paid to the special fund. Any subsequent certifications under this subsection shall not include amounts previously certified.

Sec. 18. Section 403.19, subsection 6, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. For purposes of this section, “*indebtedness*” includes but is not limited to written agreements whereby the municipality agrees to exempt, rebate, refund, or reimburse property taxes, provide a grant for property taxes paid, or make a direct payment of taxes, with moneys in the special fund referred to in subsection 2, and bonds, notes, or other obligations that are secured by or subject to payment from moneys appropriated by the municipality from moneys in the special fund referred to in subsection 2.

Sec. 19. Section 403.19, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 9. a. Moneys from any source deposited into the special fund created in this section shall not be expended for or otherwise used in connection with an urban renewal project approved on or after the effective date of this Act that includes the relocation of a commercial or industrial enterprise not presently located within the municipality, unless one of the following occurs:

(1) The local governing body of the municipality where the commercial or industrial enterprise is currently located and the local governing body of the municipality where the commercial or industrial enterprise is proposing to relocate have either entered into a written agreement concerning the relocation of the commercial or industrial enterprise or have entered into a written agreement concerning the general use of economic incentives to attract commercial or industrial development within those municipalities.

(2) The local governing body of the municipality where the commercial or industrial enterprise is proposing to relocate finds that the use of deposits into the special fund for an urban renewal project that includes such a relocation is in the public interest. A local governing body’s finding that an urban renewal project that includes a commercial or industrial enterprise relocation is in the public interest shall include written verification from the commercial or industrial enterprise that the enterprise is actively considering moving all or a part of its operations to a location outside the state and a specific finding that such an out-of-state move would result in a significant reduction in either the enterprise’s total employment in the state or in the total amount of wages earned by employees of the enterprise in the state.

*b.* For the purposes of this subsection, “*relocation*” means the closure or substantial reduction of an enterprise’s existing operations in one area of the state and the initiation of substantially the same operation in the same county or a contiguous county in the state. This subsection does not prohibit an enterprise from expanding its operations in another area of the state provided that existing operations of a similar nature are not closed or substantially reduced.

Sec. 20. Section 403.19, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. Interest or earnings received on amounts deposited into the special fund created in this section and the net proceeds from the sale of assets purchased using amounts deposited into the special fund created in this section shall be credited to the special fund and shall be used solely for the purposes specified in this section.

*b.* Moneys in the special fund created in this section shall not be transferred to another fund of the municipality except for the payment of loans, advances, indebtedness, or bonds that qualify for payment from the special fund.

Sec. 21. Section 403.19, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 11. For any fiscal year, a municipality may certify to the county auditor for instructional support program property tax revenue necessary for payment of principal and interest on bonds issued or other indebtedness incurred for an urban renewal project on or before April 24, 2012. If for any fiscal year a municipality fails to certify to the county auditor by July 1 the amount of instructional support program property tax revenue necessary for payment of principal and interest on such bonds, as provided in subsection

2, the school district is not required to pay over the revenue to the municipality. If a school district and a municipality are unable to agree on the amount of instructional support program property tax revenue certified by the municipality, either party may request that the state appeal board review and finally pass upon the amount that may be certified. Such appeals must be presented in writing to the state appeal board no later than July 31 following certification. The burden shall be on the municipality to prove that the instructional support program property tax revenue is necessary to pay principal and interest on the applicable bonds. A final decision must be issued by the state appeal board no later than the following October 1.

**Sec. 22. NEW SECTION. 403.23 Audit — certificate of compliance.**

1. Each municipality that has established an urban renewal area that utilizes, or plans to utilize, revenues from the special fund created in section 403.19, shall make an annual certification of compliance with this section. For any year in which the municipality is audited in accordance with section 11.6, such certification shall be audited as part of the municipality's audit.

2. The certification required under this section shall include such information or documentation deemed appropriate by the auditor of state including but not limited to the information required to be reported under section 331.403, subsection 3, or section 384.22, subsection 2, as applicable.

3. The auditor of state shall adopt rules necessary to implement this section.

**Sec. 23.** Section 423B.10, subsection 2, Code 2011, is amended to read as follows:

2. a. An Upon approval by the board of supervisors of each applicable county pursuant to paragraph "b", 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.

b. A city shall not adopt an ordinance under paragraph "a" unless the board of supervisors of each county where the urban renewal area from which such local sales and services tax revenues are to be collected and used to fund urban renewal projects is located first adopts a resolution approving the collection and use of such local sales and services tax revenues.

**Sec. 24. IMPLEMENTATION OF ACT.** Section 25B.2, subsection 3, shall not apply to this Act.

**Sec. 25. APPLICABILITY.** The provisions of this Act prohibiting the department of management from certifying taxes back to the county auditor under section 24.17 if a county, under section 331.403, subsection 4, or a city, under section 384.22, subsection 3, fails to meet the reporting requirements of sections 331.403 and 384.22, as applicable, or the provision of this Act requiring that incremental taxes be withheld from payment to a rural improvement zone if the rural improvement zone fails to meet the reporting requirement of section 357H.9, subsection 2, shall not apply to the report required to be filed on or before December 1, 2012.

**Sec. 26. APPLICABILITY.** The provisions of this Act relating to the division of taxes for the instructional support program of a school district under section 403.19, as amended in this Act, apply to property taxes due and payable in fiscal years beginning on or after July 1, 2013.

**Sec. 27. APPLICABILITY.** The section of this Act amending section 423B.10 applies to city ordinances adopted under section 423B.10 on or after the effective date of this Act.

**CHAPTER 1125****SALES AND USE TAXES ON FARM MACHINERY AND EQUIPMENT***H.F. 2470*

**AN ACT** providing for sales and use taxes collected on farm machinery and equipment.

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

Section 1. Section 423.3, subsection 8, Code Supplement 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. For purposes of this subsection, the following items are exempt under paragraph "a" when used in agricultural production:

- (1) A snow blower that is to be attached to a self-propelled implement of husbandry.
- (2) A rear-mounted or front-mounted blade that is to be attached to or towed by a self-propelled implement of husbandry.
- (3) A rotary cutter that is to be attached to a self-propelled implement of husbandry.

Approved May 25, 2012

**CHAPTER 1126****ECONOMIC DEVELOPMENT PROGRAMS AND FUNDING***H.F. 2473*

**AN ACT** relating to economic development and the use of funds by establishing programs and funds, affecting programs, tax incentives, and project completion and other assistance administered by the economic development authority, by replacing references to the economic development fund and financial assistance program, and by providing spending authority, by providing for properly related matters, and including effective date and retroactive applicability provisions.

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

**DIVISION I****HIGH QUALITY JOBS PROGRAM AND RELATED ASSISTANCE AND PROGRAMS**

Section 1. Section 15.327, subsections 2, 5, 7, 8, 10, 12, and 13, Code Supplement 2011, are amended to read as follows:

2. ~~"Benefit" has the same meaning as defined in section 15G.101~~ means nonwage compensation provided to an employee. Benefits typically include medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, disability insurance coverage, and any other nonwage compensation as determined by the board.

5. ~~"Created job" has the same meaning as defined in section 15G.101~~ means a new, permanent, full-time equivalent position added to a business's payroll in excess of the business's base employment level.

7. ~~"Fiscal impact ratio" has the same meaning as defined in section 15G.101~~ means a ratio calculated by estimating the amount of taxes to be received from a business by the state and dividing the estimate by the estimated cost to the state of providing certain project completion assistance and tax incentives to the business, reflecting a ten-year period and expressed in terms of current dollars. For purposes of the program, "fiscal impact ratio" does not include taxes received by political subdivisions.

8. ~~"Maintenance period completion date" has the same meaning as defined in section 15G.101~~ means the date on which the maintenance period ends.

10. "Project completion date" has the same meaning as defined in section 15G.101 means the date by which a recipient of project completion assistance has agreed to meet all the terms and obligations contained in an agreement with the authority.

12. "Qualifying wage threshold" has the same meaning as defined in section 15G.101 means the laborshed wage for an eligible business.

13. "Retained job" has the same meaning as defined in section 15G.101 means a full-time equivalent position, in existence at the time an employer applies for financial assistance which remains continuously filled and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed.

Sec. 2. Section 15.327, Code Supplement 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Base employment level" means the number of full-time equivalent positions at a business, as established by the authority and a business using the business's payroll records, as of the date a business applies for incentives or project completion assistance under the program.

NEW SUBSECTION. 2A. "Business engaged in disaster recovery" means a business located in an area declared a disaster area by a federal official, that has sustained substantial physical damage, that has closed as the result of a natural disaster, and that has a plan for reopening that includes employing a substantial number of the employees the business employed before the natural disaster occurred.

NEW SUBSECTION. 6A. "Financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority pursuant to this chapter and includes but is not limited to assistance in the form of grants, loans, forgivable loans, and royalty payments.

NEW SUBSECTION. 7A. "Full-time equivalent position" means a non-part-time position for the number of hours or days per week considered to be full-time work for the kind of service or work performed for an employer. Typically, a full-time equivalent position requires two thousand eighty hours of work in a calendar year, including all paid holidays, vacations, sick time, and other paid leave.

NEW SUBSECTION. 7B. "Fund" means a fund created pursuant to section 15.335B.

NEW SUBSECTION. 7C. "Laborshed wage" means the wage level represented by those wages within two standard deviations from the mean wage within the laborshed area in which the eligible business is located, as calculated by the authority, by rule, using the most current covered wage and employment data available from the department of workforce development for the laborshed area.

NEW SUBSECTION. 7D. "Maintenance period" means the period of time between the project completion date and the maintenance period completion date.

NEW SUBSECTION. 9A. "Program support" means the services necessary for the efficient administration of this part, including the delivery of program services to eligible businesses. "Program support" may include the administrative costs of providing project assistance, conducting a statewide laborshed study in coordination with the department of workforce development, outreach to business and marketing of programs, the procurement of technical assistance, and the implementation of information technology.

NEW SUBSECTION. 9B. "Project completion assistance" means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, or expansion project.

NEW SUBSECTION. 10A. "Project completion period" means the period of time between the date financial assistance is awarded and the project completion date.

Sec. 3. Section 15.329, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

To be eligible to receive incentives or assistance under this part, a business shall meet all of the following requirements:

Sec. 4. Section 15.329, subsection 1, paragraph b, Code Supplement 2011, is amended to read as follows:

b. (1) ~~The business has not closed or substantially reduced operations in one area of this state and relocated substantially the same operations in a community in another area of this state shall not be solely relocating operations from one area of the state while seeking state or local incentives. A project that does not create new jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation. In determining whether a business is solely relocating operations for purposes of this subparagraph, the authority shall consider a letter of support for the move from the affected local community.~~

(2) ~~The business shall not be in the process of reducing operations in one community while simultaneously applying for assistance under the program. For purposes of this subparagraph, a reduction in operations within twelve months before or after an application for assistance is submitted to the authority shall be presumed to be a reduction in operations while simultaneously applying for assistance under the program.~~

(3) This paragraph shall not be construed to prohibit a business from expanding its operation in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

Sec. 5. Section 15.329, subsection 1, paragraph c, subparagraphs (1) and (2), Code Supplement 2011, are amended to read as follows:

(1) If the business is creating jobs, the business shall demonstrate that the jobs will pay at least one hundred percent of the qualifying wage threshold at the start of the project completion period, at least one hundred ~~thirty~~ twenty percent of the qualifying wage threshold by the project completion date, and at least one hundred ~~thirty~~ twenty percent of the qualifying wage threshold until the maintenance period completion date.

(2) If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least one hundred ~~thirty~~ twenty percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

Sec. 6. Section 15.329, subsection 2, Code Supplement 2011, is amended by striking the subsection.

Sec. 7. Section 15.330, Code Supplement 2011, is amended to read as follows:

**15.330 Agreement.**

A business shall enter into an agreement with the authority specifying the requirements that must be met to confirm eligibility pursuant to this part. The authority shall consult with the community during negotiations relating to the agreement. The agreement shall contain, at a minimum, the following provisions:

1. A business that is approved to receive incentives or assistance under this part shall, for the length of the agreement, certify annually to the authority the compliance of the business with the requirements of the agreement. If the business receives a local property tax exemption, the business shall also certify annually to the community the compliance of the business with the requirements of the agreement.

2. The repayment of incentives or financial assistance by the business if the business does not meet any of the requirements of this part or the resulting agreement.

3. If a business that is approved to receive incentives or assistance under this part experiences a layoff within the state or closes any of its facilities within the state, the authority shall have the discretion to reduce or eliminate some or all of the incentives or assistance. If a business has received incentives or assistance under this part and experiences a layoff within the state or closes any of its facilities within the state, the business may be subject to repayment of all or a portion of the incentives or financial assistance that it has received.

4. A project completion date, a maintenance period completion date, the number of jobs to be created or retained, or certain other terms and obligations ~~described in section 15G.112, subsection 1, paragraph "d",~~ as the authority deems necessary in order to make the requirements in project agreements uniform. The authority, with the approval of the board, may adopt rules as necessary for making such requirements uniform. Such rules shall be in compliance with the provisions of this part ~~and with the provisions of chapter 15G.~~

5. The amount and type of project completion assistance to be provided under section 15.335B.

6. The amount of matching funds to be received by a business from a city or county. The authority shall adopt by rule a formula for determining the amount of matching funds required under the program.

7. The business shall not be relocating or reducing operations as described in section 15.329, subsection 1, paragraph "b".

8. The proposed project shall not negatively impact other businesses in competition with the business being considered for assistance. The authority shall make a good-faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for incentives or assistance. The authority shall make a good-faith effort to determine the probability that the proposed incentives or assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for incentives or assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

9. A report submitted to the authority with its application describing all violations of environmental law or worker safety law within the last five years. If, upon review of the application, the authority finds that a business has a record of violations of the law, statutes, rules, or regulations that tends to show a consistent pattern, the authority shall not provide incentives or assistance to the business unless the authority finds either that the violations did not seriously affect public health, public safety, or the environment, or, if such violations did seriously affect public health, public safety, or the environment, that mitigating circumstances were present.

10. That the business shall only employ individuals legally authorized to work in this state. In addition to any and all other applicable penalties provided by current law, all or a portion of the incentives or assistance received under this part by a business that is found to knowingly employ individuals not legally authorized to work in this state is subject to recapture by the authority or by the department of revenue.

11. Any terms deemed necessary by the authority to effect compliance with the eligibility requirements of section 15.329.

**Sec. 8. NEW SECTION. 15.330A Maintenance of agreements.**

1. An eligible business receiving incentives or assistance under this part shall meet all terms and obligations in an agreement by the project completion date, but the board may for good cause extend the project completion date or otherwise amend an agreement.

2. During the maintenance period an eligible business receiving incentives or assistance under this part shall continue to comply with the terms and obligations of an agreement entered into pursuant to section 15.330.

3. The authority may enforce the terms of an agreement as necessary and appropriate.

Sec. 9. Section 15.335A, subsection 1, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

Tax incentives are available to eligible businesses as provided in this section. The incentives are based upon the number of jobs created or retained that pay at least one hundred ~~thirty~~ <sup>thirty</sup> percent of the qualifying wage threshold as computed pursuant to section 15G.112, ~~subsection 4,~~ and the amount of the qualifying investment made according to the following schedule:

Sec. 10. Section 15.335A, subsection 2, paragraphs b, c, f, and g, Code Supplement 2011, are amended by striking the paragraphs.

Sec. 11. Section 15.335A, subsections 3 and 4, Code Supplement 2011, are amended by striking the subsections.

Sec. 12. Section 15.335A, subsection 5, Code Supplement 2011, is amended to read as follows:

5. The authority shall negotiate the amount of tax incentives provided to an applicant under the program in accordance with this section ~~and section 15G.112, as applicable.~~

Sec. 13. NEW SECTION. **15.335B Assistance for certain programs and projects.**

1. *a.* Under the authority provided in section 15.106A, there shall be established one or more funds within the state treasury, under the control of the authority, to be used for purposes of this section.

*b.* A fund established for purposes of this section shall consist of any moneys appropriated to the authority for purposes of this section, or moneys otherwise accruing to the authority and deposited in the fund for purposes of this section.

*c.* Interest or earnings on moneys in a fund used for the purposes of this section, and all repayments or recaptures of the assistance provided under this section, shall accrue to the authority and shall be used for purposes of this section, notwithstanding section 12C.7. Moneys in a fund are not subject to section 8.33.

2. *a.* The moneys in a fund established for purposes of this section, as described in subsection 1, shall be allocated by the authority in appropriate amounts to be used for the following purposes:

(1) For providing project completion assistance to eligible businesses under this part and for program support of such assistance.

(2) For providing economic development region financial assistance under section 15E.232, subsections 1, 3, 4, 5, and 6.

(3) For providing financial assistance for business accelerators pursuant to section 15E.351.

(4) For deposit in the innovation and commercialization fund created pursuant to section 15.412.

(5) For providing financial assistance to businesses engaged in disaster recovery.

(6) For deposit in the entrepreneur investment awards program fund pursuant to section 15E.363.

*b.* Each fiscal year, the authority shall estimate the amount of revenues available for purposes of this section and shall develop a budget appropriate for the expenditure of the revenues available.

3. In providing assistance under this section, the authority shall make a determination as to the amount and type of assistance that is most appropriate for facilitating the successful completion of an eligible business's project. Before making such a determination, the authority shall do all of the following:

*a.* Consider a business's eligibility for the tax incentives available under section 15.335A and ensure that the amount of assistance to be provided appropriately complements the amount and type of tax incentives to be provided.

*b.* Consider the amount of private sector investment to be leveraged by the project, including the eligible business's equity investment, debt financing, and any venture capital or foreign investment available, and make a good-faith effort to provide only the amount of incentives and assistance necessary to facilitate the project's successful completion.

*c.* Consider the amount and type of the local community match. The authority may provide assistance to an early-stage business in a high-growth industry regardless of the amount of local match involved.

*d.* Calculate the fiscal impact ratio of the project and use it to guide the provision of incentives and assistance under this part.

*e.* Evaluate the quality of the project based on the factors described in section 15.329, subsection 5, and any other relevant factors.

*f.* Ensure that the combined amount of incentives and assistance are appropriate to the size of the project, to the value of the project, to the fiscal impact ratio of the project, and to any other relevant factors.

4. Each eligible business receiving assistance under this section shall enter into an agreement with the authority and the agreement shall meet the requirements of sections 15.330 and 15.330A.



Sec. 14. NEW SECTION. 15.335C Economically distressed areas.

1. *a.* Notwithstanding section 15.329, subsection 1, paragraph “c”, the authority may provide tax incentives or project completion assistance under this part to an eligible business paying less than one hundred twenty percent of the qualifying wage threshold if that business is located in an economically distressed area.

*b.* A business in an economically distressed area receiving incentives or assistance pursuant to this section shall be required to pay at least one hundred percent of the qualifying wage threshold.

2. For purposes of this section, “*economically distressed area*” means a county that ranks among the bottom twenty-five of all Iowa counties, as measured by one of the following:

*a.* Average monthly unemployment level for the most recent twelve-month period.

*b.* Average annualized unemployment level for the most recent five-year period.

Sec. 15. Section 15A.7, subsection 3, Code Supplement 2011, is amended to read as follows:

3. That the employer shall agree to pay wages for the jobs for which the credit is taken off of at least the ~~county wage or the regional laborshed~~ wage, as calculated by the authority pursuant to section ~~15G.112~~ 15.327, subsection 3, ~~whichever is lower~~ 7C. Eligibility for the supplemental credit shall be based on a one-time determination of starting wages by the community college.

Sec. 16. Section 15E.193, subsection 1, paragraph b, subparagraph (1), Code Supplement 2011, is amended to read as follows:

(1) The business shall provide a sufficient package of benefits to each employee holding a created or retained job. For purposes of this paragraph, “*created job*” and “*retained job*” have the same meaning as defined in section ~~15G.101~~ 15.327.

Sec. 17. Section 15E.193, subsection 1, paragraphs c and d, Code Supplement 2011, are amended to read as follows:

*c.* The business shall pay a wage that is at least ninety percent of the qualifying wage threshold. For purposes of this paragraph, “*qualifying wage threshold*” has the same meaning as defined in section ~~15G.101~~ 15.327.

*d.* Creates or retains at least ten full-time equivalent positions and maintains them until the maintenance period completion date. For purposes of this paragraph, “*maintenance period completion date*” and “*full-time equivalent position*” have the same meanings as defined in section ~~15G.101~~ 15.327.

Sec. 18. Section 15E.231, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

In order for an economic development region to receive ~~moneys under the economic development financial assistance program established in section 15G.112~~ assistance pursuant to section 15.335B, an economic development region’s regional development plan must be approved by the authority. An economic development region shall consist of not less than three counties, unless two contiguous counties have a combined population of at least three hundred thousand based on the most recent federal decennial census. An economic development region shall establish a focused economic development effort that shall include a regional development plan relating to one or more of the following areas:

Sec. 19. Section 15E.232, subsections 1, 3, 4, 5, and 6, Code Supplement 2011, are amended to read as follows:

1. An economic development region may apply for financial assistance from ~~the economic development~~ a fund established pursuant to section 15.335B to assist with the installation of physical infrastructure needs including, but not limited to, horizontal infrastructure, water and sewer infrastructure, and telecommunications infrastructure, related to the development of fully served business and industrial sites by one or more of the region’s economic development partners or for the installation of infrastructure related to a new business location or expansion. In order to receive financial assistance pursuant to this subsection, the economic development region must demonstrate all of the following:

a. The ability to provide matching moneys on a basis of a one dollar contribution of local matching moneys for every two dollars received from the economic development fund.

b. The commitment of the specific business partner including, but not limited to, a letter of intent defining a capital commitment or a percentage of equity.

c. That all other funding alternatives have been exhausted.

3. An economic development region may apply for financial assistance from ~~the economic development a fund established pursuant to section 15.335B~~ to assist an existing business threatened with closure due to a potential consolidation to an out-of-state location. The economic development region may apply for financial assistance from the economic development fund for the purchase, rehabilitation, or marketing of a building that has become available due to the closing of an existing business due to a consolidation to an out-of-state location. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every three dollars received from the economic development fund.

4. An economic development region may apply for financial assistance from ~~the economic development a fund established pursuant to section 15.335B~~ to establish and operate an entrepreneurial initiative. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from the economic development fund.

5. a. An economic development region may apply for financial assistance from ~~the economic development a fund established pursuant to section 15.335B~~ to establish and operate a business succession assistance program for the region.

b. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a basis of a one dollar contribution of local moneys for every two dollars received from the economic development fund.

6. An economic development region may apply for financial assistance from ~~the economic development a fund established pursuant to section 15.335B~~ to implement economic development initiatives that are either unique to the region or innovative in design and implementation. In order to receive financial assistance under this subsection, an economic development region must demonstrate the ability to provide local matching moneys on a one-to-one basis.

Sec. 20. Section 15E.351, subsection 1, Code Supplement 2011, is amended to read as follows:

1. The economic development authority shall establish and administer a business accelerator program to provide financial assistance for the establishment and operation of a business accelerator for technology-based, value-added agricultural, information solutions, alternative and renewable energy including the alternative and renewable energy sectors listed in section 476.42, subsection 1, paragraph "a", subparagraph (1), or advanced manufacturing start-up businesses or for a satellite of an existing business accelerator. The program shall be designed to foster the accelerated growth of new and existing businesses through the provision of technical assistance. The economic development authority may provide financial assistance under this section from moneys allocated for ~~regional financial assistance for business accelerators pursuant to section 15G.111~~ 15.335B, subsection 9 2.

Sec. 21. **NEW SECTION. 15E.362 Entrepreneur investment awards program.**

1. The authority shall establish and administer an entrepreneur investment awards program for purposes of providing grants to programs that provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. Financial assistance under the program shall be provided from the entrepreneur investment awards program fund created in section 15E.363.

2. In determining whether an entrepreneur assistance program qualifies for a grant under the entrepreneur investment awards program, the authority shall find that the entrepreneur assistance program demonstrates all of the following:

a. The entrepreneur assistance program expended at least five hundred thousand dollars in the program's previous fiscal year to provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. The five hundred thousand dollars in expenditures in the program's previous fiscal year shall not include grants awarded pursuant to this section or any funds invested in clients' businesses.

b. The entrepreneur assistance program provides services to meet the broad-based needs of entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state.

c. The entrepreneur assistance program communicates with and cooperates with other entrepreneur assistance programs and similar service providers in the state.

d. The entrepreneur assistance program engages various funding sources for entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state.

e. The entrepreneur assistance program communicates with and cooperates with various entities for purposes of locating suitable facilities for clients of the entrepreneur assistance program.

f. The entrepreneur assistance program is an Iowa-based business.

3. In determining whether an entrepreneur assistance program qualifies for a grant under the entrepreneur investment awards program, the authority may consider any of the following:

a. The business experience of the professional staff employed or retained by the entrepreneur assistance program.

b. The business plan review capacity of the entrepreneur assistance program's professional staff.

c. The expertise of the entrepreneur assistance program's professional staff in all aspects of business disciplines.

d. The entrepreneur assistance program's professional staff's access to external service providers including legal, accounting, marketing, and financial services.

4. Upon being awarded a grant under this section, the entrepreneur assistance program shall accept client referrals from the economic development authority.

5. The amount of a grant awarded to a qualifying entrepreneur assistance program shall not exceed the lesser of the following for any fiscal year:

a. An amount equal to twenty-five percent of the funds expended by the qualifying program in the program's previous fiscal year to provide technical and financial assistance to entrepreneurs seeking to create, locate, or expand a business in the state if the business derives or intends to derive more than ten percent of its gross sales from markets outside of the state. For purposes of this paragraph, "funds expended" shall not include grants awarded pursuant to this section or any funds invested in clients' businesses.

b. An amount equal to one hundred percent of funds raised by the entrepreneur assistance program in the previous fiscal year from private foundations, federal or local government funds, financial institutions, or individuals.

c. Two hundred thousand dollars.

6. The grant awarded to a qualifying entrepreneur assistance program shall only be used for the purpose of the operating costs incurred by the program.

7. The economic development authority board may approve, deny, or defer each application for a grant from the entrepreneur investment awards program fund created in section 15E.363.

8. The maximum amount of the total grants awarded by the authority for the entrepreneur investment awards program shall not exceed one million dollars in a fiscal year. The authority shall award the grants on a first-come, first-served basis.

9. The authority may contract with outside service providers for assistance with the grant program described in this section or may delegate the administration of the program to the Iowa innovation corporation pursuant to section 15.106B.

10. The authority shall not award a grant to an entrepreneur assistance program from the entrepreneur investment awards program fund after June 30, 2014. It is the intent of the general assembly to review and assess the success of the entrepreneur investment awards program based on the report provided by the economic development authority.

11. The economic development authority shall conduct a comprehensive review of the entrepreneur investment awards program and shall, by December 31, 2013, submit a report of the findings of the review, as well as any recommendations and cost projections of its recommendations, to the governor and the general assembly. The report shall consist of the following information:

a. The number of grants awarded, the total amount of the grants awarded, the total amount expended on the entrepreneur investment awards program, and the number of entrepreneur investment awards to entrepreneur assistance programs that were the subject of repayment or collection activity.

b. The number of applications received by the authority for the program and the status of the applications.

c. For each entrepreneur assistance program receiving moneys from the entrepreneur investment awards program fund, the following information:

(1) The amount the entrepreneur assistance program received from the entrepreneur investment awards program fund.

(2) The number of entrepreneurs creating a business in the state that were assisted by the entrepreneur assistance program and the number of new jobs associated with the business.

(3) The number of entrepreneurs locating or expanding a business in the state that were assisted by the entrepreneur assistance program and the number of new or retained jobs associated with the business.

(4) The entrepreneur assistance program's location.

(5) The amount, if any, of private and local matching funds received by the entrepreneur assistance program.

d. The number of clients referred by the authority to an entrepreneur assistance program receiving moneys from the entrepreneur investment awards program fund.

e. An evaluation of the investment made by the state of Iowa in the entrepreneur investment awards program.

f. Any other information the authority deems relevant to assessing the success of the entrepreneur investment awards program.

**Sec. 22. NEW SECTION. 15E.363 Entrepreneur investment awards program fund.**

1. An entrepreneur investment awards program fund is created in the state treasury under the control of the authority and consisting of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the authority for placement in the fund.

2. Payments of interest, repayments of moneys provided, and recaptures of moneys provided shall be deposited in the fund.

3. The fund shall be used to provide grants under the entrepreneur investment awards program established in section 15E.362.

4. 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.

**Sec. 23.** Section 159A.6B, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The office may execute contracts in order to provide technical support and outreach services for purposes of assisting and educating interested persons as provided in this section. The office may also contract with a consultant to provide part or all of these services. The office may require that a person receiving assistance pursuant to this section contribute up to fifty percent of the amount required to support the costs of contracting with the consultant to provide assistance to the person. The office shall assist the person in completing any technical

information required in order to receive assistance by the economic development authority pursuant to the value-added agriculture component of the economic development financial assistance program established pursuant to section 15G.112 section 15.335B.

Sec. 24. Section 266.19, Code Supplement 2011, is amended to read as follows:

**266.19 Renewable fuel — assistance.**

The university shall cooperate in assisting renewable fuel production facilities supporting livestock operations managed by persons receiving assistance pursuant to the value-added agriculture component of the economic development financial assistance program established in section 15G.112 section 15.335B.

Sec. 25. Section 455B.104, subsection 2, Code Supplement 2011, is amended to read as follows:

2. The department shall assist persons applying for assistance to establish and operate renewable fuel production facilities pursuant to the value-added agriculture component of the economic development financial assistance program established in section 15G.112 section 15.335B.

Sec. 26. REPEAL. Section 455B.433, Code Supplement 2011, is repealed.

Sec. 27. RULES. The economic development authority shall adopt rules for the implementation of this division of this Act.

DIVISION II  
TARGETED INDUSTRIES PROGRAM

Sec. 28. Section 15.102, subsection 11, Code Supplement 2011, is amended to read as follows:

11. “Targeted industries” means the same as defined in section 15.411, subsection 1 industries of advanced manufacturing, biosciences, and information technology.

Sec. 29. Section 15.106B, subsection 2, paragraph d, subparagraph (1), Code Supplement 2011, is amended by adding the following new subparagraph divisions:

NEW SUBPARAGRAPH DIVISION. (g) Services related to outreach and assistance to businesses for small business innovation research and technology transfer pursuant to section 15.411, subsection 5, or services related to accelerating the generation and development of innovative ideas and businesses pursuant to section 15.411, subsection 6.

NEW SUBPARAGRAPH DIVISION. (h) Services related to the administration of an entrepreneur investment awards program pursuant to section 15E.362.

Sec. 30. Section 15.117A, subsection 2, paragraph a, subparagraph (5), Code Supplement 2011, is amended to read as follows:

(5) ~~The person appointed as the chief information officer pursuant to section 8A.201A, or, if no person has been so appointed, the director of the department of administrative services workforce development, or the director’s designee.~~

Sec. 31. Section 15.411, Code Supplement 2011, is amended to read as follows:

**15.411 Targeted industries Innovative business development — internships — technical and financial assistance.**

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

a. “Innovative business” means the same as defined in section 15E.52.

~~a.~~ b. “Internship” means temporary employment of a student that focuses on providing the student with work experience in the student’s field of study.

~~b.~~ “Targeted industries” means the industries of advanced manufacturing, biosciences, and information technology.

2. The authority shall, ~~upon board approval,~~ may contract with service providers on a case-by-case basis for services related to statewide commercialization development ~~in the~~

~~targeted industries of innovative businesses.~~ Services provided shall include all of the following:

a. Assistance provided directly to businesses by experienced serial entrepreneurs for all of the following activities:

- (1) Business plan development.
- (2) Due diligence.
- (3) Market assessments.
- (4) Technology assessments.
- (5) Other planning activities.

b. Operation and coordination of various available competitive seed and prototype development funds.

c. Connecting businesses to private angel investors and the venture capital community.

d. Assistance in obtaining access to an experienced pool of managers and operations talent that can staff, mentor, or advise start-up enterprises.

e. Support and advice for accessing sources of early stage financing.

3. The authority shall establish and administer a program to provide financial and technical assistance to encourage prototype and concept development activities by innovative businesses that have a clear potential to lead to commercially viable products or services within a reasonable period of time in the targeted industries. Financial assistance shall be awarded on a per project basis upon board approval. ~~The amount of financial assistance available for a single project shall not exceed one hundred fifty thousand dollars.~~ In order to receive financial assistance, an applicant must demonstrate the ability to secure one dollar of nonstate moneys for every two dollars received from the authority. For purposes of this section, "financial assistance" means assistance provided only from the funds, rights, and assets legally available to the authority pursuant to this chapter and includes but is not limited to assistance in the form of grants, loans, forgivable loans, and royalty payments.

~~4. The authority shall, upon board approval, establish and administer a program to provide financial assistance for projects designed to encourage collaboration between commercial users and developers of information technology in the state for the purpose of commercializing existing software and applications technologies. Financial assistance shall not exceed one hundred thousand dollars per project. In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate moneys for every one dollar received from the authority. Financial assistance shall be awarded to projects that will result in technologies being developed as commercial products for sale by Iowa companies rather than as custom applications for proprietary use by a participating firm.~~

~~5. The authority shall, upon board approval, establish and administer a program to provide financial assistance to businesses or departments of businesses engaged in the delivery of information technology services in the state for the purpose of upgrading the high-level technical skills of existing employees. The amount of financial assistance shall not exceed twenty-five thousand dollars for any business site. In order to receive financial assistance, an applicant must demonstrate the ability to secure two dollars of nonstate moneys for every one dollar received from the authority.~~

~~6. 4. The authority shall, upon board approval, establish and administer a targeted industries an innovative businesses internship program for Iowa students. For purposes of this subsection, "Iowa student" means a student of an Iowa community college, private college, or institution of higher learning under the control of the state board of regents, or a student who graduated from high school in Iowa but now attends an institution of higher learning outside the state of Iowa. The purpose of the program is to link Iowa students to small and medium sized Iowa firms in the targeted industries through internship opportunities. An Iowa employer may receive financial assistance in an amount of one dollar for every two dollars paid by the employer to an intern. The amount of financial assistance shall not exceed three thousand one hundred dollars for any single internship, or nine thousand three hundred dollars for any single employer. In order to be eligible to receive financial assistance under this subsection, the employer must have five hundred or fewer employees and must be engaged in a targeted industry an innovative business. The authority shall encourage youth who reside in economically distressed areas, youth adjudicated to~~

have committed a delinquent act, and youth transitioning out of foster care to participate in the targeted industries internship program.

~~7. The economic development authority shall work with the department of workforce development to create a statewide supplier capacity and product database to assist the economic development authority in linking suppliers to Iowa-based companies. The economic development authority may procure technical assistance for the creation of the database from a third party through a request for proposals process.~~

~~8. The technology commercialization committee created pursuant to section 15.116 shall review all applications for financial assistance and requests for proposals pursuant to this section and make recommendations to the board.~~

~~9. In each fiscal year, the authority may transfer additional moneys that become available to the authority from sources such as loan repayments or recaptures of awards from federal economic stimulus funds to the innovation and commercialization development fund created in section 15.412, provided the authority 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.~~

~~5. a. (1) The authority shall establish and administer an outreach program for purposes of assisting businesses with applications to the federal small business innovation research and small business technology transfer programs.~~

~~(2) The goals of this assistance are to increase the number of successful phase II small business innovation research grant proposals in the state, increase the amount of such grant funds awarded in the state, stimulate subsequent investment by industry, venture capital, and other sources, and encourage businesses to commercialize promising technologies.~~

~~b. (1) In administering the program, the authority may provide technical and financial assistance to businesses. Financial assistance provided pursuant to this subsection shall not exceed twenty-five thousand dollars to any single business.~~

~~(2) The authority may require successful applicants to repay the amount of financial assistance received, but shall not require unsuccessful applicants to repay such assistance. Any moneys repaid pursuant to this subsection may be used to provide financial assistance to other applicants.~~

~~c. The authority may also provide financial assistance for purposes of helping businesses meet the matching funds requirements of the federal small business innovation research and small business technology transfer programs.~~

~~d. The authority may contract with outside service providers for assistance with the programs described in this subsection or may delegate the functions to be performed under this subsection to the corporation pursuant to section 15.106B.~~

~~6. a. The authority shall establish and administer a program to accelerate the generation and development of innovative ideas and businesses. The program shall include assistance for the expansion of the proof of commercial relevance concept, the expansion of investment in applied research, and support for a manufacturing extension partnership program.~~

~~b. The authority may contract with outside service providers for assistance with the program described in this subsection or may delegate the functions to be performed under this subsection to the corporation pursuant to section 15.106B.~~

~~10. 7. The board shall adopt rules pursuant to chapter 17A necessary for the administration of this section.~~

Sec. 32. Section 15.412, subsections 2 and 3, Code Supplement 2011, are amended to read as follows:

2. Moneys in the fund are appropriated to the authority and, with the approval of the board, shall be used to facilitate agreements, enhance commercialization in the targeted industries, and increase the availability of skilled workers within the targeted industries in innovative businesses. Such moneys shall not be used for the support of retail businesses, health care businesses, or other businesses requiring a professional license.

3. Moneys in the fund, with the approval of the board, may also be used for the following purposes:

a. For assistance to entities providing student internship opportunities.

- ~~b. For increasing career awareness training.~~
- ~~c. For recruiting management talent.~~
- ~~d. b. For assistance to entities engaged in prototype and concept development activities.~~
- ~~e. c. For developing a statewide commercialization network.~~
- ~~f. For deploying and maintaining an Iowa entrepreneur website.~~
- ~~g. For funding asset mapping and supply chain initiatives, including for identifying methods of supporting lean manufacturing practices or processes.~~
- ~~h. For information technology training.~~
- ~~i. For networking events to facilitate the transfer of technology among researchers and industries.~~
- ~~j. For funding student competition programs.~~
- ~~k. For the purchase of advanced equipment and software at Iowa community colleges in order to support training and coursework related to the targeted industries.~~
- ~~d. For establishing and administering the programs described in section 15.411.~~

Sec. 33. Section 15E.52, subsection 1, paragraph c, Code Supplement 2011, is amended to read as follows:

~~c. “Innovative business” means a business applying novel or original methods to the manufacture of a product or the delivery of a service. “Innovative business” includes but is not limited to a business engaged in a targeted industry as defined in section 15.411 the industries of advanced manufacturing, biosciences, and information technology.~~

### DIVISION III OTHER ECONOMIC DEVELOPMENT CHANGES

Sec. 34. Section 15.106A, subsection 1, paragraph o, Code Supplement 2011, is amended to read as follows:

~~o. Establish one or more funds within the state treasury under the control of the authority. Moneys deposited in or accruing to such a fund are appropriated to the authority for purposes of administering the economic development programs in this chapter, chapter 15E, or such other programs as directed by law. Notwithstanding section 8.33 or 12C.7, or any other provision to the contrary, moneys invested by the treasurer of state pursuant to this subsection shall not revert to the general fund of the state and interest accrued on the moneys shall be moneys of the authority and shall not be credited to the general fund. The nonreversion of moneys allowed under this paragraph does not apply to moneys appropriated to the authority by the general assembly.~~

Sec. 35. Section 15.107B, subsection 1, Code Supplement 2011, is amended to read as follows:

~~1. On or before January 31 of each year, the director shall submit to the authority board and the general assembly a report that describes the activities of the authority during the preceding fiscal year. The report shall include detailed information about jobs created, capital invested, wages paid, and awards made under the programs the authority administers. The report may include such other information as the director deems necessary or as otherwise required by law. Subsequent to submitting the report and within the same session of the general assembly, the director shall discuss and review the report with the general assembly’s standing committees on economic growth and rebuild Iowa.~~

#### Sec. 36. **NEW SECTION. 15.113 Tax lien and delinquency search requirement.**

Before authorizing tax incentives or disbursing moneys to a person or business applying for assistance under any of the authority’s programs, the authority shall conduct a search for outstanding state or local tax liability, tax liens, or other related delinquencies. The authority shall not authorize tax incentives or disburse moneys if the result of the search shows that the applicant is currently delinquent in the payment of state or local taxes or is otherwise in substantial noncompliance with Iowa tax law.

Sec. 37. Section 97B.1A, subsection 8, paragraph a, subparagraph (12), Code Supplement 2011, is amended by striking the subparagraph.



Sec. 38. REPEAL. Sections 15.103 and 15.104, Code Supplement 2011, are repealed.

Sec. 39. HOUSING ENTERPRISE ZONE TAX CREDIT ISSUANCE.

1. Notwithstanding section 15E.193B, subsection 4, the authority may issue a tax credit to an eligible housing business for a project not completed within two years from the time the business began construction if a city failed to file the appropriate paperwork with the authority requesting an extension for the project pursuant to section 15E.193B, subsection 4.

2. The authorization described in subsection 1 only applies to projects for which a city failed to file an extension between January 1, 2007, and January 1, 2008, and only to benefits earned for a project between February 8, 2005, and February 8, 2008.

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

1. The section of this Act amending section 97B.1A.

Sec. 41. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to July 1, 2011:

1. The section of this Act amending section 97B.1A.

Approved May 25, 2012

**CHAPTER 1127**

**NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM — APPROPRIATION**

*S.F. 2007*

**AN ACT** making an appropriation to the college student aid commission for purposes of the national guard educational assistance program and including effective date provisions.

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

Section 1. 2011 Iowa Acts, chapter 132, section 2, subsection 4, is amended to read as follows:

**4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM**

For purposes of providing national guard educational assistance under the program established in section 261.86:

.....	\$	3,186,233
		<u>4,486,233</u>

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

Approved January 31, 2012

**CHAPTER 1128**

**APPROPRIATION REDUCTIONS, TRANSFERS, AND SUPPLEMENTALS**

*S.F. 2071*

**AN ACT** relating to and making supplemental appropriations for the fiscal year beginning July 1, 2011, and including effective dates.

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

DIVISION I

CORRECTIONS — APPROPRIATIONS

UTILITY EXPENDITURES — APPROPRIATION REDUCTIONS

*\*Section 1. STATE AGENCY UTILITY EXPENDITURES.*

1. For the purposes of this section, “department” or “agency” does not include a state department or agency receiving a supplemental appropriation for the fiscal year beginning July 1, 2011, pursuant to an enactment by the Eighty-fourth General Assembly, 2012 session, the state board of regents and the institutions under the control of the state board, or the judicial branch.

2. a. For the time period beginning on the effective date of this section through June 30, 2012, each state department and agency shall be subject to a limitation on expenditures for utilities made by the department or agency on or after the effective date of this section.

b. The overall dollar amount of the limitation shall be equal to \$1,000,000 and shall be applied to the unexpended or unencumbered amount that a department or agency has budgeted or otherwise designated for purposes of utilities from the appropriations made to the department or agency from the general fund of the state for the fiscal year beginning July 1, 2011, and ending June 30, 2012, as of the effective date of this section.

3. The appropriations to which the expenditure limitation required by this section are attributed shall be reduced in proportion to which a department or agency budget for utilities bears to the overall amount budgeted by the affected departments and agencies for utilities. Within 30 days of the enactment date of this section, the department of management shall apply such appropriation reductions and shall submit a report to the general assembly and legislative services agency itemizing the expenditure and appropriation reductions applied.\*

MEDICAID APPROPRIATION REDUCTION

Sec. 2. 2011 Iowa Acts, chapter 129, section 10, unnumbered paragraph 2, is amended to read as follows:

For medical assistance program reimbursement and associated costs as specifically provided in the reimbursement methodologies in effect on June 30, 2011, except as otherwise expressly authorized by law, and consistent with options under federal law and regulations:

.....	\$	<u>909,993,421</u>
		<u>903,493,421</u>

Sec. 3. 2011 Iowa Acts, chapter 134, section 3, is amended to read as follows:

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, 2011, and ending June 30, 2012, the following amounts, or so much thereof as is necessary, to be used 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:

.....	\$	<u>41,031,283</u>
		<u>42,292,031</u>

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

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 31,985,974  
32,168,148

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 55,594,426  
56,589,899

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 25,958,757  
26,601,701

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 25,917,815  
26,321,902

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 9,316,466  
9,403,464

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 24,482,356  
24,669,743

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:

..... \$ 15,615,374  
15,832,339

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 29,062,235  
29,259,196

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:

..... \$ 775,092  
1,075,092

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... \$ 239,411  
484,411

l. For three correctional officer full-time equivalent positions that are to be assigned to a correctional institution by the director of the department of corrections:

..... \$ 157,162

2. The department of corrections shall use moneys appropriated in subsection 1 to continue to contract for the services of a Muslim imam and a Native American spiritual leader.

#### DEPARTMENT OF CORRECTIONS — ADMINISTRATION

Sec. 4. 2011 Iowa Acts, chapter 134, section 4, subsection 1, unnumbered paragraph 1, is amended to read as follows:

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:

.....	\$	4,835,542
		<u>5,181,582</u>

JUDICIAL DISTRICT DEPARTMENTS OF CORRECTIONAL SERVICES

Sec. 5. 2011 Iowa Acts, chapter 134, section 5, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2011, and ending June 30, 2012, for salaries, support, maintenance, and miscellaneous purposes, 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:	\$	12,204,948
.....		<u>12,658,088</u>
b. For the second judicial district department of correctional services:	\$	10,336,948
.....		<u>10,467,801</u>
c. For the third judicial district department of correctional services:	\$	5,599,765
.....		<u>5,952,381</u>
d. For the fourth judicial district department of correctional services:	\$	5,391,355
.....		<u>5,416,853</u>
e. For the fifth judicial district department of correctional services, including funding for electronic monitoring devices for use on a statewide basis:	\$	18,742,129
.....		<u>18,897,467</u>
f. For the sixth judicial district department of correctional services:	\$	13,112,563
.....		<u>13,712,506</u>
g. For the seventh judicial district department of correctional services:	\$	6,492,814
.....		<u>6,716,588</u>
h. For the eighth judicial district department of correctional services:	\$	6,879,715
.....		<u>7,372,419</u>

DIVISION II  
RISK POOL FUNDING

Sec. 6. RISK POOL APPLICATIONS FOR FISCAL YEAR 2011-2012.

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

- a. "County management plan" means the county management plan for the county's mental health, mental retardation, and developmental disabilities services system implemented in accordance with section 331.439 and in effect as of July 1, 2011.
- b. "Department" means the department of human services.
- c. "Risk pool board" means the risk pool board created in section 426B.5.
- d. "Services fund" means the county mental health, mental retardation, and developmental disabilities services fund created in section 331.424A.

2. All moneys remaining following the distributions made pursuant to 2011 Iowa Acts, chapter 129, section 43, shall be credited to and remain in the risk pool created in the property tax relief fund pursuant to section 426B.5 for expenditure as provided by law. Notwithstanding section 426B.5, subsection 2, paragraph "d", and 2011 Iowa Acts, chapter 129, section 43, subsection 2, paragraph "c", a county may apply to the risk pool board for assistance from the risk pool for the fiscal year beginning July 1, 2011, in accordance with this section.

3. a. A county with individuals on a waiting list, as of the effective date of this section, for services covered under the county's county management plan is eligible to apply for a distribution of assistance under this section.

b. In addition, a county may apply for assistance to cover the nonfederal share of medical assistance waiver costs chargeable to the county for the fiscal year of individuals who became eligible for the medical assistance program home and community-based waiver for persons with an intellectual disability on or after October 1, 2011.

4. All of the following provisions shall apply to a funding distribution under this section:

a. A county's application for the funding distribution must be received by the department within 10 calendar days of the enactment date of this section.

b. The county's application shall provide all of the following information:

(1) A declaration that the county cannot provide services in accordance with the county's management plan and remain in compliance with the 99 percent budgeting requirement in section 331.439, subsection 5, resulting in the creation of a waiting list or the need for the funding requested.

(2) An accounting of the individuals to be removed from the county's waiting list or to have services funded with risk pool moneys as a result of the funding applied for under this subsection, along with the following information in a format specified by the department:

(a) Each individual's unique client identifier established pursuant to section 225C.6A, subsection 3.

(b) The date the individual was originally placed on the county waiting list, removed from the state waiting list, or would be subject to a service reduction or elimination without the risk pool funding requested.

(c) The services needed by the individual.

(d) The projected cost for each service needed for that individual for the period beginning on the date the individual is removed from the county or state waiting list, or the date of receipt of the risk pool funding requested, through June 30, 2012.

(e) The total cost for all of the services for each individual for the fiscal year.

c. The application shall be accompanied by a signed statement by the county's board of supervisors certifying that the individuals for whom funding is provided under this subsection will not, through June 30, 2012, be placed by the county on a waiting list for services.

d. Funding shall be distributed in the following priority order:

(1) For counties with individuals on a waiting list as described in subsection 3, paragraph "a".

(2) If funding remains after meeting the need described in subparagraph (1), for counties applying for assistance to cover the nonfederal share of medical assistance costs for individuals who became eligible for the medical assistance program home and community-based waiver for persons with an intellectual disability on or after October 1, 2011, as described in subsection 3, paragraph "b".

e. The risk pool board may accept or reject an application for assistance in whole or in part if the board determines the application does not meet the intent of this section or a requirement of this section and, subject to the priority order specified in paragraph "d", may prorate distribution of funding as necessary to conform to the amount available for distribution. The decision of the risk pool board is final. The risk pool board shall issue a funding decision within 15 working days of the final receipt date for applications.

f. The funding addressed by this section shall be distributed within 15 working days of the date the risk pool board's funding decision is issued.

5. If moneys from a distribution made under this section are not expended by a county by November 1, 2012, for services provided prior to July 1, 2012, the county shall reimburse the unexpended moneys to the department by November 30, 2012, and the moneys reimbursed shall be credited to the risk pool in the property tax relief fund.

6. The risk pool board shall submit a report to the governor and general assembly on or before December 31, 2012, regarding the expenditure of funds distributed under this section. <sup>1</sup>

<sup>1</sup> See chapter 1133, §67 herein

DIVISION III  
MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES  
SERVICES PROPERTY TAX RELIEF AND SERVICE MANAGEMENT PLANS

Sec. 7. PROPERTY TAX RELIEF — FY 2012-2013. There is appropriated from the Iowa economic emergency fund to the department of human services for the fiscal year beginning July 1, 2011, and ending June 30, 2012, notwithstanding section 8.55, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be credited to the property tax relief fund to be used to restore the amount of the standing appropriation made from the general fund of the state in section 426B.1, subsection 1, for the fiscal year beginning July 1, 2012, in the amount of the reduction applied pursuant to 2011 Iowa Acts, chapter 129, section 154:

..... \$ 7,200,089<sup>2</sup>

Sec. 8. COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES MANAGEMENT PLAN — STRATEGIC PLAN. Notwithstanding section 331.439, subsection 1, paragraph “b”, subparagraph (3), counties are not required to submit a three-year strategic plan by April 1, 2012, to the department of human services. A county’s strategic plan in effect as of the effective date of this section shall remain in effect, subject to modification as necessary to conform with statutory changes affecting the plan.

DIVISION IV  
EFFECTIVE DATE

Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

*Approved March 2, 2012, with exception noted.*

TERRY E. BRANSTAD, *Governor*

Dear Mr. President:

I hereby transmit Senate File 2071, an Act relating to and making supplemental appropriations for fiscal year beginning July 1, 2011, and including effective dates.

Senate File 2071 is, therefore, signed on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as Section 1 in its entirety. This item reduces fiscal year 2012 state appropriations for utility expenses in most departments of state government by \$1,000,000. This reduction is not currently necessary as our budgeting practices have restored predictability and stability to the state budget.

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 2071 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

<sup>2</sup> See chapter 1133, §68, 71 herein

**CHAPTER 1129**

**APPROPRIATIONS — TRANSPORTATION**

*S.F. 2314*

**AN ACT** relating to 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.

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

Section 1. 2011 Iowa Acts, chapter 125, section 2, subsection 1, paragraphs a and c, are amended to read as follows:

a. Operations:	\$	40,356,529
.....		<u>40,076,529</u>
.....	FTEs	296.00
c. Highways:	\$	230,913,992
.....		<u>230,113,992</u>
.....	FTEs	2,247.00

Sec. 2. 2011 Iowa Acts, chapter 125, section 3, is amended to read as follows:

SEC. 3. ROAD USE TAX FUND. There is appropriated from the road use tax fund created in section 312.1 to the department of transportation for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	3,876,000
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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 specified in this subsection until the close of the succeeding fiscal year.

2. For salaries, support, maintenance, and miscellaneous purposes:

a. Operations:	\$	3,285,000
.....		<u>6,570,000</u>
b. Planning:	\$	229,000
.....		<u>458,000</u>
c. Motor vehicles:	\$	16,960,500
.....		<u>33,921,000</u>

3. For payments to the department of administrative services for utility services:

.....	\$	112,500
.....		<u>228,000</u>

4. Unemployment compensation:

.....	\$	3,500
.....		<u>7,000</u>

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:

.....	\$	59,500
.....		<u>121,000</u>

6. For payment to the general fund of the state for indirect cost recoveries:

.....	\$	39,000
.....		<u>78,000</u>

7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:	\$	33,660
		<u>67,319</u>
8. For automation, telecommunications, and related costs associated with the county issuance of driver's licenses and vehicle registrations and titles:	\$	703,000
		<u>1,406,000</u>
9. For transfer to the department of public safety for operating a system providing toll-free telephone road and weather conditions information:	\$	50,000
		<u>100,000</u>
10. For costs associated with the participation in the Mississippi river parkway commission:	\$	20,000
		<u>40,000</u>
11. For motor vehicle division field facility maintenance projects at various locations:	\$	200,000
12. For scale replacement projects at various locations:	\$	550,000
		<u>350,000</u>

For purposes of section 8.33, unless specifically provided otherwise, moneys appropriated in subsections 11 and 12 that remain unencumbered or unobligated shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends three years after the end of the fiscal year for which the appropriation was made. However, if the projects for which the appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

Sec. 3. 2011 Iowa Acts, chapter 125, section 4, is amended to read as follows:

SEC. 4. PRIMARY ROAD FUND. There is appropriated from the primary road fund created in section 313.3 to the department of transportation for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:	\$	20,178,265
		<u>40,607,023</u>
	FTEs	296.00
		<u>282.00</u>
b. Planning:	\$	4,348,548
		<u>8,697,095</u>
	FTEs	121.00
		<u>113.00</u>
c. Highways:	\$	115,456,996
		<u>232,672,498</u>
	FTEs	2,247.00
		<u>2,065.00</u>
d. Motor vehicles:	\$	706,770
		<u>1,413,540</u>
	FTEs	445.00
		<u>410.00</u>
2. For payments to the department of administrative services for utility services:	\$	694,000
		<u>1,404,000</u>



3. Unemployment compensation:	\$	69,000
		<u>138,000</u>
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:	\$	1,423,000
		<u>2,889,000</u>
5. For disposal of hazardous wastes from field locations and the central complex:	\$	400,000
		<u>800,000</u>
6. For payment to the general fund of the state for indirect cost recoveries:	\$	286,000
		<u>572,000</u>
7. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:	\$	207,591
		<u>415,181</u>
8. For costs associated with producing transportation maps:	\$	121,000
		<u>80,667</u>
9. For inventory and equipment replacement:	\$	2,683,000
		<u>5,366,000</u>
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:	\$	200,000
13. For deferred maintenance projects at field facilities throughout the state:	\$	1,000,000
14. For wastewater treatment improvements at various locations:	\$	1,000,000
15. For replacement of the New Hampton combined facility:	\$	5,200,000

For purposes of section 8.33, unless specifically provided otherwise, moneys appropriated in subsections 10 through 15 that remain unencumbered or unobligated shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends three years after the end of the fiscal year for which the appropriation was made. However, if the project or projects for which such appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

Sec. 4. ROAD USE TAX FUND EFFICIENCY MEASURES — QUARTERLY REPORTS. The department of transportation shall submit quarterly reports in an electronic format to the co-chairpersons of the joint appropriations subcommittee on transportation, infrastructure, and capitals, the chairpersons of the senate and house standing committees on transportation, the department of management, and the legislative services agency regarding the implementation of efficiency measures identified in the "Road Use Tax Fund Efficiency Report", January 2012. The reports shall provide details of activities undertaken in the previous quarter relating to one-time and long-term program efficiencies and partnership efficiencies. Issues to be covered in the reports shall include but are not limited to savings realized from the implementation of particular efficiency measures; updates concerning measures that have not been implemented; efforts involving cities, counties, other jurisdictions, or stakeholder interest groups; any new efficiency measures identified or undertaken; and identification of any legislative action that may be required to achieve efficiencies. The first report shall be submitted by October 1, 2012.

Sec. 5. EFFECTIVE UPON ENACTMENT. The following provision of this Act, being deemed of immediate importance, takes effect upon enactment:

1. The section of this Act amending 2011 Acts, chapter 125, section 2, subsection 1, paragraphs “a” and “c”.

Approved April 4, 2012

**CHAPTER 1130**

**APPROPRIATIONS — WORKFORCE DEVELOPMENT — FUNDING RESTORATION**

*S.F. 2324*

**AN ACT** making appropriations to the department of workforce development for certain purposes and including effective date and retroactive applicability provisions.

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

Section 1. LEGISLATIVE FINDINGS. It is the finding of the general assembly that the recent Iowa supreme court decision of *Homan v. Branstad*, No. 11-2022, March 16, 2012,<sup>1</sup> has invalidated the proper enactment of certain provisions contained in the 2011 Iowa Acts, chapter 130 (Senate File 517). It is the intent of the general assembly to reenact, as amended, certain invalidated provisions of Senate File 517 that were published in the 2011 Iowa Acts and to validate expenditures made by the department of workforce development and actions entered into in reliance on the enactment of the invalidated provisions published in the 2011 Iowa Acts.

Sec. 2. 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, 2011, and ending June 30, 2012, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

a. For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:  
..... \$ 3,495,440  
..... FTEs 64.00

b. 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

a. For the division of workers’ compensation, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:  
..... \$ 2,949,044  
..... FTEs 30.00

b. The division of workers’ compensation shall charge a \$100 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

a. For the operation of field offices, the workforce development board, and for not more than the following full-time equivalent positions:

<sup>1</sup> Published in 812 N.W. 2d 623

.....	\$	8,671,352
.....	FTEs	130.00

The moneys appropriated in this paragraph are contingent upon the condition that the workforce development centers and satellite offices, other than those centers maintained by electronic means, which were open and fully operational on November 1, 2011, shall remain open and operational through June 30, 2012.

b. Of the moneys appropriated in paragraph “a” of this subsection, the department shall allocate \$1,130,602 for the operation of satellite field offices in Decorah, Fort Madison, Iowa City, and Webster City.

4. OFFENDER REENTRY PROGRAM

a. 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:

.....	\$	284,464
.....	FTEs	3.00

b. 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.

5. NONREVERSION

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. 3. EMPLOYMENT SECURITY CONTINGENCY FUND.

1. There is appropriated from the special employment security contingency fund to the department of workforce development for the fiscal year beginning July 1, 2011, and ending June 30, 2012, the following amount, or so much thereof as is necessary, to be used for field offices:

.....	\$	1,217,084
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2. Any remaining additional penalty and interest revenue collected by the department of workforce development is appropriated to the department for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to accomplish the mission of the department.

Sec. 4. UNEMPLOYMENT COMPENSATION RESERVE FUND — FIELD OFFICES. 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, 2011, and ending June 30, 2012, the following amount or so much thereof as is necessary, for the purposes designated:

For the operation of field offices:

.....	\$	4,238,260
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Sec. 5. GENERAL FUND — EMPLOYEE MISCLASSIFICATION PROGRAM. There is appropriated from the general fund of the state to the department of workforce development for the fiscal year beginning July 1, 2011, and ending June 30, 2012, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For enhancing efforts to investigate employers that misclassify workers and for not more than the following full-time equivalent positions:

.....	\$	451,458
.....	FTEs	8.10

Sec. 6. RETROACTIVE APPLICABILITY. This Act applies retroactively to July 1, 2011.

Sec. 7. EFFECTIVE UPON ENACTMENT. This Act, being deemed of immediate importance, takes effect upon enactment.

**CHAPTER 1131**

**APPROPRIATIONS — ADMINISTRATION AND REGULATION**

*S.F. 2313*

**AN ACT** relating to appropriations to certain state departments, agencies, funds, and certain other entities, providing for regulatory authority, and other properly related matters and including effective date and retroactive applicability provisions.

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

Section 1. 2011 Iowa Acts, chapter 127, section 9, subsection 2, paragraph c, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) Notwithstanding section 8.33 or any other provision to the contrary, any unencumbered or unobligated balance in an amount not to exceed five hundred thousand dollars of the appropriation made in this paragraph for the insurance division or any other appropriation made for operational purposes for the fiscal year beginning July 1, 2011, and ending June 30, 2012, that remains unused, unencumbered, or unobligated at the close of the fiscal year shall not revert but shall remain available to be used for any relocation costs of the division in the succeeding fiscal year.

Sec. 2. 2011 Iowa Acts, chapter 127, section 61, is amended to read as follows:

**SEC. 61. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions:

a. For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	2,010,172
		<u>4,020,344</u>
.....	FTEs	84.18
		<u>78.37</u>

b. For the payment of utility costs:

.....	\$	1,313,230
		<u>2,676,460</u>
.....	FTEs	1.00

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.

c. For Terrace Hill operations: <sup>1</sup>

.....		405,914
.....	FTEs	6.88
		<u>5.00</u>

d. For ~~the I-3 distribution account~~ distribution to other governmental entities for the payment of services related to the integrated information for Iowa system:

.....	\$	1,638,973
		<u>3,277,946</u>

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 associated with the integrated information for Iowa system provided during the fiscal year by the department.

e. For operations and maintenance of the Iowa building:

.....	\$	497,768
		<u>995,535</u>
.....	FTEs	7.00

<sup>1</sup> According to enrolled Act; inclusion of "..... \$ 202,957" probably intended

6.78

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. 3. DEPARTMENT OF ADMINISTRATIVE SERVICES — TRANSFER — MEDICATION THERAPY MANAGEMENT PROGRAM. Contingent upon the enactment of legislation during the 2012 legislative session establishing a medication therapy management program, there is transferred from the fees collected by the board of pharmacy pursuant to chapter 155A and retained by the board pursuant to the authority granted in section 147.82 to the department of administrative services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, \$510,000 to be used for the medication therapy management program.

Sec. 4. 2011 Iowa Acts, chapter 127, section 65, is amended to read as follows:

SEC. 65. AUDITOR OF STATE.

1. 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, 2012, and ending June 30, 2013, subject to subsection 3 of this section, the following amount, or so much thereof as is necessary, to be used for the purposes designated, and for not more than the following full-time equivalent positions:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	452,734
		<u>905,468</u>
.....	FTEs	103.00

2. 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.

3. The auditor of state shall allocate resources from the appropriation in this section solely for audit work related to the comprehensive annual financial report, federally required audits, and investigations of embezzlement, theft, or other significant financial irregularities until the audit of the comprehensive annual financial report is complete.

Sec. 5. 2011 Iowa Acts, chapter 127, section 66, is amended to read as follows:

SEC. 66. 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, 2012, and ending June 30, 2013, 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:

.....	\$	237,500
		<u>490,000</u>
.....	FTEs	5.00

Sec. 6. 2011 Iowa Acts, chapter 127, section 67, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, for the purposes designated:

a. ALCOHOLIC BEVERAGES DIVISION

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

.....	\$	610,196
		<u>1,220,391</u>
.....	FTEs	21.00
		<u>18.50</u>

b. PROFESSIONAL LICENSING AND REGULATION BUREAU

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

.....	\$	300,177
		<u>600,353</u>
.....	FTEs	12.00

Sec. 7. 2011 Iowa Acts, chapter 127, section 67, subsection 2, paragraphs a, b, and c, are amended to read as follows:

a. BANKING DIVISION

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

.....	\$	4,425,835
		<u>9,098,170</u>
.....	FTEs	80.00
		<u>70.50</u>

b. CREDIT UNION DIVISION

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

.....	\$	863,998
		<u>1,792,995</u>
.....	FTEs	19.00
		<u>15.00</u>

c. INSURANCE DIVISION

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

.....	\$	2,491,622
		<u>4,983,244</u>
.....	FTEs	106.50
		<u>99.50</u>

(2) 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:

(a) Notifies the department of management, the legislative services agency, and the legislative fiscal committee of the need for the expenditures.

(b) Files with each of the entities named in subparagraph division (a) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

Sec. 8. 2011 Iowa Acts, chapter 127, section 67, subsection 2, paragraph d, subparagraphs (1) and (2), are amended to read as follows:

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

.....	\$	4,086,535
		<u>8,173,069</u>
.....	FTEs	79.00

(2) 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:

(a) Notify the department of management, the legislative services agency, and the legislative fiscal committee of the need for the expenditures.

(b) File with each of the entities named in subparagraph division (a) the legislative and regulatory justification for the expenditures, along with an estimate of the expenditures.

Sec. 9. 2011 Iowa Acts, chapter 127, section 67, subsection 2, paragraph d, subparagraph (4), is amended to read as follows:

(4) In addition to the funds otherwise appropriated to the division in subparagraph (1), and contingent upon the enactment of ~~legislation~~ House File 561<sup>2</sup> during the ~~2011~~ 2012 legislative session relating to the permitting, licensing, construction, and operation of nuclear generation facilities and establishing rate-making principles in relation thereto, for salaries, support, ~~consulting~~, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	425,000
.....	FTEs	3.50

Sec. 10. 2011 Iowa Acts, chapter 127, section 68, is amended to read as follows:

SEC. 68. DEPARTMENT OF COMMERCE — PROFESSIONAL LICENSING AND REGULATION BUREAU. There is appropriated from the housing trust fund of the Iowa finance authority created in section 16.181, to the bureau of professional licensing and regulation of the banking division of the department of commerce for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	31,159
		<u>62,317</u>

Sec. 11. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION — REGIONAL TELECOMMUNICATIONS COUNCILS. There is appropriated from the general fund of the state to the Iowa telecommunications and technology commission for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For state aid for regional telecommunications councils:

.....	\$	992,913
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The regional telecommunications councils established in section 8D.5 shall use the moneys appropriated in this section to provide technical assistance for network classrooms, planning and troubleshooting for local area networks, scheduling of video sites, and other related support activities.

Sec. 12. 2011 Iowa Acts, chapter 127, section 69, is amended to read as follows:

SEC. 69. 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, 2012, and ending June 30, 2013, 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:

.....	\$	1,144,013
		<u>2,194,914</u>
.....	FTEs	<u>22.88</u>
		<u>20.00</u>

2. TERRACE HILL QUARTERS

For salaries, support, maintenance, and miscellaneous purposes for the governor's quarters

<sup>2</sup> Not enacted

at Terrace Hill, and for not more than the following full-time equivalent positions:

.....	\$	93,111
.....	FTEs	2.00

Sec. 13. 2011 Iowa Acts, chapter 127, section 70, is amended to read as follows:

SEC. 70. GOVERNOR'S OFFICE OF DRUG CONTROL POLICY. There is appropriated from the general fund of the state to the governor's office of drug control policy for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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:

.....	\$	145,000
.....		<u>240,000</u>
.....	FTEs	8.00
.....		<u>4.00</u>

Sec. 14. 2011 Iowa Acts, chapter 127, section 71, is amended to read as follows:

SEC. 71. 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, 2012, and ending June 30, 2013, 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:

.....	\$	103,052
.....		<u>206,103</u>
.....	FTEs	7.00
.....		<u>5.35</u>

2. COMMUNITY ADVOCACY AND SERVICES DIVISION

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

.....	\$	514,039
.....		<u>1,028,077</u>
.....	FTEs	17.00
.....		<u>9.38</u>

3. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

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

.....	\$	511,946
.....		<u>1,100,105</u>
.....	FTEs	10.00

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.

Sec. 15. 2011 Iowa Acts, chapter 127, section 72, is amended to read as follows:

SEC. 72. 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, 2012, and ending June 30, 2013, 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:

.....	\$	763,870
.....		<u>248,409</u>
.....	FTEs	37.40



14.25

2. ADMINISTRATIVE HEARINGS DIVISION

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

.....	\$	264,377
		<u>528,753</u>
.....	FTEs	23.00

3. INVESTIGATIONS DIVISION

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

.....	\$	584,320
		<u>1,168,639</u>
.....	FTEs	58.50

b. The department, in coordination with the investigations division, shall provide a report to the general assembly by January 10, 2013, concerning the fiscal impact of additional full-time equivalent positions on the department's efforts relative to the Medicaid divestiture program under chapter 249F.

4. HEALTH FACILITIES DIVISION

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

.....	\$	1,777,664
		<u>3,917,666</u>
.....	FTEs	134.75
		<u>121.75</u>

b. The department shall, in coordination with the health facilities division, make the following information available to the public <sup>3</sup> ~~in a timely manner, to include providing the information on~~ as part of the department's development efforts to revise the department's internet website, ~~during the fiscal year beginning July 1, 2012, and ending June 30, 2013:~~

(1) The number of inspections conducted by the division annually by type of service provider and type of inspection.

(2) The total annual operations budget for the division, including general fund appropriations and federal contract dollars received by type of service provider inspected.

(3) The total number of full-time equivalent positions in the division, to include the number of full-time equivalent positions serving in a supervisory capacity, and serving as surveyors, inspectors, or monitors in the field by type of service provider inspected.

(4) Identification of state and federal survey trends, cited regulations, the scope and severity of deficiencies identified, and federal and state fines assessed and collected concerning nursing and assisted living facilities and programs.

c. It is the intent of the general assembly that the department and division continuously solicit input from facilities regulated by the division to assess and improve the division's level of collaboration and to identify new opportunities for cooperation.

5. EMPLOYMENT APPEAL BOARD

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

.....	\$	21,108
		<u>42,215</u>
.....	FTEs	14.00

b. 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

<sup>3</sup> See chapter 1138, §12 herein

a. 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:

.....	\$	1,340,145
		<u>2,680,290</u>
.....	FTEs	40.80
		<u>32.35</u>

b. 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 Tit. IV-E of the federal Social Security Act for claims for child advocacy board administrative review costs.

c. The court appointed special advocate program shall investigate and develop opportunities for expanding fund-raising for the program.

d. Administrative costs charged by the department of inspections and appeals for items funded under this subsection shall not exceed 4 percent of the amount appropriated in this subsection.

Sec. 16. 2011 Iowa Acts, chapter 127, section 72, is amended by adding the following new subsection:

**NEW SUBSECTION. 7. FOOD AND CONSUMER SAFETY**

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

.....	\$	1,279,331
.....	FTEs	21.00

Sec. 17. 2011 Iowa Acts, chapter 127, section 73, is amended to read as follows:

**SEC. 73. DEPARTMENT OF INSPECTIONS AND APPEALS — MUNICIPAL CORPORATION FOOD INSPECTIONS.** For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the department of inspections and appeals shall retain any license fees generated during the fiscal year as a result of actions under section 137F.3A occurring during the period beginning July 1, 2009, and ending June 30, ~~2011~~ 2013, for the purpose of enforcing the provisions of chapters 137C, 137D, and 137F.

Sec. 18. **DEPARTMENT OF INSPECTIONS AND APPEALS — GENERAL SUPPORT — MEDICAID FRAUD FUND APPROPRIATION.** There is appropriated from the Medicaid fraud fund created in section 249A.7 to the health facilities division of the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	286,661
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Sec. 19. **DEPARTMENT OF INSPECTIONS AND APPEALS — STATE MATCH REQUIREMENTS — MEDICAID FRAUD FUND APPROPRIATION.** There is appropriated from the Medicaid fraud fund created in section 249A.7 to the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. To cover the cost of any state match to draw down matching federal funds through the department of human services for additional full-time equivalent positions for conducting investigations of alleged fraud and overpayments of food assistance benefits through electronic benefits transfer:

.....	\$	119,070
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2. For the state financial match requirement for meeting the federal mandates connected with the department’s Medicaid fraud and abuse activities:

.....	\$	885,262
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3. To cover costs incurred by the department or other agencies in providing regulation, responding to allegations, or other activity involving chapter 135O:

.....	\$	119,480
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Sec. 20. DEPARTMENT OF INSPECTIONS AND APPEALS — LEGISLATIVE IMPLEMENTATION — MEDICAID FRAUD FUND APPROPRIATION. There is appropriated from the Medicaid fraud fund created in section 249A.7 to the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, administration, and other costs associated with implementation of 2010 Iowa Acts, chapter 1177:

..... \$ 250,000

Sec. 21. 2011 Iowa Acts, chapter 127, section 78, is amended to read as follows:

SEC. 78. RACING AND GAMING COMMISSION.

1. RACETRACK REGULATION

There is appropriated from the gaming regulatory revolving fund established in section 99F.20 to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

..... \$ 1,255,720

2,898,925

..... FTEs 28.53

32.03

2. EXCURSION BOAT AND GAMBLING STRUCTURE REGULATION

There is appropriated from the gaming regulatory revolving fund established in section 99F.20 to the racing and gaming commission of the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

..... \$ 1,539,050

2,923,838

..... FTEs 44.22

40.72

Sec. 22. 2011 Iowa Acts, chapter 127, section 79, is amended to read as follows:

SEC. 79. ROAD USE TAX FUND APPROPRIATION — DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the road use tax fund created in section 312.1 to the administrative hearings division of the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... \$ 811,949

1,623,897

Sec. 23. 2011 Iowa Acts, chapter 127, section 80, is amended to read as follows:

SEC. 80. DEPARTMENT OF MANAGEMENT.

1. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

..... \$ 1,196,999

2,393,998

..... FTEs 25.00

20.00

2. 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.

Sec. 24. 2011 Iowa Acts, chapter 127, section 81, is amended to read as follows:

SEC. 81. ROAD USE TAX APPROPRIATION — DEPARTMENT OF MANAGEMENT. There is appropriated from the road use tax fund created in section 312.1 to the department of management for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	28,000
.....		<u>56,000</u>

Sec. 25. 2011 Iowa Acts, chapter 127, section 82, is amended to read as follows:

SEC. 82. DEPARTMENT OF REVENUE.

1. There is appropriated from the general fund of the state to the department of revenue for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	8,829,742
.....		<u>17,659,484</u>
.....	FTEs	303.48
.....		<u>309.00</u>

2. 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.

3. 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. 26. 2011 Iowa Acts, chapter 127, section 83, is amended to read as follows:

SEC. 83. 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, 2012, and ending June 30, 2013, 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 administration and enforcement of the provisions of chapter 452A and the motor vehicle use tax program:

.....	\$	652,888
.....		<u>1,305,775</u>

Sec. 27. 2011 Iowa Acts, chapter 127, section 84, is amended to read as follows:

SEC. 84. SECRETARY OF STATE.

1. 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, 2012, and ending June 30, 2013, 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:

.....	\$	1,447,793
.....		<u>2,895,585</u>
.....	FTEs	45.00
.....		<u>34.00</u>

2. 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.

Sec. 28. 2011 Iowa Acts, chapter 127, section 85, is amended to read as follows:

SEC. 85. SECRETARY OF STATE FILING FEES REFUND.

Notwithstanding the obligation to collect fees pursuant to the provisions of section 489.117, subsection 1, paragraphs “a” and “o”, 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, 2012, 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 chapter 17A.

Sec. 29. 2011 Iowa Acts, chapter 127, section 86, is amended to read as follows:  
 SEC. 86. TREASURER.

1. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	427,145
		<u>854,289</u>
.....	FTEs	28.80

2. The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 30. 2011 Iowa Acts, chapter 127, section 87, is amended to read as follows:

SEC. 87. ROAD USE TAX APPROPRIATION — OFFICE OF TREASURER OF STATE. There is appropriated from the road use tax fund created in section 312.1 to the office of treasurer of state for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For enterprise resource management costs related to the distribution of road use tax funds:

.....	\$	46,574
		<u>93,148</u>

Sec. 31. 2011 Iowa Acts, chapter 127, section 88, is amended to read as follows:

SEC. 88. 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, 2012, and ending June 30, 2013, 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:

.....	\$	8,843,484
		<u>17,686,968</u>
.....	FTEs	90.13

Sec. 32. 2011 Iowa Acts, chapter 129, section 149, is amended to read as follows:

SEC. 149. MEDICAID FRAUD ACCOUNT — DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the Medicaid fraud account created in section 249A.7 to the department of inspections and appeals for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the inspection and certification of assisted living programs and adult day care services, including program administration and costs associated with implementation:

.....	\$	669,764
		<u>1,339,527</u>

Sec. 33. Section 80E.1, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The governor’s office of drug control policy shall be an independent office, located at the same location as the department of public safety. Administrative support services may be provided to the governor’s office of drug control policy by the department of public safety.

Sec. 34. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act amending 2011 Iowa Acts, chapter 127, section 9, subsection 2, paragraph “c”.

Sec. 35. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to July 1, 2011:

1. The section of this Act amending 2011 Iowa Acts, chapter 127, section 9, subsection 2, paragraph “c”.

Approved May 25, 2012

**CHAPTER 1132**

**APPROPRIATIONS — EDUCATION**

*S.F. 2321*

**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, and providing effective date provisions.

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

**DIVISION I**

**FY 2012-2013 EDUCATION APPROPRIATIONS**

Section 1. 2011 Iowa Acts, chapter 132, section 7, subsection 1, paragraph a, is amended to read as follows:

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

.....	\$	1,065,005
.....	FTEs	15.00

(1) 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.

(2) The state board of regents may transfer moneys appropriated under paragraphs “b”, “c”, and “d”, to any of the centers specified in paragraph “b”, “c”, or “d”, if the board notifies, in writing, the general assembly and the legislative services agency of the amount, the date, and the purpose of the transfer.

**MIDWESTERN HIGHER EDUCATION COMPACT**

Sec. 2. 2011 Iowa Acts, chapter 132, section 32, is amended to read as follows:

SEC. 32. There is appropriated from the general fund of the state to the department of education for the following fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

To be distributed to the midwestern higher education compact to pay Iowa’s member state annual obligation:

FY 2010-2011 .....	\$	39,000
FY 2011-2012 .....	\$	100,000
FY 2012-2013 .....	\$	50,000
		<u>100,000</u>

Notwithstanding section 8.33, moneys appropriated in this section, to the department of education for purposes of paying Iowa’s member state annual obligation under the midwestern higher education compact, that remain unencumbered or unobligated at the

close of the fiscal year beginning July 1, 2010, and ending June 30, 2011, shall not revert but shall remain available for expenditure for the purpose designated until the close of the succeeding fiscal year.

#### DEPARTMENT FOR THE BLIND

Sec. 3. 2011 Iowa Acts, chapter 132, section 97, is amended to read as follows:

SEC. 97. ADMINISTRATION. There is appropriated from the general fund of the state to the department for the blind for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, 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:

.....	\$	845,908
		<u>1,691,815</u>
.....	FTEs	88.00

2. For costs associated with universal access to audio information over the phone on demand for blind and print handicapped Iowans:

.....	\$	25,000
		<u>50,000</u>

#### COLLEGE STUDENT AID COMMISSION

Sec. 4. 2011 Iowa Acts, chapter 132, section 98, is amended to read as follows:

SEC. 98. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is 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:

.....	\$	116,472
		<u>232,943</u>
.....	FTEs	3.95

2. STUDENT AID PROGRAMS

For payments to students for the Iowa grant program established in section 261.93:

.....	\$	395,589
		<u>791,177</u>

3. ~~DES MOINES UNIVERSITY~~— HEALTH CARE PROFESSIONAL RECRUITMENT PROGRAM

For ~~forgivable loans to Iowa students attending Des Moines university—osteopathic medical center under the forgivable loan repayment program for health care professionals established pursuant to section 261.19:~~

.....	\$	162,987
		<u>325,973</u>

4. NATIONAL GUARD EDUCATIONAL ASSISTANCE PROGRAM

For purposes of providing national guard educational assistance under the program established in section 261.86:

.....	\$	1,593,117
		<u>4,800,233</u>

5. TEACHER SHORTAGE LOAN FORGIVENESS PROGRAM

For the teacher shortage loan forgiveness program established in section 261.112:

.....	\$	196,226
		<u>392,452</u>

6. ALL IOWA OPPORTUNITY FOSTER CARE GRANT PROGRAM

For purposes of the all Iowa opportunity foster care grant program established pursuant to section 261.6:

.....	\$	277,029
		<u>554,057</u>

7. ALL IOWA OPPORTUNITY SCHOLARSHIP PROGRAM

a. For purposes of the all Iowa opportunity scholarship program established pursuant to section 261.87:

..... \$ 1,120,427  
 2,240,854

b. If the moneys appropriated by the general assembly to the college student aid commission for fiscal year 2012-2013 for purposes of the all Iowa opportunity scholarship program exceed \$500,000, "eligible institution" as defined in section 261.87, shall, during fiscal year 2012-2013, include accredited private institutions as defined in section 261.9, subsection 1.

8. REGISTERED NURSE AND NURSE EDUCATOR LOAN FORGIVENESS PROGRAM

a. For purposes of the registered nurse and nurse educator loan forgiveness program established pursuant to section 261.23:

..... \$ 40,426  
 80,852

b. It is the intent of the general assembly that the commission continue to consider moneys allocated pursuant to this subsection as moneys 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.

9. 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:

..... \$ 18,469  
 36,938

10. SKILLED WORKFORCE SHORTAGE TUITION GRANTS

For purposes of providing skilled workforce shortage tuition grants in accordance with section 261.130:

..... \$ 5,000,000

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, 2014.

DEPARTMENT OF EDUCATION

Sec. 5. 2011 Iowa Acts, chapter 132, section 102, is amended to read as follows:

SEC. 102. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is 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:

..... \$ 2,956,906  
 5,913,812  
 ..... FTEs 81.67

2. VOCATIONAL EDUCATION ADMINISTRATION

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

..... \$ 224,638  
 598,197  
 ..... FTEs 11.50

3. VOCATIONAL REHABILITATION SERVICES DIVISION

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

..... \$ 2,481,584  
 4,963,168



..... FTEs 255.00  
For purposes of optimizing the job placement of individuals with disabilities, the division shall make its best efforts to work with community rehabilitation program providers for job placement and retention services for individuals with significant disabilities and most significant disabilities. By January 15, 2013, the division shall submit a written report to the general assembly on the division's outreach efforts with community rehabilitation program providers.

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:

..... \$ 19,564  
 ..... 39,128  
 ..... FTEs 1.00

c. For the entrepreneurs with disabilities program established pursuant to section 259.4, subsection 9:

..... \$ 72,768  
 ..... 145,535

d. For costs associated with centers for independent living:

..... \$ 20,147  
 ..... 40,294

4. STATE LIBRARY

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

..... \$ 604,810  
 ..... 2,215,063  
 ..... FTEs 17.00  
 ..... 29.00

b. For the enrich Iowa program established under section 256.57:

..... \$ 837,114  
 ..... 2,174,228

5. LIBRARY SERVICE AREA SYSTEM

For state aid:

..... \$ 502,722

6. PUBLIC BROADCASTING DIVISION

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

..... \$ 3,327,011  
 ..... 6,969,021  
 ..... FTEs 82.00

7. REGIONAL TELECOMMUNICATIONS COUNCILS

For state aid:

..... \$ 496,457

~~The regional telecommunications councils established in section 8D.5 shall use the moneys 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:

..... \$ 1,315,067  
 ..... 2,630,134

Moneys appropriated in this subsection shall be used to reimburse school districts for vocational education expenditures made by secondary schools to meet the standards set in sections 256.11, 258.4, and 260C.14.

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:

.....	\$	1,088,399
		<u>2,176,797</u>
.....	FTEs	20.58

10. EARLY CHILDHOOD IOWA FUND — GENERAL AID

For deposit in the school ready children grants account of the early childhood Iowa fund created in section 256I.11:

.....	\$	2,693,057
		<u>5,386,113</u>

a. From the moneys deposited in the school ready children grants account for the fiscal year beginning July 1, 2012, and ending June 30, 2013, not more than \$265,950 is allocated for the early childhood Iowa office and other technical assistance activities. The early childhood Iowa state board shall direct staff to work with the early childhood stakeholders alliance created in section 256I.12 to inventory technical assistance needs. Moneys allocated under this lettered paragraph may be used by the early childhood Iowa state board for the purpose of skills development and support for ongoing training of staff. However, except as otherwise provided in this subsection, moneys shall not be used for additional staff or for the reimbursement of staff.

b. As a condition of receiving moneys appropriated in this subsection, each early childhood Iowa area board shall report to the early childhood Iowa state board progress on each of the local indicators approved by the area board. Each early childhood Iowa area board must also submit an annual budget for the area’s comprehensive school ready children grant developed for providing services for children from birth through five years of age, and provide other information specified by the early childhood Iowa state board, including budget amendments as needed. The early childhood Iowa state board shall establish a submission deadline for the annual budget and any budget amendments that allow a reasonable period of time for preparation by the early childhood Iowa area boards and for review and approval or request for modification of the materials by the early childhood Iowa state board. In addition, each early childhood Iowa area board must continue to comply with reporting provisions and other requirements adopted by the early childhood Iowa state board in implementing section 256I.9.

c. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the early childhood Iowa fund, \$2,318,018 shall be used for efforts to improve the quality of early care, health, and education programs. Moneys allocated pursuant to this paragraph may be used for additional staff and for the reimbursement of staff. The early childhood Iowa state board may reserve a portion of the allocation, not to exceed \$88,650, for the technical assistance expenses of the early childhood Iowa state office, including the reimbursement of staff, and shall distribute the remainder to early childhood Iowa areas for local quality improvement efforts through a methodology identified by the early childhood Iowa state board to make the most productive use of the funding, which may include use of the distribution formula, grants, or other means.

d. Of the amount appropriated in this subsection for deposit in the school ready children grants account of the early childhood Iowa fund, \$825,030 shall be used for support of professional development and training activities for persons working in early care, health, and education by the early childhood Iowa state board in collaboration with the professional development component group of the early childhood Iowa stakeholders alliance maintained pursuant to section 256I.12, subsection 7, paragraph “b”, and the early childhood Iowa area boards. Expenditures shall be limited to professional development and training activities agreed upon by the parties participating in the collaboration.

11. EARLY CHILDHOOD IOWA FUND — PRESCHOOL TUITION ASSISTANCE

a. For deposit in the school ready children grants account of the early childhood Iowa fund created in section 256I.11:

.....	\$	2,714,439
		<u>5,428,877</u>

b. The amount appropriated in this subsection shall be used for early care, health, and education programs to assist low-income parents with tuition for preschool and 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 than 200 percent of the federal poverty level. In addition, if sufficient funding is available after

addressing the needs of those who meet the basic income eligibility requirement, an early childhood Iowa 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 provisions.

12. EARLY CHILDHOOD IOWA FUND — FAMILY SUPPORT AND PARENT EDUCATION

a. For deposit in the school ready children grants account of the early childhood Iowa fund created in section 256I.11:

.....	\$	6,182,217
		<u>12,364,434</u>

b. The amount appropriated in this subsection shall be used for family support services and parent education programs targeted to families expecting a child or with newborn and infant children through age five and shall be distributed using the distribution formula approved by the early childhood Iowa state board and shall be used by an early childhood Iowa area board only for family support services and parent education programs targeted to families expecting a child or with newborn and infant children through age five.

c. In order to implement the legislative intent stated in sections 135.106 and 256I.9, that priority for home visitation program funding be given to programs using evidence-based or promising models for home visitation, it is the intent of the general assembly to phase in the funding priority as follows:

(1) By July 1, 2013, 25 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(2) By July 1, 2014, 50 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(3) By July 1, 2015, 75 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(4) By July 1, 2016, 90 percent of state funds expended for home visiting programs are for evidence-based or promising program models. The remaining 10 percent of funds may be used for innovative program models that do not yet meet the definition of evidence-based or promising programs.

d. For the purposes of this subsection, unless the context requires:

(1) "Evidence-based program" means a program that is based on scientific evidence demonstrating that the program model is effective. An evidence-based program shall be reviewed on site and compared to program model standards by the model developer or the developer's designee at least every five years to ensure that the program continues to maintain fidelity with the program model. The program model shall have had demonstrated significant and sustained positive outcomes in an evaluation utilizing a well-designed and rigorous randomized controlled research design or a quasi-experimental research design, and the evaluation results shall have been published in a peer-reviewed journal.

(2) "Family support programs" includes group-based parent education or home visiting programs that are designed to strengthen protective factors, including parenting skills, increasing parental knowledge of child development, and increasing family functioning and problem solving skills. A family support program may be used as an early intervention strategy to improve birth outcomes, parental knowledge, family economic success, the home learning environment, family and child involvement with others, and coordination with other community resources. A family support program may have a specific focus on preventing child maltreatment or ensuring children are safe, healthy, and ready to succeed in school.

(3) "Promising program" means a program that meets all of the following requirements:

(a) The program conforms to a clear, consistent family support model that has been in existence for at least three years.

(b) The program is grounded in relevant empirically-based knowledge.

(c) The program is linked to program-determined outcomes.

(d) The program is associated with a national or state organization that either has comprehensive program standards that ensure high-quality service delivery and continuous program quality improvement or the program model has demonstrated through the program's benchmark outcomes that the program has achieved significant positive outcomes equivalent to those achieved by program models with published significant and sustained results in a peer-reviewed journal.

(e) The program has been awarded the Iowa family support credential and has been reviewed on site at least every five years to ensure the program’s adherence to the Iowa family support standards approved by the early childhood Iowa state board created in section 256I.3 or a comparable set of standards. The on-site review is completed by an independent review team that is not associated with the program or the organization administering the program.

e. (1) The data reporting requirements adopted by the early childhood Iowa state board pursuant to section 256I.4 for the family support programs targeted to families expecting a child or with newborn and infant children through age five and funded through the board shall require the programs to participate in a state administered internet-based data collection system by July 1, 2013. The data reporting requirements shall be developed in a manner to provide for compatibility with local data collection systems. The state board’s annual report submitted each January to the governor and general assembly under section 256I.4 shall include family support program outcomes beginning with the January 2015 report.

(2) The data on families served that is collected by the family support programs funded through the early childhood Iowa initiative shall include but is not limited to basic demographic information, services received, funding utilized, and program outcomes for the children and families served. The state board shall adopt performance benchmarks for the family support programs and shall revise the Iowa family support credential to incorporate the performance benchmarks on or before January 1, 2014.

(3) The state board shall identify minimum competency standards for the employees and supervisors of family support programs funded through the early childhood Iowa initiative. The state board shall submit recommendations concerning the standards to the governor and general assembly on or before January 1, 2014.

(4) On or before January 1, 2013, the state board shall adopt criminal and child abuse record check requirements for the employees and supervisors of family support programs funded through the early childhood Iowa initiative.

(5) The state board shall develop a plan to implement a coordinated intake and referral process for publicly funded family support programs in order to engage the families expecting a child or with newborn and infant children through age five in all communities in the state by July 1, 2015.

**13. 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, 2012, birth through age three services due to increased numbers of children qualifying for those services:

.....	\$	860,700
		<u>1,721,400</u>

From the moneys appropriated in this subsection, \$383,769 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.

**14. TEXTBOOKS OF NONPUBLIC SCHOOL PUPILS**

To provide moneys for costs of providing textbooks to each resident pupil who attends a nonpublic school as authorized by section 301.1:

.....	\$	280,107
		<u>560,214</u>

Funding under this subsection is limited to \$20 per pupil and shall not exceed the comparable services offered to resident public school pupils.

**15. 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:

.....	\$	500,000
		<u>1,000,000</u>

**16. STUDENT ACHIEVEMENT AND TEACHER QUALITY PROGRAM**

For purposes of the student achievement and teacher quality program established pursuant to chapter 284, and for not more than the following full-time equivalent positions:

.....	\$	2,392,500
-------	----	-----------

	<u>4,785,000</u>
..... FTEs	2.00
17. 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:	
..... \$	20,000
	<u>540,000</u>
18. COMMUNITY COLLEGES	
a. For general state financial aid to merged areas as defined in section 260C.2 in accordance with chapters 258 and 260C:	
..... \$	81,887,324
	<u>177,274,647</u>
<del>The funds appropriated in this subsection shall be allocated pursuant to the formula established in section 206C.18C.</del>	
Notwithstanding the allocation formula in section 260C.18C, the funds appropriated in this subsection shall be allocated as follows:	
(1) Merged Area I .....	\$ 8,815,803
(2) Merged Area II .....	\$ 9,196,145
(3) Merged Area III .....	\$ 8,473,561
(4) Merged Area IV .....	\$ 4,164,164
(5) Merged Area V .....	\$ 9,859,104
(6) Merged Area VI .....	\$ 8,113,382
(7) Merged Area VII .....	\$ 12,193,896
(8) Merged Area IX .....	\$ 15,262,118
(9) Merged Area X .....	\$ 27,387,664
(10) Merged Area XI .....	\$ 28,219,579
(11) Merged Area XII .....	\$ 9,971,081
(12) Merged Area XIII .....	\$ 10,444,823
(13) Merged Area XIV .....	\$ 4,235,051
(14) Merged Area XV .....	\$ 13,275,582
(15) Merged Area XVI .....	\$ 7,662,694
b. For distribution to community colleges to supplement faculty salaries:	
..... \$	250,000
	<u>500,000</u>
c. For deposit in the workforce training and economic development funds created pursuant to section 260C.18A:	
..... \$	2,500,000
	<u>8,000,000</u>
d. For deposit in the gap tuition assistance fund established pursuant to section 260I.2, subsection 2:	
..... \$	2,000,000

## STATE BOARD OF REGENTS

Sec. 6. 2011 Iowa Acts, chapter 132, section 103, is amended to read as follows:

SEC. 103. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is 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:

..... \$	532,503
	<u>1,065,005</u>
..... FTEs	15.00

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 report submitted

in December 2012 shall include the five-year graduation rates for the regents universities.

b. For moneys to be allocated to the southwest Iowa graduate studies center:

..... \$ 43,736  
 ..... 87,471

c. For moneys to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 22:

..... \$ 33,301  
 ..... 66,601

d. For moneys to be allocated to the quad-cities graduate studies center:

..... \$ 64,888  
 ..... 129,776

The board may transfer moneys appropriated under paragraph “b”, “c”, or “d”, of this subsection to any of the other centers specified in paragraph “b”, “c”, or “d”, if the board notifies, in writing, the general assembly and the legislative services agency of the amount, the date, and the purpose of the transfer.

e. For moneys to be distributed to Iowa public radio for public radio operations:

..... \$ 195,784  
 ..... 391,568

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:

..... \$ 104,868,656  
 ..... 216,414,572  
 ..... FTEs 5,058.55

b. Oakdale campus

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

..... \$ 1,093,279  
 ..... 2,186,558  
 ..... FTEs 38.25

c. State hygienic laboratory

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

..... \$ 1,768,358  
 ..... 3,536,716  
 ..... FTEs 102.50

d. 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:

..... \$ 894,133  
 ..... 1,788,265  
 ..... FTEs 190.40

e. 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:

..... \$ 329,728  
 ..... 659,456  
 ..... FTEs 57.97

f. Statewide cancer registry

For the statewide cancer registry, and for not more than the following full-time equivalent positions:

..... \$ 74,526

	149,051
..... FTEs	2.10
g. Substance abuse consortium	
For moneys to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent position:	
..... \$	27,765
	<u>55,529</u>
..... FTEs	1.00
h. Center for biocatalysis	
For the center for biocatalysis, and for not more than the following full-time equivalent positions:	
..... \$	361,864
	<u>723,727</u>
..... FTEs	6.28
i. 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:	
..... \$	324,465
	<u>648,930</u>
..... FTEs	5.89
From the moneys appropriated in this lettered paragraph, \$254,889 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.	
j. Birth defects registry	
For the birth defects registry, and for not more than the following full-time equivalent position:	
..... \$	19,144
	<u>38,288</u>
..... FTEs	1.00
k. Larned A. Waterman Iowa nonprofit resource center	
For the Larned A. Waterman Iowa nonprofit resource center, and for not more than the following full-time equivalent positions:	
..... \$	81,270
	<u>162,539</u>
..... FTEs	2.75
l. Iowa online advanced placement academy science, technology, engineering, and mathematics initiative	
For the establishment of the Iowa online advanced placement academy science, technology, engineering, and mathematics initiative:	
..... \$	240,925
	<u>481,849</u>
<u>m. For the Iowa flood center for use by the university's college of engineering pursuant to section 466C.1:</u>	
..... \$	1,500,000
<b>3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</b>	
a. General university	
For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
..... \$	82,172,599
	<u>169,577,342</u>
..... FTEs	3,647.42
b. Agricultural experiment station	
For the agricultural experiment station salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:	
..... \$	14,055,939
	<u>28,111,877</u>
..... FTEs	546.98

c. Cooperative extension service in agriculture and home economics

For the cooperative extension service in agriculture and home economics salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	8,968,361
		<u>17,936,722</u>
.....	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:

.....	\$	198,709
		<u>397,417</u>
.....	FTEs	11.25

e. Livestock disease research

For deposit in and the use of the livestock disease research fund under section 267.8:

.....	\$	86,423
		<u>172,845</u>

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:

.....	\$	37,367,293
		<u>81,113,859</u>
.....	FTEs	1,447.50

b. Recycling and reuse center

For purposes of the recycling and reuse center, and for not more than the following full-time equivalent positions:

.....	\$	87,628
		<u>175,256</u>
.....	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, and for not more than the following full-time equivalent positions:

.....	\$	867,328
		<u>4,700,000</u>
.....	FTEs	6.20

(1) From the moneys appropriated in this lettered paragraph, up to \$282,000 shall be allocated for salaries, staffing, and institutional support. The remainder of the moneys appropriated in this lettered paragraph shall be expended only to support activities directly related to recruitment of kindergarten through grade 12 mathematics and science teachers and for ongoing mathematics and science programming for students enrolled in kindergarten through grade 12.

(2) The university of northern Iowa shall work with the community colleges to develop STEM professional development programs for community college instructors and STEM curriculum development.

d. Real estate education program

For purposes of the real estate education program, and for not more than the following full-time equivalent position:

.....	\$	62,651
		<u>125,302</u>
.....	FTEs	1.00

5. STATE SCHOOL FOR THE DEAF

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

.....	\$	4,339,982
		<u>8,853,563</u>
.....	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:

.....	\$	1,809,466
		<u>3,691,310</u>
.....	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:

.....	\$	5,882
		<u>11,763</u>

#### 8. LICENSED CLASSROOM TEACHERS

For distribution at the Iowa braille and sight saving school and the Iowa school for the deaf based upon the average yearly enrollment at each school as determined by the state board of regents:

.....	\$	41,025
		<u>82,049</u>

Sec. 7. Section 235A.15, subsection 2, paragraph e, Code Supplement 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (22) To the administrator of a family support program receiving public funds, if the data relates to a record check of an employee working directly with families.

Sec. 8. Section 256.86, Code 2011, is amended to read as follows:

#### **256.86 Competition with private sector.**

1. It is the intent of the general assembly that the division shall not compete with the private sector by actively seeking revenue from its operations except as provided in this chapter.

2. a. The division may receive revenue for providing services, products, and usage of facilities and equipment if one or more of the following conditions are met:

(1) The service, product, or usage is not reasonably available in the private sector.

(2) The division can provide the service, product, or usage at a time, price, location, or terms that are not reasonably available through the private sector.

(3) The service, product, or usage is deemed by the division to be related to public service or the educational mission of the division.

b. The division may charge reasonable fees for providing services, products, and usage of facilities and equipment in accordance with paragraph "a", including but not limited to a reasonable equipment and facilities usage fee.

c. Fees charged in accordance with this subsection shall be deposited in the capital equipment replacement revolving fund created pursuant to section 256.87.

3. It is not the intent of the general assembly to prohibit the receipt of charitable contributions as defined by section 170 of the Internal Revenue Code.

4. The board, the governor, or the administrator may apply for and accept federal or nonfederal gifts, loans, or grants of funds and may use the funds for projects under this chapter.

Sec. 9. Section 256.87, Code 2011, is amended to read as follows:

#### **256.87 Costs and fees — capital equipment replacement revolving fund.**

~~1. The board may provide noncommercial production or reproduction services for other public agencies, nonprofit corporations or associations organized under state law, or other nonprofit organizations, and may collect the costs of providing the services from the public agency, corporation, association, or organization, plus a separate equipment usage fee in an amount determined by the board and based upon the equipment used. The costs shall be deposited to the credit of the board. The separate equipment usage fee shall be deposited in the capital equipment replacement revolving fund.~~

~~2. The board may establish a capital equipment replacement revolving fund into which shall be deposited equipment usage fees collected under subsection 1 and funds from other sources designated for deposit in the A capital equipment replacement revolving fund is created in the state treasury. The revolving fund shall be administered by the board and shall consist of moneys collected by the division as fees and any other moneys obtained or accepted by the division for deposit in the revolving fund.~~

~~2. The board may expend moneys from the capital equipment replacement revolving fund to update facilities and purchase technical equipment for operating the educational radio and television facility its operations.~~

~~3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the revolving fund shall be credited to the revolving fund. Notwithstanding section 8.33, moneys in the revolving fund that remain unencumbered or unobligated at the close of the fiscal year shall not revert to any other fund but shall remain available in the revolving fund for the purposes designated.~~

Sec. 10. Section 261.19, subsection 3, Code Supplement 2011, is amended to read as follows:

3. A health care professional recruitment revolving fund is created in the state treasury as a separate fund under the control of the commission for deposit of moneys appropriated to or received by the commission for use under the program. The commission shall deposit payments made by health care professional recruitment program recipients and the proceeds from the sale of osteopathic loans awarded pursuant to section 261.19, subsection 2, paragraph "b", Code 2011, into the health care professional recruitment revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the health care professional recruitment program, for loan repayment in accordance with this section, and to pay for loan or interest repayment defaults by program recipients. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the 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.

Sec. 11. Section 261.25, subsections 1 and 2, Code Supplement 2011, 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-three~~ forty-five million five hundred thirteen thousand four hundred forty-eight dollars for tuition grants.

2. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~four~~ two million dollars for tuition grants for students attending for-profit accredited private institutions located in Iowa. A for-profit institution which, effective March 9, 2005, or effective January 8, 2010, 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. 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. 12. NEW SECTION. 268.7 Science, technology, engineering, and mathematics collaborative initiative.

1. A science, technology, engineering, and mathematics collaborative initiative is established at the university of northern Iowa for purposes of supporting activities directly related to recruitment of prekindergarten through grade twelve mathematics and science teachers for ongoing mathematics and science programming for students enrolled in prekindergarten through grade twelve.

2. The collaborative initiative shall prioritize student interest in achievement in science, technology, engineering, and mathematics; reach every student and teacher in every school district in the state; identify, recruit, prepare, and support the best mathematics and science

teachers; and sustain exemplary programs through the university's Iowa mathematics and science education partnership. The university shall collaborate with the community colleges to develop science, technology, engineering, and mathematics professional development programs for community college instructors and for purposes of science, technology, engineering, and mathematics curricula development.

3. Subject to an appropriation of funds by the general assembly, the initiative shall administer the following:

a. Regional science, technology, engineering, and mathematics networks for Iowa, the purpose of which is to equalize science, technology, engineering, and mathematics education enrichment opportunities available to learners statewide. The initiative shall establish six geographically similar regional science, technology, engineering, and mathematics networks across Iowa that complement and leverage existing resources, including but not limited to extension service assets, area education agencies, state accredited postsecondary institutions, informal educational centers, school districts, economic development zones, and existing public and private science, technology, engineering, and mathematics partnerships. Each network shall be managed by a highly qualified science, technology, engineering, and mathematics advocate positioned at a network hub to be determined through a competitive application process. Oversight for each regional network shall be provided by a regional advisory board. Members of the board shall be appointed by the governor. The membership shall represent prekindergarten through grade twelve school districts and schools, and higher education, business, nonprofit organizations, youth agencies, and other appropriate stakeholders.

b. A focused array of the best science, technology, engineering, and mathematics enrichment opportunities, selected through a competitive application process, that can be expanded to meet future needs. A limited, focused list of selected exemplary programs shall be made available to each regional network.

c. Statewide science, technology, engineering, and mathematics programming designed to increase participation of students and teachers in successful learning experiences; to increase the number of science, technology, engineering, and mathematics-related teaching majors offered by the state's universities; to elevate public awareness of the opportunities; and to increase collaboration and partnerships.

4. The initiative shall evaluate the effectiveness of programming to document best practices.

Sec. 13. Section 284.13, subsection 1, paragraphs a, b, c, and d, Code Supplement 2011, are amended to read as follows:

a. For the fiscal year beginning July 1, ~~2011~~ 2012, and ending June 30, ~~2012~~ 2013, to the department of education, the amount of ~~six~~ five hundred eighty-five thousand dollars for the issuance of national board certification awards in accordance with section 256.44. Of the amount allocated under this paragraph, not less than eighty-five thousand dollars shall be used to administer the ambassador to education position in accordance with section 256.45.

b. For the fiscal year beginning July 1, ~~2011~~ 2012, and ending June 30, ~~2012~~ 2013, an amount up to two million ~~three~~ four hundred ~~ninety-five~~ sixty-three thousand ~~one~~ five hundred ~~fifty-seven~~ ninety dollars for first-year and second-year beginning teachers, to the department of education for distribution to school districts and area education agencies for purposes of the beginning teacher mentoring and induction programs. A school district or area education agency shall receive one thousand three hundred dollars per beginning teacher participating in the program. If the funds appropriated for the program are insufficient to pay mentors, school districts, and area education agencies as provided in this paragraph, the department shall prorate the amount distributed to school districts and area education agencies based upon the amount appropriated. Moneys received by a school district or area education agency pursuant to this paragraph shall be expended to provide each mentor with an award of five hundred dollars per semester, at a minimum, for participation in the school district's or area education agency's beginning teacher mentoring and induction program; to implement the plan; and to pay any applicable costs of the employer's share of contributions to federal social security and the Iowa public employees'

retirement system or a pension and annuity retirement system established under chapter 294, for such amounts paid by the district or area education agency.

c. For the fiscal year beginning July 1, ~~2011~~ 2012, and ending June 30, ~~2012~~ 2013, up to six hundred thousand dollars to the department for purposes of implementing the professional development program requirements of section 284.6, assistance in developing model evidence for teacher quality committees established pursuant to section 284.4, subsection 1, paragraph “c”, and the evaluator training program in section 284.10. A portion of the funds allocated to the department for purposes of this paragraph may be used by the department for administrative purposes and for not more than four full-time equivalent positions.

d. For the fiscal year beginning July 1, ~~2011~~ 2012, and ending June 30, ~~2012~~ 2013, an amount up to one million one hundred ~~four~~ thirty-six thousand ~~eight~~ four hundred ~~forty-three~~ ten 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. 14. REPEAL. 2011 Iowa Acts, chapter 132, section 99, is repealed.

Sec. 15. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending 2011 Iowa Acts, chapter 132, section 7, subsection 1, paragraph a, being deemed of immediate importance, takes effect upon enactment.

## DIVISION II WORKER TRAINING PROGRAMS IN COMMUNITY COLLEGES

Sec. 16. Section 84A.6, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The department of workforce development, in consultation with the college student aid commission, shall issue a quarterly report identifying industries in which the department finds a shortage of skilled workers in this state for the purposes of the skilled workforce shortage tuition grant program established in section 261.130.

Sec. 17. Section 260C.18A, subsection 2, Code Supplement 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Development and implementation of the national career readiness certificate and the skills certification system endorsed by the national association of manufacturers.

Sec. 18. Section 260I.2, Code Supplement 2011, is amended to read as follows:

**260I.2 Gap tuition assistance program — fund.**

1. A gap tuition assistance program is established to provide funding to community colleges for need-based tuition assistance to applicants to enable completion of continuing education certificate training programs for in-demand occupations.

2. a. There is established for the community colleges a gap tuition assistance fund in the state treasury to be administered by the department of education. The funds in the gap tuition assistance fund are appropriated to the department of education for the gap tuition assistance program.

b. The aggregate total of grants awarded from the gap tuition assistance fund during a fiscal year shall not be more than two million dollars.

c. Moneys in the fund shall be allocated pursuant to the formula established in section 260C.18C. Notwithstanding section 8.33, moneys in the fund at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure for the purpose designated for subsequent fiscal years. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 19. Section 260I.7, Code Supplement 2011, is amended to read as follows:

**260I.7 Initial assessment.**

An applicant for tuition assistance under this chapter shall complete an initial assessment administered by the community college receiving the application to determine the applicant's

readiness to complete an eligible certificate program. The assessment shall include assessments for completion of a national career readiness certificate, including the areas of reading for information, applied mathematics, and locating information. ~~An applicant must achieve a bronze-level certificate or the minimum score required for an eligible certificate program, whichever is higher, in order to be approved for tuition assistance.~~ An applicant shall complete any additional assessments and occupational research required by an eligible certificate program.

Sec. 20. **NEW SECTION. 261.130 Skilled workforce shortage tuition grant program.**

1. A skilled workforce shortage tuition grant may be awarded to any resident of Iowa who is admitted and in attendance as a full-time or part-time student in a career-technical or career option program to pursue an associate's degree or other training at a community college in the state, and who establishes financial need.

2. Skilled workforce shortage tuition grants shall be awarded only to students pursuing a career-technical or career option program in an industry identified as having a shortage of skilled workers by a community college after conducting a regional skills gap analysis or by the department of workforce development in the department's most recent quarterly report pursuant to section 84A.6, subsection 4.

3. The amount of a skilled workforce shortage tuition grant shall not exceed the lesser of one-half of a student's tuition and fees for an approved career-technical or career option program or the amount of the student's established financial need.

4. All classes identified by the community college as required for completion of the student's approved career-technical or career option program shall be considered a part of the student's career-technical or career option program for the purpose of determining the student's eligibility for a grant. Notwithstanding subsection 5, if a student is making satisfactory academic progress but the student cannot complete a career-technical or career option program in the time frame allowed for a student to receive a skilled workforce shortage tuition grant as provided in subsection 5 because additional classes are required to complete the program, the student may continue to receive a skilled workforce shortage tuition grant for not more than one additional enrollment period.

5. *a.* A qualified full-time student may receive skilled workforce shortage tuition grants 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 skilled workforce shortage tuition grants for not more than eight semesters or the trimester or quarter equivalent of two full years of full-time study.

*b.* 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.

6. A skilled workforce shortage 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 community college that the student is in full-time or part-time attendance in a career-technical or career option program consistent with the requirements of this section. 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 community college to the state.

7. 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.

8. The commission shall administer this program and shall:

*a.* Provide application forms for distribution to students by Iowa high schools and community colleges.

*b.* Adopt rules for approving career-technical or career option programs in industries identified by the department of workforce development pursuant to section 84A.6, subsection 4; 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 and the industries identified by the community colleges and by the department of workforce development pursuant to section 84A.6, subsection 4, for which students were admitted to a career-technical or career option program.
- 9. Each applicant, in accordance with the rules established by the commission, shall:
  - a. Complete and file an application for a skilled workforce shortage 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 for reevaluation of the applicant’s eligibility to receive a second-year renewal of the grant.

Approved May 25, 2012

**CHAPTER 1133**

**APPROPRIATIONS — HEALTH AND HUMAN SERVICES**

*S.F. 2336*

**AN ACT** relating to appropriations for health and human services and including other related provisions and appropriations, making penalties applicable, and including effective, retroactive, and applicability date provisions.

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

**DIVISION I  
DEPARTMENT ON AGING**

Section 1. 2011 Iowa Acts, chapter 129, section 113, is amended to read as follows:

SEC. 113. DEPARTMENT ON AGING. There is appropriated from the general fund of the state to the department on aging for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For aging programs for the department on aging and area agencies on aging to provide citizens of Iowa who are 60 years of age and older with case management for frail elders, Iowa’s aging and disabilities resource center, and other services which may include but are not limited to adult day services, respite care, chore services, information and assistance, and material aid, for information and options counseling for persons with disabilities who are 18 years of age or older, and for salaries, support, administration, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	5,151,288
.....		<u>10,342,086</u>
.....	FTEs	35.00
.....		<u>36.00</u>

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. ~~The amount appropriated in this section includes additional funding of \$225,000 for delivery of long-term care services to seniors with low or moderate incomes.~~

3. Of the funds appropriated in this section, ~~\$89,973~~ \$179,946 shall be transferred to the ~~department of economic development authority~~ for the Iowa commission on volunteer services to be used for the retired and senior volunteer program.

4. a. The department on aging shall establish and enforce procedures relating to expenditure of state and federal funds by area agencies on aging that require compliance with both state and federal laws, rules, and regulations, including but not limited to all of the following:

(1) Requiring that expenditures are incurred only for goods or services received or performed prior to the end of the fiscal period designated for use of the funds.

(2) Prohibiting prepayment for goods or services not received or performed prior to the end of the fiscal period designated for use of the funds.

(3) Prohibiting the prepayment for goods or services not defined specifically by good or service, time period, or recipient.

(4) Prohibiting the establishment of accounts from which future goods or services which are not defined specifically by good or service, time period, or recipient, may be purchased.

b. The procedures shall provide that if any funds are expended in a manner that is not in compliance with the procedures and applicable federal and state laws, rules, and regulations, and are subsequently subject to repayment, the area agency on aging expending such funds in contravention of such procedures, laws, rules and regulations, not the state, shall be liable for such repayment.

5. Of the funds appropriated in this section, \$100,000 shall be used to provide an additional local long-term care resident's advocate to administer the certified volunteer long-term care resident's advocate program pursuant to section 231.45 as enacted in this 2012 Act.

6. The department shall develop recommendations for an implementation schedule, including funding projections, for the substitute decision maker program created pursuant to chapter 231E, and shall submit the recommendations to the individuals identified in this Act for submission of reports by December 15, 2012.

7. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under the purview of the department.

DIVISION II  
DEPARTMENT OF PUBLIC HEALTH

Sec. 2. 2011 Iowa Acts, chapter 129, section 114, is amended to read as follows:

SEC. 114. 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, 2012, and ending June 30, 2013, 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:

.....	\$	11,751,595
		<u>23,863,690</u>
.....	FTEs	13.00

a. (1) Of the funds appropriated in this subsection, ~~\$1,626,915~~ \$3,653,830 shall be used for the tobacco use prevention and control initiative, including efforts at the state and local levels, as provided in chapter 142A. The commission on tobacco use prevention and control established pursuant to section 142A.3 shall advise the director of public health in prioritizing funding needs and the allocation of moneys appropriated for the programs and activities of the initiative under this subparagraph (1) and shall make recommendations to the director in the development of budget requests relating to the initiative. Of the funds allocated in this subparagraph (1), \$750,000 shall be used for support of Quitline Iowa.

(2) (a) Of the funds allocated in this paragraph "a", ~~\$226,915~~ \$453,830 shall be transferred to the alcoholic beverages division of the department of commerce for enforcement of tobacco

laws, regulations, and ordinances in accordance with 2011 Iowa Acts, ~~House File 467, as enacted chapter 63.~~

(b) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the terms of a chapter 28D agreement, entered into between the division of tobacco use prevention and control of the department of public health and the alcoholic beverages division of the department of commerce, governing compliance checks conducted to ensure licensed retail tobacco outlet conformity with tobacco laws, regulations, and ordinances relating to persons under eighteen years of age, shall restrict the number of such checks to one check per retail outlet, and one additional check for any retail outlet found to be in violation during the first check.

b. Of the funds appropriated in this subsection, ~~\$10,124,680~~ \$20,249,360 shall be used for problem gambling and substance abuse prevention, treatment, and recovery services, including a 24-hour helpline, public information resources, professional training, and program evaluation.

(1) Of the funds allocated in this paragraph "b", ~~\$8,566,254~~ \$17,132,508 shall be used for substance abuse prevention and treatment.

(a) Of the funds allocated in this subparagraph (1), ~~\$449,650~~ \$899,300 shall be used for the public purpose of a grant program to provide substance abuse prevention programming for children.

(i) Of the funds allocated in this subparagraph division (a), ~~\$213,769~~ \$427,539 shall be used for grant funding for organizations that provide programming for children by utilizing mentors. Programs approved for such grants 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.

(ii) Of the funds allocated in this subparagraph division (a), ~~\$213,419~~ \$426,839 shall be used for grant 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.

(iii) The department of public health shall utilize a request for proposals process to implement the grant program.

(iv) All grant recipients shall participate in a program evaluation as a requirement for receiving grant funds.

(v) Of the funds allocated in this subparagraph division (a), up to ~~\$22,461~~ \$44,922 may be used to administer substance abuse prevention grants and for program evaluations.

(b) Of the funds allocated in this subparagraph (1), ~~\$136,531~~ \$273,062 shall be used for culturally competent substance abuse treatment pilot projects.

(i) The department shall utilize the amount allocated in this subparagraph division (b) 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.

(ii) 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.

(2) Of the funds allocated in this paragraph "b", up to ~~\$1,558,426~~ \$3,116,852 may be used for problem gambling prevention, treatment, and recovery services.

(a) Of the funds allocated in this subparagraph (2), ~~\$1,289,500~~ \$2,579,000 shall be used for problem gambling prevention and treatment.

(b) Of the funds allocated in this subparagraph (2), up to ~~\$218,926~~ \$437,852 may be used for a 24-hour helpline, public information resources, professional training, and program evaluation.

(c) Of the funds allocated in this subparagraph (2), up to ~~\$50,000~~ \$100,000 may be used for the licensing of problem gambling treatment programs.

(3) It is the intent of the general assembly that from the moneys allocated in this paragraph "b", persons with a dual diagnosis of substance abuse and gambling addictions shall be given priority in treatment services.



c. Notwithstanding any provision of law to the contrary, to standardize the availability, delivery, cost of delivery, and accountability of problem gambling and substance abuse treatment services statewide, the department shall continue implementation of a process to create a system for delivery of treatment services in accordance with the requirements specified in 2008 Iowa Acts, chapter 1187, section 3, subsection 4. To ensure the system provides a continuum of treatment services that best meets the needs of Iowans, the problem gambling and substance abuse treatment services in any area may be provided either by a single agency or by separate agencies submitting a joint proposal.

(1) The system for delivery of substance abuse and problem gambling treatment shall include problem gambling prevention.

(2) The system for delivery of substance abuse and problem gambling treatment shall include substance abuse prevention by July 1, 2014.

(3) Of the funds allocated in paragraph "b", the department may use up to ~~\$50,000~~ \$100,000 for administrative costs to continue developing and implementing the process in accordance with this paragraph "c".

d. The requirement of section 123.53, subsection 5, is met by the appropriations and allocations made in this Act for purposes of substance abuse treatment and addictive disorders for the fiscal year beginning July 1, 2012.

e. The department of public health shall work with all other departments that fund substance abuse prevention and treatment services and all such departments shall, to the extent necessary, collectively meet the state maintenance of effort requirements for expenditures for substance abuse services as required under the federal substance abuse prevention and treatment block grant.

f. The department shall amend or otherwise revise departmental policies and contract provisions in order to eliminate free t-shirt distribution, banner production, and other unnecessary promotional expenditures.

g. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

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:

.....	\$	1,297,135
.....		2,603,559
.....	FTEs	10.00

a. Of the funds appropriated in this subsection, not more than ~~\$369,659~~ \$739,318 shall be used for the healthy opportunities to experience success (HOPES)-healthy families Iowa (HFI) program established pursuant to section 135.106. 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, 2012.

0b. (1) In order to implement the legislative intent stated in sections 135.106 and 256I.9, that priority for home visitation program funding be given to programs using evidence-based or promising models for home visitation, it is the intent of the general assembly to phase-in the funding priority as follows:

(a) By July 1, 2013, 25 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(b) By July 1, 2014, 50 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(c) By July 1, 2015, 75 percent of state funds expended for home visiting programs are for evidence-based or promising program models.

(d) By July 1, 2016, 90 percent of state funds expended for home visiting programs are for evidence-based or promising program models. The remaining 10 percent of funds may be used for innovative program models that do not yet meet the definition of evidence-based or promising programs.

(2) For the purposes of this lettered paragraph, unless the context otherwise requires:

(a) "Evidence-based program" means a program that is based on scientific evidence demonstrating that the program model is effective. An evidence-based program shall be

reviewed onsite and compared to program model standards by the model developer or the developer's designee at least every five years to ensure that the program continues to maintain fidelity with the program model. The program model shall have had demonstrated significant and sustained positive outcomes in an evaluation utilizing a well-designed and rigorous randomized controlled research design or a quasi-experimental research design, and the evaluation results shall have been published in a peer-reviewed journal.

(b) "Family support programs" includes group-based parent education or home visiting programs that are designed to strengthen protective factors, including parenting skills, increasing parental knowledge of child development, and increasing family functioning and problem solving skills. A family support program may be used as an early intervention strategy to improve birth outcomes, parental knowledge, family economic success, the home learning environment, family and child involvement with others, and coordination with other community resources. A family support program may have a specific focus on preventing child maltreatment or ensuring children are safe, healthy, and ready to succeed in school.

(c) "Promising program" means a program that meets all of the following requirements:

(i) The program conforms to a clear, consistent family support model that has been in existence for at least three years.

(ii) The program is grounded in relevant empirically-based knowledge.

(iii) The program is linked to program-determined outcomes.

(iv) The program is associated with a national or state organization that either has comprehensive program standards that ensure high-quality service delivery and continuous program quality improvement or the program model has demonstrated through the program's benchmark outcomes that the program has achieved significant positive outcomes equivalent to those achieved by program models with published significant and sustained results in a peer-reviewed journal.

(v) The program has been awarded the Iowa family support credential and has been reviewed onsite at least every five years to ensure the program's adherence to the Iowa family support standards approved by the early childhood Iowa state board created in section 256I.3 or a comparable set of standards. The onsite review is completed by an independent review team that is not associated with the program or the organization administering the program.

(3) (a) The data reporting requirements applicable to the HOPES-HFI program services shall include the requirements adopted by the early childhood Iowa state board pursuant to section 256I.4 for the family support programs targeted to families expecting a child or with newborn and infant children through age five and funded through the state board. The department of public health may specify additional data reporting requirements for the HOPES-HFI program services. The HOPES-HFI program services shall be required to participate in a state administered internet-based data collection system by July 1, 2013. The annual reporting concerning the HOPES-HFI program services shall include program outcomes beginning with the 2015 report.

(b) The data on families served that is collected by the HOPES-HFI program shall include but is not limited to basic demographic information, services received, funding utilized, and program outcomes for the children and families served.

(c) The HOPES-HFI program shall work with the early childhood Iowa state board in the state board's efforts to identify minimum competency standards for the employees and supervisors of family support programs funded. The HOPES-HFI program, along with the state board, shall submit recommendations concerning the standards to the governor and general assembly on or before January 1, 2014.

(d) On or before January 1, 2013, the HOPES-HFI program shall adopt criminal and child abuse record check requirements for the employees and supervisors of family support programs funded through the program.

(e) The HOPES-HFI program shall work with the early childhood Iowa state board in the state board's efforts to develop a plan to implement a coordinated intake and referral process for publicly funded family support programs in order to engage the families expecting a child or with newborn and infant children through age five in all communities in the state by July 1, 2015.

b. Of the funds appropriated in this subsection, ~~\$164,942~~ \$329,885 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. The department shall work with the department of human services, Iowa Medicaid enterprise, to develop a plan to secure matching medical assistance program funding to provide services under this paragraph, which may include a per member per month payment to reimburse the care coordination and community outreach services component that links young children and their families with identified service needs.

c. Of the funds appropriated in this subsection, ~~\$15,798~~ \$31,597 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 lifeline network to provide dental services to indigent elderly and disabled individuals.

d. Of the funds appropriated in this subsection, ~~\$56,338~~ \$112,677 shall be used for childhood obesity prevention.

e. Of the funds appropriated in this subsection, ~~\$81,880~~ \$163,760 shall be used to provide audiological services and hearing aids for children. The department may enter into a contract to administer this paragraph.

f. Of the funds appropriated in this subsection, \$25,000 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.

g. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

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:

.....	\$	1,680,828
		<u>3,905,429</u>
.....	FTEs	4.00

a. Of the funds appropriated in this subsection, ~~\$80,291~~ \$160,582 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, ~~\$241,800~~ \$483,600 is allocated for continuation of the contracts for resource facilitator services in accordance with section 135.22B, subsection 9, 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.

c. Of the funds appropriated in this subsection, ~~\$249,437~~ \$550,000 shall be used as additional funding to leverage federal funding through the federal Ryan White Care Act, Tit. II, AIDS drug assistance program supplemental drug treatment grants.

d. Of the funds appropriated in this subsection, ~~\$15,627~~ \$50,000 shall be used for the public purpose of providing 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.

e. Of the funds appropriated in this subsection, ~~\$394,151~~ \$788,303 shall be used for child health specialty clinics.

f. Of the funds appropriated in this subsection, ~~\$248,533~~ \$497,065 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. Of the funds allocated in this lettered paragraph, ~~\$75,000~~ \$150,000 shall be used to support a melanoma research symposium, a melanoma biorepository and registry, basic and translational melanoma research, and clinical trials.

g. Of the funds appropriated in this subsection, ~~\$63,225~~ \$126,450 shall be used for cervical and colon cancer screening, and \$500,000 shall be used to enhance the capacity of the cervical cancer screening program to include provision of recommended prevention and early detection measures to a broader range of low-income women.

h. Of the funds appropriated in this subsection, ~~\$264,417~~ \$528,834 shall be used for the center for congenital and inherited disorders.

i. Of the funds appropriated in this subsection, ~~\$64,968~~ \$129,937 shall be used for the prescription drug donation repository program created in chapter 135M.

j. No later than December 15, 2012, the department of public health, in collaboration with the department of education and other interested parties, shall develop guidelines for the management of chronic conditions that affect children to be made available to public schools and accredited nonpublic schools throughout the state.

k. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

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:

.....	\$	2,117,583
.....		<u>4,869,980</u>
.....	FTEs	14.00

a. Of the funds appropriated in this subsection, ~~\$50,000~~ \$100,000 is allocated for a child vision screening program implemented through the university of Iowa hospitals and clinics in collaboration with early childhood Iowa areas. The program shall submit a report to the individuals identified in this Act for submission of reports regarding the use of funds allocated under this paragraph "a". The report shall include the objectives and results for the year of the program's implementation including the target population and how the funds allocated assisted the program in meeting the objectives; the number, age, and location within the state of individuals served; the type of services provided to the individuals served; the distribution of funds based on service provided; and the continuing needs of the program.

b. Of the funds appropriated in this subsection, ~~\$55,654~~ \$111,308 is allocated for continuation of an initiative implemented at the university of Iowa and ~~\$50,246~~ \$100,493 is allocated for continuation of 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 and disability services commission to address the focus of the initiatives.

c. Of the funds appropriated in this subsection, ~~\$585,745~~ \$1,171,491 shall be used for essential public health services that promote healthy aging throughout the lifespan, contracted through a formula for local boards of health, to enhance health promotion and disease prevention services.

d. Of the funds appropriated in this section, ~~\$60,908~~ \$100,000 shall be deposited in the governmental public health system fund created in section 135A.8 to be used for the purposes of the fund.

e. Of the funds appropriated in this subsection, ~~\$72,271~~ \$144,542 shall be used for the mental health professional shortage area program implemented pursuant to section ~~135.80~~ 135.180.

f. Of the funds appropriated in this subsection, ~~\$19,131~~ \$38,263 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~~ 135.180.

g. 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. The following amounts allocated under this lettered paragraph shall be distributed to the specified provider and shall not be reduced for administrative or other costs prior to distribution:

(1) For distribution to the Iowa primary care association for statewide coordination of the Iowa collaborative safety net provider network:

.....	\$	66,290
.....		<u>146,563</u>

(1A) For distribution to the Iowa primary care association to be used to establish a grant program for training sexual assault response team (SART) members, including representatives of law enforcement, victim advocates, prosecutors, and certified medical personnel:

..... \$ 50,000

(1B) For distribution to federally qualified health centers for necessary infrastructure, statewide coordination, provider recruitment, service delivery, and provision of assistance to patients in determining an appropriate medical home:

..... \$ 75,000

(2) 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:

..... \$ 38,804

77,609

(3) For distribution to maternal and child health centers for pilot programs in three counties to assist patients in determining an appropriate medical home:

..... \$ 38,804

95,582

(4) 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:

..... \$ 62,025

274,050

(5) 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:

..... \$ 55,215

142,192

(6) For continuation of the safety net provider patient access to specialty health care initiative as described in 2007 Iowa Acts, chapter 218, section 109:

..... \$ 130,000

310,000

(7) For continuation of the pharmaceutical infrastructure for safety net providers as described in 2007 Iowa Acts, chapter 218, section 108:

..... \$ 135,000

320,000

The Iowa collaborative safety net provider network may continue to distribute funds allocated pursuant to this lettered paragraph through existing contracts or renewal of existing contracts.

h. (1) Of the funds appropriated in this subsection, ~~\$74,500~~ \$149,000 shall be used for ~~continued 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~~ continuation of the work of the direct care worker advisory council established pursuant to 2008 Iowa Acts, chapter 1188, section 69, in implementing the recommendations in the final report submitted by the advisory council to the governor and the general assembly in March 2012. The department may use a portion of the funds allocated in this ~~lettered paragraph~~ subparagraph (1) for an additional position to assist in the continued implementation.

i. (1) Of the funds appropriated in this subsection, ~~\$65,050~~ \$150,000 shall be used for allocation to an independent statewide direct care worker association under a continuation of the contract in effect during the fiscal year ending June 30, 2012, with terms determined by the director of public health relating to education, outreach, leadership development, mentoring, and other initiatives intended to enhance the recruitment and retention of direct care workers in health care and long-term care settings.

(2) Of the funds appropriated in this subsection, ~~\$29,000~~ \$75,000 shall be used to provide scholarships or other forms of subsidization for direct care worker educational conferences, training, or outreach activities.

j. Of the funds appropriated in this subsection, the department may use up to ~~\$29,259~~ \$58,518 for up to one full-time equivalent position to administer the volunteer health care provider program pursuant to section 135.24.

k. Of the funds appropriated in this subsection, ~~\$25,000~~ \$50,000 shall be used for a matching dental education loan repayment program to be allocated to a dental nonprofit health service corporation to develop the criteria and implement the loan repayment program.

l. Of the funds appropriated in this subsection, \$105,823 shall be transferred to the college student aid commission for deposit in the rural Iowa primary care trust fund created in section 261.115, as enacted by 2012 Iowa Acts, House File 2458, <sup>1</sup> to be used for the purposes of the fund.

m. Of the funds appropriated in this subsection, \$50,000 shall be used for the purposes of the Iowa donor registry as specified in section 142C.18.

n. Of the funds appropriated in this subsection, \$50,000 shall be used for continuation of a grant to a nationally 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, and community and patient service programs. The organization shall submit a report to the individuals identified in this Act for submission of reports regarding the use of funds allocated under this paragraph "n". The report shall include the objectives and results for the year of the program's implementation including the target population and how the funds allocated assisted the program in meeting the objectives; the number, age, and location within the state of individuals served; the type of services provided to the individuals served; the distribution of funds based on service provided; and the continuing needs of the program.

o. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

5. HEALTHY AGING

To provide public health services that reduce risks and invest in promoting and protecting good health over the course of a lifetime with a priority given to older Iowans and vulnerable populations:

..... \$ 3,648,571  
7,297,142

a. Of the funds appropriated in this subsection, ~~\$1,004,593~~ \$2,009,187 shall be used for local public health nursing services.

b. Of the funds appropriated in this subsection, ~~\$2,643,977~~ \$5,287,955 shall be used for home care aide services.

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:

..... \$ 406,888  
803,870  
..... FTEs 4.00

Of the funds appropriated in this subsection, ~~\$272,188~~ \$544,377 shall be used for childhood lead poisoning provisions.

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

7. INFECTIOUS DISEASES

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

..... \$ 672,923  
1,335,155  
..... FTEs 4.00

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing,

<sup>1</sup> Chapter 1108 herein

that shall be applied equitably to the programs under this subsection.

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:

.....	\$	1,388,116
		<u>2,779,127</u>
.....	FTEs	125.00

a. Of the funds appropriated in this subsection, not more than ~~\$235,845~~ \$471,690 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, ~~\$105,309~~ \$210,619 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 lettered paragraph shall not be used to supplant funding administered for other sexual violence prevention or victims assistance programs.

c. Of the funds appropriated in this subsection, not more than ~~\$218,291~~ \$539,477 shall be used for the state poison control center.

d. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

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:

.....	\$	409,777
		<u>804,054</u>
.....	FTEs	7.00

a. The department shall review the operations of boards including professional licensing boards, commissions, committees, councils and other entities within the departmental organization and under the purview of the department and shall submit recommendations to increase efficiencies and reduce duplication of their operations to the individuals specified in this Act for submission of reports by December 15, 2012.

b. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this subsection.

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.

DIVISION III  
DEPARTMENT OF VETERANS AFFAIRS

Sec. 3. 2011 Iowa Acts, chapter 129, section 115, is amended to read as follows:

SEC. 115. 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, 2012, and ending June 30, 2013, 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:

.....	\$	499,416
		<u>1,025,819</u>
.....	FTEs	16.34

The treasurer of state shall review the return on investment of the moneys in the veterans trust fund and shall submit findings and recommendations for improving the return to the individuals specified in this Act for submission of reports by December 17, 2012.

2. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes:

.....	\$	4,476,075
		<u>8,025,714</u>

a. The Iowa veterans home billings involving the department of human services shall be submitted to the department on at least a monthly basis.

b. 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.

c. Within available resources and in conformance with associated state and federal program eligibility requirements, the Iowa veterans home may implement measures to provide financial assistance to or on behalf of veterans or their spouses who are participating in the community reentry program.

*\*d. The Iowa veterans home expenditure report shall be submitted monthly to the legislative services agency.\**

e. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this subsection.

3. STATE EDUCATIONAL ASSISTANCE — CHILDREN OF DECEASED VETERANS

For provision of educational assistance pursuant to section 35.9:

.....	\$	6,208
		<u>12,416</u>

4. HOME OWNERSHIP ASSISTANCE PROGRAM

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:

.....	\$	1,600,000
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Sec. 4. 2011 Iowa Acts, chapter 129, section 116, is amended to read as follows:

SEC. 116. LIMITATION OF COUNTY COMMISSION OF VETERANS AFFAIRS FUND STANDING APPROPRIATIONS. Notwithstanding the standing appropriation in the following designated section for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the amounts appropriated from the general fund of the state pursuant to that section for the following designated purposes shall not exceed the following amount:

For the county commissions of veterans affairs fund under section 35A.16:

.....	\$	495,000
		<u>990,000</u>

DIVISION IV  
DEPARTMENT OF HUMAN SERVICES

Sec. 5. 2011 Iowa Acts, chapter 129, section 117, is amended to read as follows:

SEC. 117. 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, 2012, and ending June 30, 2013, 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, and from moneys received under the emergency contingency fund for temporary assistance for needy families state program established pursuant to the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 § 2101, and successor legislation, 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:

.....	\$	10,750,369
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\* Item veto; see message at end of the Act



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:

..... \$ 6,205,764  
12,411,528

3. To be used for the family development and self-sufficiency grant program in accordance with section 216A.107:

..... \$ 1,449,490  
2,898,980

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, 2013, the moneys shall revert.

4. For field operations:

..... \$ 15,648,116  
31,296,232

5. For general administration:

..... \$ 1,872,000  
3,744,000

6. For state child care assistance:

..... \$ 8,191,343  
16,382,687

The funds appropriated in this subsection shall be transferred to the child care and development block grant appropriation made pursuant to 2011 Iowa Acts, chapter 126, section 32, by the Eighty-fourth General Assembly, 2012 2011 Session, for the federal fiscal year beginning October 1, 2012, and ending September 30, 2013. Of this amount, \$100,000 \$200,000 shall be used for provision of educational opportunities to registered child care home providers in order to improve services and programs offered by this category of providers and to increase the number of providers. The department may contract with institutions of higher education or child care resource and referral centers to provide the educational opportunities. Allowable administrative costs under the contracts shall not exceed 5 percent. The application for a grant shall not exceed two pages in length.

7. For distribution to counties for state case services for persons with mental health and illness, an intellectual disability, or a developmental disabilities community services disability in accordance with section 331.440:

..... \$ 2,447,026  
4,894,052

8. For child and family services:

..... \$ 16,042,215  
32,084,430

9. For child abuse prevention grants:

..... \$ 62,500  
125,000

10. For pregnancy prevention grants on the condition that family planning services are funded:

..... \$ 965,033  
1,930,067

Pregnancy prevention grants shall be awarded to programs in existence on or before July 1, 2012, if the programs have demonstrated positive outcomes. Grants shall be awarded to pregnancy prevention programs which are developed after July 1, 2012, if the programs are based on existing models that have demonstrated positive outcomes. Grants shall comply with the requirements provided in 1997 Iowa Acts, chapter 208, section 14, subsections 1 and 2, including the requirement that grant programs must emphasize sexual abstinence. Priority in the awarding of grants shall be given to programs that serve areas of the state which demonstrate the highest percentage of unplanned pregnancies of females of childbearing age

within the geographic area to be served by the grant.

11. For technology needs and other resources necessary to meet federal welfare reform reporting, tracking, and case management requirements:

.....	\$	518,593
		<u>1,037,186</u>

12. 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 early childhood Iowa areas as provided in section 256I.11:

.....	\$	3,175,000
		<u>6,350,000</u>

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.

13. a. Notwithstanding any provision to the contrary, including but not limited to requirements in section 8.41 or provisions in 2011 or 2012 Iowa Acts regarding the receipt and appropriation of federal block grants, federal funds from the ~~emergency contingency fund~~ for temporary assistance for needy families ~~state program established pursuant to the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 § 2101, block grant received by the state during the fiscal year beginning July 1, 2011, and ending June 30, 2012,~~ not otherwise appropriated in this section and remaining available as ~~of for the fiscal year beginning July 1, 2012, and received by the state during the fiscal year beginning July 1, 2012, and ending June 30, 2013,~~ are appropriated to the department of human services to the extent as may be necessary to be used in the following priority order: the family investment program for the fiscal year and for state child care assistance program payments for individuals enrolled in the family investment program who are employed. The federal funds appropriated in this paragraph "a" shall be expended only after all other funds appropriated in subsection 1 for the assistance under the family investment program under chapter 239B have been expended.

b. The department shall, on a quarterly basis, advise the legislative services agency and department of management of the amount of funds appropriated in this subsection that was expended in the prior quarter.

14. Of the amounts appropriated in this section, ~~\$6,481,004~~ \$12,962,008 for the fiscal year beginning July 1, 2012, shall be transferred to the appropriation of the federal social services block grant made for that fiscal year.

15. For continuation of the program allowing the department to maintain categorical eligibility for the food assistance program as required under the section of this division relating to the family investment account:

.....	\$	73,036
		<u>25,000</u>

16. The department may transfer funds allocated in this section to the appropriations made in this division of 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. 2011 Iowa Acts, chapter 129, section 118, is amended to read as follows:

SEC. 118. FAMILY INVESTMENT PROGRAM ACCOUNT.

1. Moneys credited to the family investment program (FIP) account for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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 division of 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, 2012, and ending June 30, 2013, 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:

..... \$ 10,000  
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 section 216A.107:

..... \$ 2,671,417  
5,542,834

(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 2012-2013.

c. For the diversion subaccount of the FIP account:

..... \$ 849,200  
1,698,400

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.

d. For the food stamp employment and training program:

..... \$ 33,294  
66,588

(1) 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 50-50 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.

(2) The department shall continue the categorical federal food assistance program eligibility at 160 percent of the federal poverty level and continue to eliminate the asset test from eligibility requirements, consistent with federal food assistance program requirements. The department shall include as many food assistance households as is allowed by federal law. The eligibility provisions shall conform to all federal requirements including requirements addressing individuals who are incarcerated or otherwise ineligible.

e. For the JOBS program:

..... \$ 10,117,952  
20,235,905

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 made in this division of this Act. 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 a consequence of the appropriations and allocations made in this section the resulting amounts 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, food stamp, and medical assistance programs if necessary to comply with federal requirements.

Sec. 7. 2011 Iowa Acts, chapter 129, section 119, is amended to read as follows:

SEC. 119. 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, 2012, and ending June 30, 2013, 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:

.....	\$	25,085,513
		<u>48,397,214</u>

1. Of the funds appropriated in this section, ~~\$3,912,188~~ \$7,824,377 is allocated for the JOBS program.

2. Of the funds appropriated in this section, ~~\$1,231,927~~ \$2,663,854 is allocated for the family development and self-sufficiency grant program.

3. Notwithstanding section 8.39, for the fiscal year beginning July 1, 2012, 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).~~ For distribution to counties for state case services for persons with mental illness, an intellectual disability, or a developmental disability in accordance with section 331.440.

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.

4. Of the funds appropriated in this section, ~~\$97,839~~ \$195,678 shall be used for continuation of 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.

*\*5. Of the funds appropriated in this section, \$500,000 shall be used for distribution to a nonprofit, tax-exempt association that receives donations under section 170 of the Internal Revenue Code and whose members include Iowa food banks and their affiliates that together serve all counties in the state, to be used to purchase food for distribution to food-insecure Iowans.\**

6. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this section.

7. The department may transfer funds appropriated in this section to the appropriations made in this division of this Act for general administration and field operations as necessary to administer this section and the overall family investment program.

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

Sec. 8. 2011 Iowa Acts, chapter 129, section 120, is amended to read as follows:

SEC. 120. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	6,559,627
		<u>13,149,541</u>
.....	FTEs	475.00

1. The department shall expend up to ~~\$12,164~~ \$24,329, including federal financial participation, for the fiscal year beginning July 1, 2012, 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.

4. With the exception of the funding amount specified, the requirements established under 2001 Iowa Acts, chapter 191, section 3, subsection 5, paragraph "c", subparagraph (3), shall be applicable to parental obligation pilot projects for the fiscal year beginning July 1, 2012, and ending June 30, 2013. Notwithstanding 441 IAC 100.8, providing for termination of rules relating to the pilot projects, the rules shall remain in effect until June 30, 2013.

5. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this section.

MEDICAL ASSISTANCE — DISPROPORTIONATE SHARE HOSPITAL

Sec. 9. 2011 Iowa Acts, chapter 129, section 122, subsection 11, paragraph a, unnumbered paragraph 1, is amended to read as follows:

Of the funds appropriated in this section, ~~\$7,425,684~~ \$7,678,245 is allocated for the state match for a disproportionate share hospital payment of \$19,133,430 to hospitals that meet both of the conditions specified in subparagraphs (1) and (2). In addition, the hospitals that meet the conditions specified shall either certify public expenditures or transfer to the medical assistance program an amount equal to provide the nonfederal share for a disproportionate share hospital payment of \$7,500,000. The hospitals that meet the conditions specified shall receive and retain 100 percent of the total disproportionate share hospital payment of \$26,633,430.

MEDICAL ASSISTANCE — IOWACARE TRANSFER

Sec. 10. 2011 Iowa Acts, chapter 129, section 122, subsection 13, is amended to read as follows:

13. Of the funds appropriated in this section, up to ~~\$4,480,304~~ \$8,684,329 may be transferred to the IowaCare account created in section 249J.24.

*\*MEDICAL ASSISTANCE — COST CONTAINMENT STRATEGIES*

Sec. 11. 2011 Iowa Acts, chapter 129, section 122, subsection 20, paragraphs a and d, are amended to read as follows:

a. The department may continue to implement cost containment strategies recommended by the governor, ~~and for the fiscal year beginning July 1, 2011, and shall implement new strategies for the fiscal year beginning July 1, 2012, as specified in this division of this 2012 Act. It is the intent of the general assembly that the cost containment strategies are implemented only to the extent necessary to achieve projected savings. The department may adopt emergency rules for such implementation.~~

d. If the savings to the medical assistance program for the fiscal year beginning July 1, 2012, exceed the cost, the department may transfer any savings generated for the fiscal year due to medical assistance program cost containment efforts initiated pursuant to 2010 Iowa Acts, chapter 1031, Executive Order No. 20, issued December 16, 2009, or cost containment strategies initiated pursuant to this subsection, to the appropriation made in this division of this Act for medical contracts or general administration to defray the increased contract costs associated with implementing such efforts.\*

Sec. 12. 2011 Iowa Acts, chapter 129, section 122, is amended by adding the following new subsections:

NEW SUBSECTION. 23. The department shall provide reimbursement for physician-administered drugs at the rates in effect on June 30, 2012, less 2 percent, in order to approximate payment at the average wholesale price, less 12 percent.

NEW SUBSECTION. 24. The department shall implement a hospital inpatient reimbursement policy to provide for the combining of an original claim for an inpatient stay with a claim for a subsequent inpatient stay when the patient is admitted within seven days of discharge from the original hospital stay for the same condition.

NEW SUBSECTION. 25. The department shall transition payment for and administration of services provided by psychiatric medical institutions for children to the Iowa plan.

NEW SUBSECTION. 26. The department shall adjust medical assistance reimbursement rates for physician services by applying a site-of-service differential to reflect the difference between the cost of physician services when provided in a health facility setting and the cost of physician services when provided in a physician's office. The adjustment shall be applied in a manner that does not exceed \$1 million in medical assistance program cost savings annually.

NEW SUBSECTION. 27. The department shall apply any edits to Medicare claims submitted for reimbursement under the medical assistance program as necessary to ensure claims payment accuracy and to avoid overpayments, consistent with the existing medical assistance program reimbursement policy for such Medicare claims.

NEW SUBSECTION. 28. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this section.

MEDICAL ASSISTANCE FOR EMPLOYED PEOPLE WITH DISABILITIES

Sec. 13. 2011 Iowa Acts, chapter 129, section 122, is amended by adding the following new subsection:

NEW SUBSECTION. 29. The department of human services shall adopt rules for the Medicaid for employed people with disabilities program to provide that until such time as the department adopts rules, annually, to implement the most recently revised poverty guidelines published by the United States department of health and human services, the calculation of gross income eligibility and premium amounts shall not include any increase in unearned income attributable to a social security cost-of-living adjustment for an individual or member of the individual's family whose unearned income is included in such calculation.

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

## STATE BALANCING INCENTIVE PAYMENTS PROGRAM

Sec. 14. 2011 Iowa Acts, chapter 129, section 122, is amended by adding the following new subsection:

NEW SUBSECTION. 30. a. The funds received through participation in the medical assistance state balancing incentive payments program created pursuant to section 10202 of the federal Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148 (2010), as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, shall be used by the department of human services to comply with the requirements of the program including developing a no wrong door single entry point system; providing a conflict-free case management system; providing core standardized assessment instruments; complying with data collection requirements relating to services, quality, and outcomes; meeting the applicable target spending percentage required under the program to rebalance long-term care spending under the medical assistance program between home and community-based services and institution-based services; and for new or expanded medical assistance program non-institutionally based long-term care services and supports.

b. The department shall convene stakeholders to provide an ongoing advisory process to ensure that implementation is accomplished in a coordinated and integrated manner and without duplication. The department shall submit periodic progress reports regarding implementation to the individuals identified in this Act for submission of reports.

## IOWACARE LODGING

Sec. 15. 2011 Iowa Acts, chapter 129, section 122, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Of the funds appropriated in this section, \$250,000 shall be used for lodging expenses associated with patient care provided at the university of Iowa hospitals and clinics under chapter 249J. The department of human services shall establish the maximum number of overnight stays and the maximum rate reimbursed for overnight lodging, which may be based on the state employee rate established by the department of administrative services. The funds allocated under this subsection shall not be used as nonfederal share matching funds.

*\*OUTPATIENT CLINICAL SERVICE FOR CHILDREN*

Sec. 16. 2011 Iowa Acts, chapter 129, section 122, is amended by adding the following new subsection:

NEW SUBSECTION. 32. a. *Of the funds appropriated in this section, not more than \$37,000 shall be used to provide cost-based reimbursement for 100 percent of the reasonable costs for provision of outpatient clinical services for children who are recipients of medical assistance. In order to be eligible for reimbursement under this subsection, a provider shall be an accredited, nonprofit agency that meets all of the following criteria on or before January 1, 2012:*

*(1) Provides clinical outpatient services to children of whom at least 60 percent are recipients of medical assistance.*

*(2) Provides inpatient services licensed under chapter 135H, outpatient services, psychiatric and psychological services, and behavioral health intervention services for children.*

*(3) Directly employs a full-time psychiatrist, psychologist, and licensed therapist.*

b. *The department of human services shall seek federal approval to amend the medical assistance program state plan and shall amend the contract with the department's managed care contractor for behavioral health services under the medical assistance program to provide reimbursement as specified in this subsection. Implementation of this subsection is contingent upon receipt of such federal approval and total reimbursements are limited to the funding allocated under this subsection.*

c. *For the purposes of this subsection, "outpatient services" means psychiatric care, psychological care, and treatment services, but does not include behavioral health*

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

*intervention services or child welfare services as defined for existing providers under the department’s managed care contract for behavioral health services.\**

Sec. 17. 2011 Iowa Acts, chapter 129, section 123, is amended to read as follows:

SEC. 123. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

.....	\$	5,453,728
		<u>5,791,994</u>

1. The department of inspections and appeals shall provide all state matching funds for survey and certification activities performed by the department of inspections and appeals. The department of human services is solely responsible for distributing the federal matching funds for such activities.

2. Of the funds appropriated in this section, ~~\$25,000~~ \$50,000 shall be used for continuation of home and community-based services waiver quality assurance programs, including the review and streamlining of processes and policies related to oversight and quality management to meet state and federal requirements.

3. Of the amount appropriated in this section, up to \$200,000 may be transferred to the appropriation for general administration in this division of this Act to be used for additional full-time equivalent positions in the development of key health initiatives such as cost containment, development and oversight of managed care programs, and development of health strategies targeted toward improved quality and reduced costs in the Medicaid program.

4. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this section.

Sec. 18. 2011 Iowa Acts, chapter 129, section 124, is amended to read as follows:

SEC. 124. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state supplementary assistance program:

.....	\$	8,425,373
		<u>15,450,747</u>

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, 2012, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal pass-through requirement specified in Tit. 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. 19. 2011 Iowa Acts, chapter 129, section 125, is amended to read as follows:

SEC. 125. CHILDREN’S HEALTH INSURANCE PROGRAM.

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



1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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, including supplemental dental services, for receipt of federal financial participation under Tit. XXI of the federal Social Security Act, which creates the children’s health insurance program:

..... \$ 16,403,051  
36,806,102

2. Of the funds appropriated in this section, ~~\$64,475~~ \$141,450 is allocated for continuation of the contract for outreach with the department of public health.

Sec. 20. 2011 Iowa Acts, chapter 129, section 126, is amended to read as follows:

SEC. 126. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child care programs:

..... \$ 26,618,831  
62,264,342

1. Of the funds appropriated in this section, ~~\$25,948,041~~ \$60,894,915 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, ~~\$216,226~~ \$432,453 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, ~~\$468,487~~ \$936,974 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. If a uniform reduction ordered by the governor under section 8.31 or other operation of law, transfer, or federal funding reduction reduces the appropriation made in this section for the fiscal year, the percentage reduction in the amount paid out to or on behalf of the families participating in the state child care assistance program shall be equal to or less than the percentage reduction made for any other purpose payable from the appropriation made in this section and the federal funding relating to it. The percentage reduction to the other allocations made in this section shall be the same as the uniform reduction ordered by the governor or the percentage change of the federal funding reduction, as applicable. If there is an unanticipated increase in federal funding provided for state child care assistance,

the entire amount of the increase shall be used for state child care assistance payments. If the appropriations made for purposes of the state child care assistance program for the fiscal year are determined to be insufficient, it is the intent of the general assembly to appropriate sufficient funding for the fiscal year in order to avoid establishment of waiting list requirements.

8. Notwithstanding section 8.33, moneys ~~appropriated in this section or advanced for purposes of the programs developed by early childhood Iowa areas, advanced for purposes of wraparound child care, 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.

9. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, that shall be applied equitably to the programs under this section.

Sec. 21. 2011 Iowa Acts, chapter 129, section 127, is amended to read as follows:

SEC. 127. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

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

.....	\$	4,129,125
		<u>8,297,765</u>
.....	FTEs	114.00

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this subsection.

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

.....	\$	5,319,338
		<u>10,680,143</u>
.....	FTEs	164.30

a. Of the funds appropriated in this subsection, ~~\$45,575~~ \$91,150 shall be used for distribution to licensed classroom teachers at this and other institutions under the control of the department of human services based upon the average student yearly enrollment at each institution as determined by the department.

b. The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this subsection.

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, 2012.

Sec. 22. 2011 Iowa Acts, chapter 129, section 128, is amended to read as follows:

SEC. 128. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

.....	\$	41,415,081
		<u>81,231,561</u>

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 ~~\$2,600,000~~ \$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 made 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. The department may transfer funds appropriated in this section to the appropriation made in this division of this Act for adoption subsidy to support the adjustment in reimbursement rates for specified child welfare providers as provided in this 2012 Act.

4. a. Of the funds appropriated in this section, up to ~~\$15,084,564~~ \$30,837,098 is allocated as the statewide expenditure target under section 232.143 for group foster care maintenance and services. If the department projects that such expenditures for the fiscal year will be less than the target amount allocated in this lettered paragraph, the department may reallocate the excess to provide additional funding for shelter care or the child welfare emergency services addressed with the allocation for shelter care.

b. If at any time after September 30, 2012, 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 2012-2013. Of the funds appropriated in this section, ~~\$858,876~~ \$1,717,753 is allocated specifically for expenditure for fiscal year 2012-2013 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 and the child welfare emergency services contracting implemented to provide for or prevent the need for shelter care shall be limited to ~~\$3,585,058~~ \$6,870,116. The department may continue or execute contracts that result from the department's request for proposal, bid number ACFS-11-114, to provide the range of child welfare emergency services described in the request for proposals, and any subsequent amendments to the request for proposals.

8. Federal funds received by the state during the fiscal year beginning July 1, 2012, 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 \$1,848,142 shall be used for protective child care assistance.~~

10. a. Of the funds appropriated in this section, up to ~~\$1,031,244~~ \$2,062,488 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 ~~\$778,143~~ \$1,556,287 shall be made available to provide school-based supervision of children adjudicated under chapter 232, of which not more than ~~\$7,500~~ \$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 ~~\$374,492~~ \$748,985 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, 2012.

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 ~~\$41,500~~ \$83,000 may be used by the judicial branch for administration of the requirements under this subsection.

g. Of the funds allocated in this subsection, ~~\$8,500~~ \$17,000 shall be used by the department of human services to support the interstate commission for juveniles in accordance with the interstate compact for juveniles as provided in section 232.173.

11. Of the funds appropriated in this section, ~~\$2,961,301~~ \$6,022,602 is allocated for juvenile delinquent graduated sanctions services. Any state funds saved as a result of efforts by juvenile court services to earn federal Tit. IV-Ematch for juvenile court services administration may be used for the juvenile delinquent graduated sanctions services.

12. Of the funds appropriated in this section, ~~\$494,142~~ \$1,288,285 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. Of the amount allocated in this subsection, \$100,000 shall be used for a center for the Black Hawk county area.

13. If the department receives federal approval to implement a waiver under Tit. 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.

14. Of the funds appropriated in this section, ~~\$1,534,916~~ \$3,092,375 is allocated for the preparation for adult living program pursuant to section 234.46.

15. Of the funds appropriated in this section, ~~\$260,075~~ \$520,150 shall be used for juvenile drug courts. The amount allocated in this subsection shall be distributed as follows:

To the judicial branch for salaries to assist with the operation of juvenile drug court programs operated in the following jurisdictions:

a. Marshall county:	\$	31,354
.....		<u>62,708</u>
b. Woodbury county:		
.....	\$	62,841

	<u>125,682</u>
c. Polk county:	
..... \$	97,946
	<u>195,892</u>
d. The third judicial district:	
..... \$	33,967
	<u>67,934</u>
e. The eighth judicial district:	
..... \$	33,967
	<u>67,934</u>

16. Of the funds appropriated in this section, ~~\$113,668~~ \$227,337 shall be used for the public purpose of ~~providing~~ continuing 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, ~~\$62,795~~ \$200,590 is allocated for the ~~elevate foster care youth council~~ approach of providing a support network to children placed in foster care.

18. Of the funds appropriated in this section, ~~\$101,000~~ \$202,000 is allocated for use pursuant to section 235A.1 for continuation of the initiative to address child sexual abuse implemented pursuant to 2007 Iowa Acts, chapter 218, section 18, subsection 21.

19. Of the funds appropriated in this section, ~~\$315,120~~ \$630,240 is allocated for the community partnership for child protection sites.

20. Of the funds appropriated in this section, ~~\$185,625~~ \$371,250 is allocated for the department's minority youth and family projects under the redesign of the child welfare system.

21. Of the funds appropriated in this section, ~~\$600,247~~ \$1,436,595 is allocated for funding of the ~~state match for community circle of care collaboration for children and youth in northeast Iowa, formerly referred to as the federal substance abuse and mental health services administration (SAMHSA) system of care grant.~~

22. Of the funds appropriated in this section, at least ~~\$73,579~~ \$147,158 shall be used for the child welfare training academy.

23. Of the funds appropriated in this section, ~~\$12,500~~ \$25,000 shall be used for the public purpose of continuation of a grant to a child welfare services provider headquartered in a county with a population between 205,000 and 215,000 in the latest 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.

23A. Of the funds appropriated in this section, \$25,000 shall be used for the public purpose of providing a grant to a hospital-based provider headquartered in a county with a population between 90,000 and 95,000 in the latest certified federal census that provides multiple services including but not limited to diagnostic, therapeutic, and behavioral services to individuals with autism spectrum disorder across the lifespan. The grant recipient shall utilize the funds to implement a pilot project to determine the necessary support services for children with autism spectrum disorder and their families to be included in the children's disabilities services system. The grant recipient shall submit findings and recommendations based upon the results of the pilot project to the individuals specified in this division of this Act for submission of reports by December 31, 2012.

24. Of the funds appropriated in this section ~~\$125,000~~ \$327,947 shall be used for continuation of the central Iowa system of care program grant through June 30, 2013.

25. Of the funds appropriated in this section, ~~\$80,000~~ \$160,000 shall be used for the public purpose of the continuation of a system of care grant implemented in Cerro Gordo and Linn counties in accordance with this Act in FY 2011-2012.

26. Of the funds appropriated in this section, at least \$25,000 shall be used to continue and to expand the foster care respite pilot program in which postsecondary students in social work

and other human services-related programs receive experience by assisting family foster care providers with respite and other support.

27. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing, and shall be applied equitably to the programs under this section.

Sec. 23. 2011 Iowa Acts, chapter 129, section 129, is amended to read as follows:

SEC. 129. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For adoption subsidy payments and services:

..... \$ 16,633,295  
36,788,576

2. The department may transfer funds appropriated in this section to the appropriation made in this division of this Act for general administration for costs paid from the appropriation relating to adoption subsidy. The department may transfer funds appropriated in this section to the appropriation made in this division of this Act for child and family services to support the adjustment in reimbursement rates for specified child welfare providers as provided in this 2012 Act.

3. Federal funds received by the state during the fiscal year beginning July 1, 2012, 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. 24. 2011 Iowa Acts, chapter 129, section 131, is amended to read as follows:

SEC. 131. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program subject to the enrollment restrictions in section 225C.37, subsection 3:

..... \$ 583,999  
1,096,784

2. The department shall use at least ~~\$192,750~~ \$385,500 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 ~~\$12,500~~ \$25,000 of the amount allocated in this subsection shall be used for administrative costs.

3. If at any time during the fiscal year, the amount of funding available for the family support subsidy program is reduced from the amount initially used to establish the figure for the number of family members for whom a subsidy is to be provided at any one time during the fiscal year, notwithstanding section 225C.38, subsection 2, the department shall revise the figure as necessary to conform to the amount of funding available.

Sec. 25. 2011 Iowa Acts, chapter 129, section 132, is amended to read as follows:

SEC. 132. 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, 2012, and ending June 30, 2013, 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):

..... \$ 16,811

33,622

Sec. 26. 2011 Iowa Acts, chapter 129, section 133, is amended to read as follows:

SEC. 133. 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, 2012, and ending June 30, 2013, 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:

.....	\$	2,938,654
		<u>5,535,738</u>
.....	FTEs	168.50

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the mental health institute.

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:

.....	\$	3,205,867
		<u>6,442,688</u>
.....	FTEs	86.10

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the mental health institute.

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:

.....	\$	5,137,842
		<u>9,738,520</u>
.....	FTEs	233.00

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the mental health institute.

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:

.....	\$	472,161
		<u>885,459</u>
.....	FTEs	97.72

The amount appropriated in this subsection reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the mental health institute.

Sec. 27. 2011 Iowa Acts, chapter 129, section 134, is amended to read as follows:

SEC. 134. 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, 2012, and ending June 30, 2013, 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:

.....	\$	9,253,900
		<u>18,866,116</u>

The amount appropriated in this paragraph "a" reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the state resource center.

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

.....	\$	6,392,829
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13,033,115

The amount appropriated in this paragraph “b” reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the state resource center.

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 2012-2013.

Sec. 28. 2011 Iowa Acts, chapter 129, section 137, is amended to read as follows:

SEC. 137. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

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

.....	\$	3,775,363
		<u>8,899,686</u>
.....	FTEs	89.50
		<u>115.50</u>

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.

3. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing budgeted for under this section.

Sec. 29. 2011 Iowa Acts, chapter 129, section 138, is amended to read as follows:

SEC. 138. 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, 2012, and ending June 30, 2013, 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:

.....	\$	27,394,960
		<u>61,636,313</u>
.....	FTEs	1,781.00

1. 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.

2. The amount appropriated in this section reflects a reduction in expenditures for office supplies, purchases of equipment, office equipment, printing and binding, and marketing under the purview of the department.

*\*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. 30. 2011 Iowa Acts, chapter 129, section 139, is amended to read as follows:

SEC. 139. 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, 2012, and ending June 30, 2013, 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:

.....	\$	7,298,372
		<u>16,100,684</u>
.....	FTEs	285.00
		<u>295.00</u>

1. Of the funds appropriated in this section, ~~\$19,271~~ \$38,543 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.

3. Of the funds appropriated in this section, ~~\$66,150~~ \$132,300 shall be used to continue the contract for the provision of a program to provide technical assistance, support, and consultation to providers of habilitation services and home and community-based services waiver services for adults with disabilities under the medical assistance program.

4. Of the funds appropriated in this section, ~~\$88,200~~ \$176,400 shall be used to continue the contract to expand the provision of nationally accredited and recognized internet-based training to include mental health and disability services providers.

~~5. Of the funds appropriated in this section, \$250,000 shall be used for continuation of child protection system improvements addressed in 2011 Iowa Acts, House File 562, <sup>2</sup> as enacted.~~

6. Of the funds appropriated in this section, not more than \$463,000 shall be used by the department of human services to pay the costs for appropriate placement of any individual who is placed in a transitional release program under chapter 229A or is discharged from commitment as a sexually violent predator under chapter 229A because the individual is in need of medical treatment. The department of human services shall implement this subsection in cooperation with the department of corrections and any judicial district department of correctional services involved with such an individual. The requirements of this subsection apply in lieu of the requirements of the judicial district departments of correctional services under 2011 Iowa Acts, chapter 134, section 34, subsection 1A, if enacted by 2012 Iowa Acts, House File 2335. <sup>3</sup>

7. Of the funds appropriated in this section, \$50,000 shall be transferred to the Iowa finance authority to be used for administrative support of the council on homelessness established in section 16.100A and for the council to fulfill its duties in addressing and reducing homelessness in the state.

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

<sup>2</sup> 2011 Iowa Acts, chapter 28

<sup>3</sup> Chapter 1134 herein

8. Of the funds appropriated in this section, \$653,940 shall be distributed equitably among the state mental health institutes, state juvenile institutions, the unit located at the state mental health institute at Cherokee for the commitment and treatment of sexually violent predators, and the state resource centers for salary adjustment.

\*9. 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. 31. 2011 Iowa Acts, chapter 129, section 140, is amended to read as follows:

SEC. 140. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For development and coordination of volunteer services:

.....	\$	42,330
		<u>84,660</u>

PROVIDER REIMBURSEMENT — NURSING FACILITIES

Sec. 32. 2011 Iowa Acts, chapter 129, section 141, subsection 1, paragraph a, subparagraph (1), is amended to read as follows:

(1) For the fiscal year beginning July 1, 2012, the total state funding amount for the nursing facility budget shall not exceed ~~\$225,457,724~~ \$237,226,901.

PROVIDER REIMBURSEMENT — PHARMACY, HOME HEALTH AGENCIES, PMICS, HCBS WAIVER

Sec. 33. 2011 Iowa Acts, chapter 129, section 141, subsection 1, paragraphs b, f, i, and q, are amended to read as follows:

b. (1) For the fiscal year beginning July 1, 2012, the department shall reimburse pharmacy dispensing fees using a single rate of range between \$4.34 and \$11.10 per prescription or the pharmacy's usual and customary fee, whichever is lower. The actual dispensing fee set within the range shall be determined by a cost of dispensing survey performed by the department and required to be completed by all medical assistance program participating pharmacies. However, the department shall adjust the dispensing fee specified in this paragraph to distribute an additional \$2,981,980 in reimbursements for pharmacy dispensing fees under this paragraph for the fiscal year.

(2) The department shall implement an average acquisition cost reimbursement methodology for all drugs covered under the medical assistance program. The methodology shall utilize a survey of pharmacy invoices in determining the average acquisition cost component of pharmacy reimbursement. Pharmacies and providers that are enrolled in the medical assistance program shall make available drug acquisition cost invoice information, product availability information if known, and other information deemed necessary by the department to assist the department in monitoring and revising the reimbursement rates and for efficient operation of the pharmacy benefit. The department shall provide a process for pharmacies to address average acquisition cost prices that are not reflective of the actual cost of a drug. With regard to speciality pharmacy products as defined by the department, the department shall consider the population served, the current delivery system, and the standard of care relative to these products, and may adjust the product reimbursement rate or dispensing fee to prevent problems with access to these products and their associated speciality services.

(a) A pharmacy or provider shall produce and submit the requested information in the manner and format requested by the department or its designee at no cost to the department or its designee.

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

(b) A pharmacy or provider shall submit information to the department or its designee within the time frame indicated following receipt of a request for information unless the department or its designee grants an extension upon written request of the pharmacy or provider.

(3) Any dispensing fee expenses or acquisition cost information required to be submitted to the department under this paragraph "b" that specifically identifies a pharmacy's or provider's individual costs shall remain strictly confidential.

(4) No later than December 15, 2012, the department shall report to the individuals specified in this Act for submission of reports, providing recommendations for adjusting pharmacy dispensing fees between completion of surveys to ensure fair and adequate reimbursement for pharmacies.

f. For the fiscal year beginning July 1, 2012, reimbursement rates for home health agencies shall ~~remain at~~ be increased by 2 percent over the rates in effect on June 30, 2012, not to exceed a home health agency's actual allowable cost.

i. (1) For the fiscal year beginning July 1, 2012, state-owned psychiatric medical institutions for children shall receive cost-based reimbursement for 100 percent of the actual and allowable costs for the provision of services to recipients of medical assistance.

(2) For the nonstate-owned psychiatric medical institutions for children, reimbursement rates shall be based on the reimbursement methodology developed by the department as required for federal compliance.

(3) As a condition of participation in the medical assistance program, enrolled providers shall accept the medical assistance reimbursement rate for any covered goods or services provided to recipients of medical assistance who are children under the custody of a psychiatric medical institution for children.

q. For the fiscal year beginning July 1, 2012, the department shall adjust the rates in effect on June 30, 2012, reimbursement rates for providers of home and community-based services waiver services to distribute an additional \$1,500,000 in reimbursements to such providers for the fiscal year shall be increased beginning January 1, 2013, by 2 percent over the rates in effect on June 30, 2012.

#### PROVIDER REIMBURSEMENT — SPECIFIED CHILD WELFARE PROVIDERS

Sec. 34. 2011 Iowa Acts, chapter 129, section 141, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. For the fiscal year beginning July 1, 2012, the department shall adjust the foster family basic daily maintenance rate, the maximum adoption subsidy rates for children, the family-centered service providers rate, the family foster care service providers rate, the group foster care service providers rate, and the resource family recruitment and retention contractor rate, as such rates are identified in this section and were in effect on June 30, 2012, in order to distribute an additional \$1,535,256 in state reimbursements equitably to such providers for the fiscal year.

#### PROVIDER REIMBURSEMENT — CHILD CARE

Sec. 35. 2011 Iowa Acts, chapter 129, section 141, subsection 10, is amended to read as follows:

10. For the fiscal year beginning July 1, 2012, 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 July 1, 2012, the child care provider reimbursement rates shall ~~remain at~~ be increased beginning January 1, 2013, by 2 percent over the rates in effect on June 30, 2012. 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.

REBASING STUDY — MEDICAID HOME HEALTH AND HCBS WAIVER SERVICE PROVIDERS

Sec. 36. 2011 Iowa Acts, chapter 129, section 141, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. The department of human services, Iowa Medicaid enterprise, shall review reimbursement of home health agency and home and community-based services waiver services providers and shall submit a recommendation for a rebasing methodology applicable to such providers to the individuals identified in this Act for receipt of reports by December 31, 2012.

ELDERLY WAIVER

Sec. 37. 2011 Iowa Acts, chapter 129, section 141, is amended by adding the following new subsection:

NEW SUBSECTION. 10B. The department shall increase the monthly reimbursement cap for the medical assistance home and community-based services waiver services for the elderly to \$1,300 per month.

REPORTS

Sec. 38. 2011 Iowa Acts, chapter 129, section 143, is amended to read as follows:

SEC. 143. REPORTS. Any reports or other 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.

DIVISION V

HEALTH CARE ACCOUNTS AND FUNDS

PHARMACEUTICAL SETTLEMENT ACCOUNT

Sec. 39. 2011 Iowa Acts, chapter 129, section 145, is amended to read as follows:

SEC. 145. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Notwithstanding any provision of law to the contrary, to supplement the appropriations made in this Act for medical contracts under the medical assistance program for the fiscal year beginning July 1, 2012, and ending June 30, 2013:

.....	\$	2,716,807
		<u>4,805,804</u>

IOWACARE ACCOUNT APPROPRIATIONS — UNIVERSITY OF IOWA HOSPITALS AND CLINICS

Sec. 40. 2011 Iowa Acts, chapter 129, section 146, subsection 1, paragraph c, is amended to read as follows:

c. The university of Iowa hospitals and clinics shall certify public expenditures in an amount equal to provide the nonfederal share on total expenditures not to exceed \$20,000,000 \$32,000,000.

Sec. 41. 2011 Iowa Acts, chapter 129, section 146, subsection 2, unnumbered paragraph 2, is amended to read as follows:

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:

.....	\$	44,226,279
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45,654,133

IOWACARE ACCOUNT — PUBLICLY OWNED ACUTE CARE TEACHING HOSPITAL

Sec. 42. 2011 Iowa Acts, chapter 129, section 146, subsection 4, unnumbered paragraph 2, is amended to read as follows:

For distribution to a publicly owned acute care teaching hospital located in a county with a population over 350,000 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:

.....	\$	65,000,000
		<u>71,000,000</u>

IOWACARE ACCOUNT — PUBLICLY OWNED ACUTE CARE HOSPITAL ALLOCATIONS

Sec. 43. 2011 Iowa Acts, chapter 129, section 146, subsection 4, paragraphs a and b, are amended to read as follows:

a. Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection shall be distributed based on claims submitted, adjudicated, and paid by the Iowa Medicaid enterprise plus a monthly disproportionate share hospital payment. Any amount appropriated in this subsection in excess of ~~\$60,000,000~~ \$65,000,000 shall be distributed only if the sum of the expansion population claims adjudicated and paid by the Iowa Medicaid enterprise plus the estimated disproportionate share hospital payments exceeds ~~\$60,000,000~~ \$65,000,000. The amount paid in excess of ~~\$60,000,000~~ \$65,000,000 shall not adjust the original monthly payment amount but shall be distributed monthly based on actual claims adjudicated and paid by the Iowa Medicaid enterprise plus the estimated disproportionate share hospital amount. Any amount appropriated in this subsection in excess of ~~\$60,000,000~~ \$65,000,000 shall be allocated only if federal funds are available to match the amount allocated. Pursuant to paragraph “b”, of the amount appropriated in this subsection, not more than \$4,000,000 shall be distributed for prescription drugs, ~~and~~ podiatry services, optometric services, and durable medical equipment.

b. Notwithstanding any provision of law to the contrary, the hospital identified in this subsection, shall be reimbursed for outpatient prescription drugs, ~~and~~ podiatry services, optometric services, and durable medical equipment provided to members of the expansion population pursuant to all applicable medical assistance program rules, in an amount not to exceed \$4,000,000.

IOWACARE ACCOUNT — REGIONAL PROVIDER NETWORK

Sec. 44. 2011 Iowa Acts, chapter 129, section 146, subsection 5, unnumbered paragraph 2, is amended to read as follows:

For payment to the regional provider network specified by the department pursuant to section 249J.7 for provision of covered services to members of the expansion population pursuant to chapter 249J:

.....	\$	3,472,176
		<u>4,986,366</u>

ACCOUNT FOR HEALTH CARE TRANSFORMATION

Sec. 45. 2011 Iowa Acts, chapter 129, section 148, is amended to read as follows:

SEC. 148. APPROPRIATIONS FROM ACCOUNT FOR HEALTH CARE TRANSFORMATION — DEPARTMENT OF HUMAN SERVICES. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the provision of an IowaCare nurse helpline for the expansion population as provided in section 249J.6:

.....	\$	50,000
		<u>100,000</u>
2. For other health promotion partnership activities pursuant to section 249J.14:		
.....	\$	300,000
		<u>600,000</u>
3. For the costs related to audits, performance evaluations, and studies required pursuant to chapter 249J:		
.....	\$	62,500
		<u>125,000</u>
4. For administrative costs associated with chapter 249J:		
.....	\$	566,206
		<u>1,132,412</u>
5. For planning and development, in cooperation with the department of public health, of a phased-in program to provide a dental home for children in accordance with section 249J.14:		
.....	\$	500,000
		<u>1,000,000</u>
6. For continuation of the establishment of the tuition assistance for individuals serving individuals with disabilities pilot program, as enacted in 2008 Iowa Acts, chapter 1187, section 130:		
.....	\$	25,000
		<u>50,000</u>
7. For medical contracts:		
.....	\$	1,000,000
		<u>2,400,000</u>
8. 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:		
.....	\$	145,000
		<u>540,000</u>
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.		
9. For transfer to the department of public health to be used for the costs of medical home system advisory council established pursuant to section 135.159:		
.....	\$	116,679
		<u>233,357</u>
10. For continued implementation of a uniform cost report:		
.....	\$	75,000
		<u>150,000</u>
11. For continued implementation of an electronic medical records system:		
.....	\$	50,000
		<u>100,000</u>
Notwithstanding section 8.33, funds allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available in succeeding fiscal years to be used for the purposes designated.		
12. For transfer to the department of public health to support the department's activities relating to health and long-term care access as specified pursuant to chapter 135, division XXIV:		
.....	\$	67,107
		<u>134,214</u>
13. For continuation of an accountable care organization pilot project:		
.....	\$	50,000
		<u>100,000</u>
15. For transfer to the department of public health to be used as state matching funds for the health information technology system <u>network</u> developed by the department of public health:		
.....	\$	181,993
		<u>363,987</u>

16. To supplement the appropriation for medical assistance:

..... \$ 1,956,245

Any funds remaining in the health care transformation account at the close of the fiscal year beginning July 1, 2012, and ending June 30, 2013, are appropriated to the department of human services to supplement the medical assistance program appropriation made in this Act.

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.

QUALITY ASSURANCE TRUST FUND

Sec. 46. 2011 Iowa Acts, chapter 129, section 151, is amended to read as follows:

SEC. 151. QUALITY ASSURANCE TRUST FUND — DEPARTMENT OF HUMAN SERVICES. Notwithstanding any provision to the contrary and subject to the availability of funds, there is appropriated from the quality assurance trust fund created in section 249L.4 to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary for the purposes designated:

To supplement the appropriation made in this Act from the general fund of the state to the department of human services for medical assistance:

..... \$ 29,000,000
26,500,000

HOSPITAL HEALTH CARE ACCESS TRUST FUND

Sec. 47. 2011 Iowa Acts, chapter 129, section 152, is amended to read as follows:

SEC. 152. HOSPITAL HEALTH CARE ACCESS TRUST FUND — DEPARTMENT OF HUMAN SERVICES. Notwithstanding any provision to the contrary and subject to the availability of funds, there is appropriated from the hospital health care access trust fund created in section 249M.4 to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. To supplement the appropriation made in this Act from the general fund of the state to the department of human services for medical assistance:

..... \$ 39,223,800
33,898,400

2. For deposit in the nonparticipating provider reimbursement fund created in section 249J.24A to be used for the purposes of the fund:

..... \$ 776,200
801,600

MISCELLANEOUS PROVISIONS

Sec. 48. REPEAL. 2011 Iowa Acts, chapter 129, sections 149 and 150, are repealed.

DIVISION VI
CHILDREN’S HEALTH INSURANCE PROGRAM — CHILD ENROLLMENT
CONTINGENCY FUND

Sec. 49. CHILDREN’S HEALTH INSURANCE PROGRAM — CHILD ENROLLMENT CONTINGENCY FUND — DIRECTIVES FOR USE OF FUNDS — FY 2011-2012.

1. Moneys received from the federal government through the child enrollment contingency fund established pursuant to section 103 of the federal Children’s Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3, are appropriated to the department of human services for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to be used

in addition to any other amounts appropriated for the same purposes for the fiscal year as follows:

a. For adoption subsidy payments and services:	\$	2,177,355
b. For child care programs:	\$	1,212,432
c. For transfer to the department of public health to be used for tobacco use prevention, cessation, and treatment through support of Quitline Iowa:	\$	275,000

2. Notwithstanding section 8.39, and to the extent that funds appropriated in this section are unexpended or unobligated for the purposes specified in subsection 1, the department of human services may transfer funds within or between any of the appropriations made in this section for the following purposes:

a. For adoption subsidy payments and services.		
b. For child care assistance.		

Sec. 50. CHILDREN'S HEALTH INSURANCE PROGRAM — CHILD ENROLLMENT CONTINGENCY FUND — DIRECTIVES FOR USE OF FUNDS — FY 2012-2013. Moneys received from the federal government through the child enrollment contingency fund established pursuant to section 103 of the federal Children's Health Insurance Program Reauthorization Act of 2009, Pub. L. No. 111-3, are appropriated to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, to be used in addition to any other amounts appropriated for the same purposes for the fiscal year as follows:

1. For mental health and disability services redesign technical assistance services:	\$	500,000
2. For the field operations integrity claims unit:	\$	961,100
*3. For the child welfare resources fund created pursuant to this subsection:	\$	1,000,000

*A child welfare resources fund is created under the control of the department of human services. Notwithstanding section 8.33, moneys credited to the fund shall not revert to any other fund and are appropriated to the department to be used as provided in this subsection. The department shall distribute the moneys credited to the fund as grants to child welfare service providers to support infrastructure projects, supplies, equipment, renovations, and other one-time expenses in connection with publicly funded child welfare services.\**

Sec. 51. EFFECTIVE DATE PROVISIONS. The section of this division of this Act appropriating moneys received through the federal Child Enrollment Contingency Fund for the fiscal year beginning July 1, 2011, and ending June 30, 2012, being deemed of immediate importance, takes effect upon enactment.

Sec. 52. RETROACTIVE APPLICABILITY. The section of this division of this Act appropriating moneys received through the federal Child Enrollment Contingency Fund for the fiscal year beginning July 1, 2011, and ending June 30, 2012, applies retroactively to July 1, 2011.

#### DIVISION VII MENTAL HEALTH AND DISABILITY SERVICES REDESIGN FUNDING FOR FY 2012-2013

Sec. 53. RISK POOL APPROPRIATION FOR MEDICAL ASSISTANCE PROGRAM. All moneys remaining in the risk pool of the property tax relief fund on June 30, 2012, following the distributions made pursuant to 2012 Iowa Acts, Senate File 2071,<sup>4</sup> are appropriated to

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

<sup>4</sup> Chapter 1128 herein



the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, to be used for the purpose designated:

To be credited to the appropriation made for the medical assistance program in 2011 Iowa Acts, chapter 129, section 122.

Sec. 54. MENTAL HEALTH AND DISABILITY SERVICES REDESIGN. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be credited to the mental health and disability services redesign fund created in this division of this Act:

..... \$ 40,000,000

Sec. 55. REPLACEMENT GENERATION TAX REVENUES — LEVY RATES FOR FY 2012-2013.

1. a. For the fiscal year beginning July 1, 2012, and ending June 30, 2013, the replacement generation tax revenues required to be deposited in the property tax relief fund pursuant to section 437A.8, subsection 4, paragraph “d”, and section 437A.15, subsection 3, paragraph “f”, shall instead be credited to the mental health and disability services redesign fund created in this division of this Act.

b. If this section of this division of this Act is enacted after the department of management has reduced county certified budgets and revised rates of taxation pursuant to section 426B.2, subsection 3, paragraph “b”, to reflect anticipated replacement generation tax revenues, and the enactment date is during the period beginning May 1, 2012, and ending June 30, 2012, the reductions and revisions shall be rescinded and the department of management shall expeditiously report that fact to the county auditors.

2. Except as otherwise provided in subsection 1 for department of management reductions of certified budgets and revisions of tax rates and rescinding of those reductions and revisions, the budgets and tax rates certified for a county services fund under section 331.424A, for the fiscal year beginning July 1, 2012, shall remain in effect, notwithstanding section 426B.3, subsection 1, the property tax relief fund payment and other services fund financing changes made in this division of this Act, or other statutory amendments affecting county services funds for the fiscal year to the contrary.

Sec. 56. MENTAL HEALTH AND DISABILITY SERVICES REDESIGN FUND — FY 2012-2013.

1. A mental health and disability services redesign fund is created in the state treasury on the effective date of this section to be used as provided in this section for the fiscal year beginning July 1, 2012, and ending June 30, 2013. The redesign fund is under the control of the department of human services. Moneys remaining in the redesign fund at the close of the fiscal year beginning July 1, 2012, shall be transferred to the mental health and disability regional services fund created in section 225C.7A, if enacted by 2012 Iowa Acts, Senate File 2315.<sup>5</sup>

2. Moneys available in the mental health and disability services redesign fund created in this section are appropriated to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, to be used as provided in this section.

3. Moneys appropriated in this section shall be used to pay the nonfederal share of medical assistance program services costs that would be billed to counties, if the amendments to sections 249A.12 and 249A.26 were not enacted by this division of this Act, for the following services provided in the fiscal year beginning July 1, 2012:

- a. Habilitation.
- b. Targeted case management.
- c. Home-based and community-based services waiver services for persons with intellectual disabilities and brain injury.

<sup>5</sup> Chapter 1120 herein

d. Community-based intermediate care facilities for persons with mental retardation (ICF/MR).

e. The state resource centers.

4. The nonfederal share of the medical assistance services costs for the services specified in subsection 3 provided for the fiscal year beginning July 1, 2012, shall be paid from the mental health and disability services redesign fund and shall not be billed to counties.

5. Of the funds appropriated in this section, for the fiscal year beginning July 1, 2012, \$500,000 shall be used to implement the children's mental health home project proposed by the department of human services and reported to the general assembly's mental health and disability services study committee in December 2011. Of this amount up to \$50,000 may be transferred by the department to the appropriation made to the department for the fiscal year for general administration to be used for associated administrative expenses and for not more than one full-time equivalent position, in addition to those authorized for the fiscal year, to be assigned to implementing the project.

6. Of the funds appropriated in this section, up to \$400,000 may be transferred by the department to the appropriation made to the department for the fiscal year for general administration to support redesign and balancing incentive planning and implementation activities. The funds may be used for contracts or for personnel in addition to the amounts appropriated for and the positions authorized for general administration for the fiscal year.

7. Of the funds appropriated in this section, up to \$3,000,000 may be transferred by the department to the appropriations made to the department for the fiscal year for general administration or medical contracts to be used to support the development and implementation of standardized assessment tools for persons with mental illness, an intellectual disability, a developmental disability, or a brain injury.

8. Moneys credited to the redesign fund are not subject to section 8.33.

#### Sec. 57. SERVICES FUND CASH FLOW TRANSFER.

Notwithstanding section 331.424A, subsection 5, and section 331.432, subsection 3, for the fiscal year beginning July 1, 2012, and ending June 30, 2013, a county may temporarily transfer moneys from other funds of the county to the county's services fund created in section 331.424A, for cash flow purposes. Moneys transferred pursuant to this section shall be returned to the fund from which the transfer was made by the close of the fiscal year.

Sec. 58. Section 249A.12, Code 2011, is amended to read as follows:

#### **249A.12 Assistance to persons with mental retardation — state cases.**

1. Assistance may be furnished under this chapter to an otherwise eligible recipient who is a resident of a health care facility licensed under chapter 135C and certified as an intermediate care facility for persons with mental retardation.

~~2. A county shall reimburse the department on a monthly basis for that portion of the cost of assistance provided under this section to a recipient with legal settlement in the county, which is not paid from federal funds, if the recipient's placement has been approved by the appropriate review organization as medically necessary and appropriate. The department's goal for the maximum time period for submission of a claim to a county is not more than sixty days following the submission of the claim by the provider of the service to the department. The department's goal for completion and crediting of a county for cost settlement for the actual costs of a service under a home and community-based services waiver is within two hundred seventy days of the close of a fiscal year for which cost reports are due from providers. The department shall place all reimbursements from counties in the appropriation for medical assistance, and may use the reimbursed funds in the same manner and for any purpose for which the appropriation for medical assistance may be used.~~

3. 2. If a county reimburses reimbursed the department for medical assistance provided under this section, Code 2011, and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in section 633C.1, the department shall reimburse the county on a proportionate basis. The department shall adopt rules to implement this subsection.

4. 3. a. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with mental retardation services provided

under medical assistance to minors. Notwithstanding ~~subsection 2 and~~ contrary provisions of section 222.73, Code 2011, effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

b. The state shall be responsible for all of the nonfederal share of medical assistance home and community-based services waivers for persons with intellectual disabilities services provided to minors, and a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of the services.

c. Effective February 1, 2002, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for persons with mental retardation services provided under medical assistance attributable to the assessment fee for intermediate care facilities for individuals with mental retardation imposed pursuant to section 249A.21. ~~Notwithstanding subsection 2, effective~~ Effective February 1, 2003, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services attributable to the assessment fee.

~~5.~~ 4. a. The mental health and disability services commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with mental retardation, who are appropriate for the transition, to services funded under a medical assistance home and community-based services waiver for persons with intellectual disabilities in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with intellectual disabilities:

(1) Allow for the transition of intermediate care facilities for persons with mental retardation licensed under chapter 135C, to services funded under the medical assistance home and community-based services waiver for persons with intellectual disabilities. The request shall be for inclusion of additional persons under the waiver associated with the transition.

(2) Allow for reimbursement under the waiver for day program or other service costs.

(3) Allow for exception provisions in which an intermediate care facility for persons with mental retardation which does not meet size and other facility-related requirements under the waiver in effect on June 30, 1996, may convert to a waiver service for a set period of time such as five years. Following the set period of time, the facility would be subject to the waiver requirements applicable to services which were not operating under the exception provisions.

b. In implementing the provisions of this subsection, the mental health and disability services commission shall consult with other states. The waiver revision request or other action necessary to assist in the transition of service provision from intermediate care facilities for persons with mental retardation to alternative programs shall be implemented by the department in a manner that can appropriately meet the needs of individuals at an overall lower cost to counties, the federal government, and the state. In addition, the department shall take into consideration significant federal changes to the medical assistance program in formulating the department's actions under this subsection. The department shall consult with the mental health and disability services commission in adopting rules for oversight of facilities converted pursuant to this subsection. A transition approach described in paragraph "a" may be modified as necessary to obtain federal waiver approval.

~~6.~~ 5. a. The provisions of the home and community-based services waiver for persons with intellectual disabilities shall include adult day care, prevocational, and transportation services. Transportation shall be included as a separately payable service.

b. The department of human services shall seek federal approval to amend the home and community-based services waiver for persons with intellectual disabilities to include day habilitation services. Inclusion of day habilitation services in the waiver shall take effect upon receipt of federal approval.

c. ~~The person's county of legal settlement shall pay for the nonfederal share of the cost of services provided under the waiver, and the state shall pay for the nonfederal share of such costs if the person has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case.~~

~~d. The county of legal settlement shall pay for one hundred percent of the nonfederal share of the costs of care provided for adults which is reimbursed under a home and community-based services waiver that would otherwise be approved for provision in an intermediate care facility for persons with mental retardation provided under the medical assistance program.~~

~~7. 6.~~ When paying the necessary and legal expenses for intermediate care facility for persons with mental retardation services, the cost requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established by the department for intermediate care facilities for persons with mental retardation, and the state ~~or a county of legal settlement~~ shall not be obligated for any amount in excess of the rates.

~~8. 7.~~ If a person with mental retardation has no legal settlement or the legal settlement is unknown so that the person is deemed to be a state case and services associated with the mental retardation can be covered under a medical assistance home and community-based services waiver or other medical assistance program provision, the nonfederal share of the medical assistance program costs for such coverage shall be paid from the appropriation made for the medical assistance program.

Sec. 59. Section 249A.26, subsection 2, Code 2011, is amended to read as follows:

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

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

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

Sec. 60. Section 249A.26, subsections 3, 4, 7, and 8, Code 2011, are amended to read as follows:

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

4. The county of legal settlement state shall pay for one hundred percent of the nonfederal share of the cost of services provided to adult persons with chronic mental illness who qualify for habilitation services in accordance with the rules adopted for the services. ~~The state shall pay for one hundred percent of the nonfederal share of the cost of such services provided to such persons who have no legal settlement or the legal settlement is unknown so that the persons are deemed to be state cases.~~

~~7. Unless a county has paid or is paying for the nonfederal share of the costs of a person's home and community-based waiver services or placement in an intermediate care facility for~~

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

8. If a dispute arises between different counties or between the department and a county as to the legal settlement of a person who ~~receives~~ received medical assistance for which the nonfederal share is was payable in whole or in part by a county of legal settlement in accordance with Code 2011, and cannot be resolved by the parties, the dispute shall be resolved as provided in section 225C.8, Code 2011.

Sec. 61. Section 445.5, subsection 1, paragraph h, Code Supplement 2011, is amended by striking the paragraph.

Sec. 62. 2011 Iowa Acts, chapter 129, section 43, subsection 2, paragraphs d and e, are amended to read as follows:

d. If moneys from a distribution made under this subsection are not expended by a county by ~~November 1, 2012~~ June 30, 2013, for services provided ~~prior to July 1, 2012 by that date,~~ the county shall reimburse the unexpended moneys to the department by ~~November 30, 2012~~ August 30, 2013, and the moneys reimbursed shall be credited to the risk pool in the property tax relief fund.

e. The risk pool board shall submit ~~a report~~ reports to the governor and general assembly on or before December 31, 2012 and 2013, regarding the expenditure of funds distributed under this subsection.

Sec. 63. 2011 Iowa Acts, chapter 129, section 135, is amended to read as follows:

SEC. 135. 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, 2012, and ending June 30, 2013, 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 To be credited to the mental health and disability services redesign fund created by this division of this 2012 Act:~~

.....	\$	6,084,741
		11,150,820

2. For the fiscal year beginning July 1, 2012, and ending June 30, 2013, ~~\$100,000~~ \$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, 2010, and ending September 30, 2011, beginning October 1, 2011, and ending September 30, 2012, and beginning October 1, 2012, and ending September 30, 2013. 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. 64. 2011 Iowa Acts, chapter 129, section 136, is amended to read as follows:

SEC. 136. 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~~ department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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 To be credited to the mental health and disability services redesign fund created by this division of this 2012 Act:~~

~~..... \$ 14,211,100~~

~~1. Of the funds appropriated in this section, \$14,187,556 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, \$23,544 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 county management plan approved by the board of supervisors. 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. 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. 65. 2011 Iowa Acts, chapter 129, section 154, is amended to read as follows:

SEC. 154. MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES PROPERTY TAX RELIEF. ~~Notwithstanding~~ In lieu of the standing appropriation in section 426B.1, subsection 2, for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the amount there is appropriated from the general fund of the state pursuant to that provision shall not exceed to the department of human services the following amount or so much thereof as is necessary to be used for the purposes designated:

To be credited to the mental health and disability services redesign fund created by this division of this 2012 Act:

~~..... \$ 81,199,911~~

Sec. 66. 2011 Iowa Acts, chapter 129, section 155, is amended to read as follows:

SEC. 155. ADULT MH/MR/DD SERVICES ALLOWED GROWTH FUNDING — FY 2012-2013.

1. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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 2012-2013 as provided in this section in lieu of the allowed growth factor provisions of section 331.438, subsection 2, and section 331.439, subsection 3, and chapter 426B To be credited to the mental health and disability services redesign fund created by this division of this 2012 Act:~~

~~..... \$ 74,697,893~~

~~2. Of the amount appropriated in this section, \$38,000,000 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, 2012, 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, 2010, 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. The amount of a county's distribution from the allocation made in this subsection shall be determined based upon the county's proportion of the general population of the counties eligible to receive a distribution 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 distributions 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, 2012.~~

~~3. The following amount of the funding appropriated in this section is the allowed growth factor adjustment for fiscal year 2012-2013, 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:~~

~~..... \$ 36,697,893~~

~~4. The following formula amounts shall be utilized only to calculate preliminary distribution amounts for the allowed growth factor adjustment for fiscal year 2012-2013 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:~~

~~..... \$ 49,773,346~~

~~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, 2012:~~

~~..... \$ 14,187,556~~

~~5. a. After applying the applicable statutory distribution formulas to the amounts indicated in subsection 4 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 90 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.~~

~~b. 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, 2010, 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, 2010, 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.~~

~~e. For purposes of calculating withholding factors and for ending balance amounts used for other purposes under law, the county ending balances shall be adjusted, using forms developed for this purpose by the county finance committee, to disregard the temporary funding increase provided to the counties for the fiscal year through the federal American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5. In addition, a county may adjust the ending balance amount by rebating to the department all or a portion of the allowed growth and MH/DD services fund moneys the county received for the fiscal year beginning July 1, 2011, in accordance with this Act, or from any other services fund moneys available to the county. The rebate must be remitted to the department on or before June 1, 2012, in order to be counted. The amount rebated by a county shall be subtracted dollar for dollar from the county's ending balance amount for the fiscal year beginning July 1, 2010, for purposes of calculating the withholding factor and for other ending balance purposes for the fiscal year beginning July 1, 2012. The rebates received by the department shall be credited to the property tax relief fund and distributed as additional funding for the fiscal year beginning July 1, 2012, in accordance with the formula provisions in this section.~~

~~d. The withholding factor for a county shall be the following applicable percent:~~

~~(1) 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.~~

~~(2) 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.~~

~~(3) 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 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.~~

~~(4) For an ending balance percentage of 25 percent or more, a withholding percentage of 100 percent.~~

~~6. The total withholding amounts applied pursuant to subsection 5 shall be equal to a withholding target amount of \$13,075,453. If the department of human services determines that the amount appropriated is insufficient or the amount to be withheld in accordance with subsection 5 is not equal to the target withholding amount, the department shall adjust the withholding factors listed in subsection 5 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 only adjust the zero withholding factor or the inflation adjustment percentages specified in subsection 5, paragraph "d", when the amount appropriated is insufficient.~~

Sec. 67. 2012 Iowa Acts, Senate File 2071,<sup>6</sup> section 6, subsections 5 and 6, are amended to read as follows:

5. If moneys from a distribution made under this section are not expended by a county by ~~November 1, 2012~~ June 30, 2013, for services provided ~~prior to July 1, 2012~~ by that date, the county shall reimburse the unexpended moneys to the department by ~~November 30, 2012~~ August 30, 2013, and the moneys reimbursed shall be credited to the risk pool in the property tax relief fund.

<sup>6</sup> Chapter 1128 herein



6. The risk pool board shall submit ~~a report~~ reports to the governor and general assembly on or before December 31, 2012 and 2013, regarding the expenditure of funds distributed under this section.

Sec. 68. 2012 Iowa Acts, Senate File 2071,<sup>7</sup> section 7, is amended to read as follows:

SEC. 7. PROPERTY TAX RELIEF — FY 2012-2013. There is appropriated from the Iowa economic emergency fund to the department of human services for the fiscal year beginning July 1, 2011, and ending June 30, 2012, notwithstanding section 8.55, subsection 1, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To be credited to the ~~property tax relief~~ mental health and disability services redesign fund ~~to be used to restore the amount of the standing appropriation made from the general fund of the state in section 426B.1, subsection 1, for the fiscal year beginning July 1, 2012, in the amount of the reduction applied pursuant to 2011 Iowa Acts, chapter 129, section 154 created by this division of this 2012 Act:~~

..... \$ 7,200,089

Sec. 69. REPEAL. The sections of 2012 Iowa Acts, Senate File 2315,<sup>8</sup> if enacted, amending sections 249A.12 and 249A.26 are repealed.

Sec. 70. EFFECTIVE DATE. The following provision or provisions of this division of this Act take effect July 1, 2013, if the amendments to chapter 426B in 2012 Iowa Acts, Senate File 2315,<sup>9</sup> are enacted:

- 1. The section of this Act amending section 445.5.

Sec. 71. EFFECTIVE UPON ENACTMENT. The following provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

- 1. The section of this Act relating to replacement generation tax revenues and county levy rates for the fiscal year beginning July 1, 2012.
- 2. The section of this Act creating the mental health and disability services redesign fund.
- 3. The section of this Act amending 2012 Iowa Acts, Senate File 2071,<sup>10</sup> section 7.

DIVISION VIII  
PRIOR APPROPRIATIONS AND RELATED CHANGES

INJURED VETERANS GRANT PROGRAM

Sec. 72. 2008 Iowa Acts, chapter 1187, section 69, unnumbered paragraph 1, as amended by 2009 Iowa Acts, chapter 182, section 83, 2010 Iowa Acts, chapter 1192, section 56, and 2011 Iowa Acts, chapter 129, section 53, 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 fiscal year beginning July 1, ~~2011~~ 2012.

*\*CHILD WELFARE DECATEGORIZATION  
FY 2009-2010 NONREVERSION*

Sec. 73. 2009 Iowa Acts, chapter 182, section 14, subsection 5, unnumbered paragraph 2, as enacted by 2011 Iowa Acts, chapter 129, section 55, is amended to read as follows:

*Notwithstanding section 232.188, subsection 5, moneys 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 for the fiscal year beginning July 1, 2009, that are designated as carryover funding that remain unencumbered or unobligated at the close of the fiscal year beginning July 1, 2010, shall not revert but shall be transferred*

<sup>7</sup> Chapter 1128 herein

<sup>8</sup> Chapter 1120 herein

<sup>9</sup> Chapter 1120 herein

<sup>10</sup> Chapter 1128 herein

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

*in the amount of \$1,000,000 to the supportive and residential services competitive grant program fund created in section 16.185A, as enacted in this 2012 Act, and the remainder shall be transferred to the community housing and services for persons with disabilities revolving loan program fund created in section 16.185, as enacted by this division of this Act.\**

#### IOWA VETERANS HOME

Sec. 74. 2011 Iowa Acts, chapter 129, section 3, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. The funds appropriated in this subsection to the Iowa veterans home that remain available for expenditure for the succeeding fiscal year pursuant to section 35D.18, subsection 5, shall be distributed to be used in the succeeding fiscal year in accordance with this lettered paragraph. The first \$500,000 shall remain available to be used for the purposes of the Iowa veterans home. Any remaining balance shall be credited to the appropriation in this Act for the fiscal year beginning July 1, 2012, for medical assistance.

#### \*FAMILY INVESTMENT PROGRAM — GENERAL FUND

Sec. 75. 2011 Iowa Acts, chapter 129, section 7, is amended by adding the following new subsection:

NEW SUBSECTION. 5. 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.\*

#### MEDICAL ASSISTANCE

Sec. 76. 2011 Iowa Acts, chapter 129, section 10, subsection 20, paragraph d, is amended to read as follows:

d. If the savings to the medical assistance program exceed the cost, the department may transfer any savings generated for the fiscal year due to medical assistance program cost containment efforts initiated pursuant to 2010 Iowa Acts, chapter 1031, Executive Order No. 20,<sup>11</sup> issued December 16, 2009, or cost containment strategies initiated pursuant to this subsection, to the ~~appropriation~~ appropriations made in this division of this Act for medical contracts or general administration to defray the increased contract costs associated with implementing such efforts.

#### BEHAVIORAL HEALTH SERVICES ACCOUNT — MEDICAL ASSISTANCE

Sec. 77. 2011 Iowa Acts, chapter 129, section 10, is amended by adding the following new subsection:

NEW SUBSECTION. 26. Notwithstanding 2009 Iowa Acts, chapter 182, section 9, subsection 16, paragraph “b”, as amended by 2010 Iowa Acts, chapter 1192, section 63, as amended by 2011 Iowa Acts, chapter 129, section 54, funds in the account that remain unencumbered or unobligated at the end of the fiscal year beginning July 1, 2011, are appropriated to the department of human services to be used for the medical assistance program for the succeeding fiscal year.

#### STATE SUPPLEMENTARY ASSISTANCE

Sec. 78. 2011 Iowa Acts, chapter 129, section 11, 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.

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

<sup>11</sup> Published in IAB XXXII, No. 18, (2/24/10) p. 2102

## JUVENILE INSTITUTIONS

Sec. 79. 2011 Iowa Acts, chapter 129, section 14, 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.

## MENTAL HEALTH INSTITUTES

Sec. 80. 2011 Iowa Acts, chapter 129, section 20, is amended by adding the following new unnumbered paragraph 2:

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.

## STATE RESOURCE CENTERS

Sec. 81. 2011 Iowa Acts, chapter 129, section 21, is amended by adding the following new subsection:

NEW SUBSECTION. 6. 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.

## SEXUALLY VIOLENT PREDATORS

Sec. 82. 2011 Iowa Acts, chapter 129, section 24, 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.

## FIELD OPERATIONS

Sec. 83. 2011 Iowa Acts, chapter 129, section 25, 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.

*\*CHILD PROTECTION SYSTEM IMPROVEMENTS*

Sec. 84. 2011 Iowa Acts, chapter 129, section 26, subsection 5, is amended to read as follows:

5. Of the funds appropriated in this section, \$500,000 shall be used for implementation of child protection system improvements addressed in 2011 Iowa Acts, ~~House File 562, as enacted~~ chapter 28. Notwithstanding section 8.33, moneys allocated in this subsection that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.\*

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

GENERAL ADMINISTRATION

Sec. 85. 2011 Iowa Acts, chapter 129, section 26, is amended by adding the following new subsection:

NEW SUBSECTION. 6. 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.

IOWACARE DISTRIBUTIONS

Sec. 86. 2011 Iowa Acts, chapter 129, section 35, subsection 2, unnumbered paragraph 2, is amended to read as follows:

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:

.....	\$	44,226,279
		<u>56,226,279</u>

Sec. 87. 2011 Iowa Acts, chapter 129, section 35, subsection 4, paragraph a, is amended to read as follows:

a. Notwithstanding any provision of law to the contrary, the amount appropriated in this subsection shall be distributed based on claims submitted, adjudicated, and paid by the Iowa Medicaid enterprise plus a monthly disproportionate share hospital payment. Any amount appropriated in this subsection in excess of ~~\$60,000,000~~ \$57,000,000 shall be distributed only if the sum of the expansion population claims adjudicated and paid by the Iowa Medicaid enterprise plus the estimated disproportionate share hospital payments exceeds ~~\$60,000,000~~ \$57,000,000. The amount paid in excess of ~~\$60,000,000~~ \$57,000,000 shall not adjust the original monthly payment amount but shall be distributed monthly based on actual claims adjudicated and paid by the Iowa Medicaid enterprise plus the estimated disproportionate share hospital amount. Any amount appropriated in this subsection in excess of ~~\$60,000,000~~ \$57,000,000 shall be allocated only if federal funds are available to match the amount allocated. Pursuant to paragraph "b", of the amount appropriated in this subsection, not more than \$4,000,000 shall be distributed for prescription drugs and podiatry services.

Sec. 88. 2011 Iowa Acts, chapter 129, section 35, subsection 4, paragraph d, subparagraph (2), is amended to read as follows:

(2) Notwithstanding the amount collected and distributed for deposit in the IowaCare account pursuant to section 249J.24, subsection 4, paragraph "a", subparagraph (2), the first \$19,000,000 in collections pursuant to section 347.7 between January 1, 2012, and June 30, 2012, shall be distributed to the treasurer of state for deposit in the IowaCare account and collections during this time period in excess of \$19,000,000 shall be distributed to the acute care teaching hospital identified in this subsection. ~~Of the collections in excess of the \$19,000,000 received by the acute care teaching hospital under this subparagraph (2), \$2,000,000 shall be distributed by the acute care teaching hospital to the treasurer of state for deposit in the IowaCare account in the month of July 2012, following the January 1 through June 30, 2012, period.~~

Sec. 89. IMMEDIATE EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 90. RETROACTIVE APPLICABILITY. The following sections of this division of this Act apply retroactively to July 1, 2011:

1. The section relating to the transfer of funds from costs savings under the medical assistance program to appropriations for medical contracts or general administration for the fiscal year beginning July 1, 2011, and ending June 30, 2012.

2. The section relating to the nonreversion of decategorization of child welfare and juvenile justice funds.

3. The section relating to the distribution of IowaCare program funds.

DIVISION IX  
MISCELLANEOUS

Sec. 91. Section 8A.512A, subsection 3, Code Supplement 2011, is amended to read as follows:

3. a. For purposes of this section, “*executive branch employee*” means an employee of the executive branch as defined in section 7E.2, other than a member or employee of the state board of regents and institutions under the control of the state board of regents.

b. For purposes of this section, “*out-of-state travel*” does not include out-of-state travel incidental to travel between a travel departure point in this state and a travel destination point in the city of Carter Lake.

*\*Sec. 92. NEW SECTION. 16.185A Supportive and residential services for individuals who meet the psychiatric medical institution for children level of care — competitive grant program fund.*

*1. A supportive and residential services competitive grant program fund is created within the authority to further the availability of supportive and residential services for individuals who meet the psychiatric medical institution for children level of care under the medical assistance program. The moneys in the fund are appropriated to the authority to be used for the development and operation of a competitive grant program to provide financing to construct supportive housing or develop the infrastructure in which to provide supportive services, including through new construction, acquisition and rehabilitation of existing housing or infrastructure, or conversion or adaptive reuse.*

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

*3. The authority shall allocate moneys in the fund to the extent available for the development of supportive housing or the infrastructure in which to provide supportive services for individuals who meet the psychiatric medical institution for children level of care under the medical assistance program. Moneys allocated to such projects shall be in the form of competitive grants. An application submitted shall contain a commitment of at least a dollar-for-dollar match of the grant assistance.*

*4. a. A project shall demonstrate written approval of the project by the department of human services to the authority prior to application for funding under this section.*

*b. In order to be approved by the department of human services for application for funding under this section, a project shall include all of the following components:*

*(1) Provision of services to individuals who meet the psychiatric medical institution for children level of care under the medical assistance program.*

*(2) Policies and procedures that prohibit discharge of the individual from the services provided by the project provider unless an alternative placement that is acceptable to the client or the client’s guardian is identified.*

*5. Housing provided through a project under this section is exempt from the requirements of chapter 135O.*

*6. The authority, in collaboration with the department of human services, shall adopt rules pursuant to chapter 17A to administer this section.\**

Sec. 93. Section 97B.39, Code 2011, is amended to read as follows:

**97B.39 Rights not transferable or subject to legal process — exceptions.**

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

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations or marital property orders, or for recovery of medical assistance payments pursuant to section 249A.5. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under this chapter shall not exceed the amount specified in 15 U.S.C. § 1673(b). The system shall comply with the provisions of a marital property order requiring the selection of a particular benefit option, designated beneficiary, or contingent annuitant if the selection is otherwise authorized by this chapter and the member has not received payment of the member's first retirement allowance. However, a marital property order shall not require the payment of benefits to an alternative payee prior to the member's retirement, prior to the date the member elects to receive a lump sum distribution of accumulated contributions pursuant to section 97B.53, or in an amount that exceeds the benefits the member would otherwise be eligible to receive pursuant to this chapter.

Sec. 94. Section 135H.10, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 95. Section 144D.4, as enacted by 2012 Iowa Acts, House File 2165, <sup>12</sup> section 5, is amended by adding the following new subsection:

NEW SUBSECTION. 10. A POST form executed between July 1, 2008, and June 30, 2012, as part of the patient autonomy in health care decisions pilot project created pursuant to 2008 Iowa Acts, chapter 1188, section 36, as amended by 2010 Iowa Acts, chapter 1192, section 58, shall remain effective until revoked or until a new POST form is executed pursuant to this chapter.

Sec. 96. Section 225B.8, Code Supplement 2011, is amended to read as follows:

**225B.8 Repeal.**

This chapter is repealed July 1, ~~2012~~ 2015.

Sec. 97. NEW SECTION. **231.45 Certified volunteer long-term care resident's advocate program.**

1. The department shall establish a certified volunteer long-term care resident's advocate program in accordance with the federal Act to provide assistance to the state and local long-term care resident's advocates.

2. The department shall develop and implement a certification process for volunteer long-term care resident's advocates including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. The provisions of section 231.42 relating to local long-term care resident's advocates shall apply to certified volunteer long-term care resident's advocates.

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

Sec. 98. NEW SECTION. **239B.2C Absence from home — incarceration.**

An individual family member who is absent from the home for more than three months because the individual is incarcerated in jail or a correctional facility shall not be included in the family unit for purposes of assistance.

Sec. 99. Section 384.22, subsection 2, paragraph b, unnumbered paragraph 1, if enacted in 2012 Iowa Acts, House File 2460, <sup>13</sup> is amended to read as follows:

The report required under this subsection shall include all of the following as of June 30 of the most recently ended fiscal year or the information for such fiscal year, as applicable:

<sup>12</sup> Chapter 1008 herein

<sup>13</sup> Chapter 1124 herein

*\*Sec. 100. SPECIAL EDUCATION INSTRUCTIONAL PROGRAMS — PRIVATE AGENCY RESIDENTIAL TREATMENT SERVICES. For the school year beginning July 1, 2012, the department of education shall administer the costs of special education instructional programs funded under section 256B.9, subsection 7, when contracted with a private agency that provides residential treatment services to include the costs of general administration, health services, attendance officers, plant operation, and plant maintenance, regular and special instructional costs, overhead costs, and the costs of purchase of equipment, transportation, and insurance to meet the special needs of children requiring special education.\**

Sec. 101. SPECIAL EDUCATION COSTS — LEGISLATIVE STUDY. The legislative council is requested to establish an interim study committee during the 2012 interim to examine the payment of special education costs associated with student services provided in residential treatment facilities and whether the planning for and costs of such services would be more appropriately administered by the department of education or the department of human services.

Sec. 102. CIVIL MONETARY PENALTIES — NURSING FACILITY TRAINING. Of the funds received by the department of human services through civil monetary penalties from nursing facilities, during the fiscal year beginning July 1, 2012, and ending June 30, 2013, \$250,000 shall be used for initial training of nursing facility staff for the care of individuals who were placed in a nursing facility from a commitment as a sexually violent predator under chapter 229A, residents of nursing facilities who have difficult to manage behaviors, and individuals who are difficult for a nursing facility to accept for placement.

*Approved May 25, 2012, with exceptions noted.*

TERRY E. BRANSTAD, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 2336, an Act relating to appropriations for health and human services and including other related provisions and appropriations, making penalties applicable, and including effective, retroactive, and applicability date provisions.

Senate File 2336 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am concerned that Senate File 2336 does not adequately fund the state share of Medicaid. The legislature was unable to reach an agreement on Medicaid so there has not been an adjustment to the Medicaid appropriation since the last legislative session. It is estimated that the Medicaid appropriation will fall \$30 to \$40 million short of the low-range projections. Sufficient funds will exist in the ending balance to cover any shortfall and the money has not been used for other purposes. Simply put, this is not a good budget practice and should not be continued in the future.

I am unable to approve the designated portion of the item designated as Section 3, subsection 2, lettered paragraph d. This item creates a redundant, overly burdensome mandate requiring the Iowa Veterans' Home to make expenditure reports monthly to the Legislative Services Agency for fiscal year 2013. While I strongly support transparency efforts that publicly disclose how departments spend their resources, this information is already available within the State's accounting and budgeting systems.

I am unable to approve the designated portion of the item designated as Section 7, amending 2011 Iowa Acts, chapter 129, section 119 inserting numbered paragraph 5. This item

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

appropriates \$500,000 to the Food Bank of Iowa. This is a new appropriation. The effect of this disapproval shall cause the \$500,000 contained in this item to revert to the General Fund. I strongly support the Food Bank of Iowa and their important work to help needy Iowans. In fact, I started in the 1980's and annually lead a fund drive to help raise private donations for the Food Bank. I am proud of the generous contributions state of Iowa employees make to the Food Bank. I believe that private donations are the best way to support the Food Bank.

I am unable to approve the item designated as Section 11 in its entirety. This language sets a poor policy precedent because it limits savings that can be achieved in our Medicaid program. The Department of Human Services needs to have the flexibility to manage the Medicaid entitlement program and its' cost to the taxpayers.

I am unable to approve the item designated as Section 16 in its entirety. The effect of this disapproval shall cause the \$37,000 contained in this item to revert to the General Fund. It is inappropriate to designate a special reimbursement method directed for one single provider. This issue should be dealt with through the Children's Disability Services workgroup. This group is working together so that unmet needs and reimbursement issues can be addressed as a whole, rather than for certain providers.

I am unable to approve the designated portion of the item designated as Section 29, amending 2011 Iowa Acts, chapter 129, section 138 inserting numbered paragraph 3. This item creates carry-forward language which is unnecessary for the Department of Human Services from fiscal year 2013 to 2014 for field operations. The carry-forward language does not work to advance my goals of returning predictability and sustainability back to government budgeting. Additionally, providing carry-forward language for the Department of Human Services before the fiscal year has begun and before it can be known if funds will exist to carry-forward is inappropriate.

I am unable to approve the designated portion of the item designated as Section 30 amending 2011 Iowa Acts, chapter 129, section 139 inserting numbered paragraph 9. This item creates carry-forward language which is unnecessary for the Department of Human Services from fiscal year 2013 to 2014 for general administration. The carry-forward language does not work to advance my goals of returning predictability and sustainability back to government budgeting. Additionally, providing carry-forward language for the Department of Human Services before the fiscal year has begun and before it can be known if funds will exist to carry-forward is inappropriate.

I am unable to approve the designated portion of the item designated as Section 50, paragraph 3. The effect of this disapproval shall cause the disapproved funds to not be appropriated and the terms of the federal funding shall control disbursement. This item appropriates funds for a child welfare resources fund to pay for infrastructure, supplies, and equipment for private child welfare providers. The Department of Human Services has emphasized the value and effectiveness of care in home and community-based settings over institutions. Psychiatric Medical Institutions for Children already have the ability to be reimbursed by Medicaid for the costs of infrastructure, supplies and equipment.

I am unable to approve the item designated as Section 73 in its entirety. The effect of this disapproval shall cause the disapproved funds to revert to the community housing revolving loan program. This item diverts critically important funds away from cost effective community-based care. Instead it uses the one-time funds for building or rehabilitation of institutions. Due to scarce state resources, care of children in home and community-based settings must have funding priority.

I am unable to approve the item designated as Section 75 in its entirety. This item creates carry-forward language which is unnecessary for the Department of Human Services from fiscal year 2012 to 2013 for the family investment program. This carry-forward language is not needed for this program.



The DHS carry-forward for state supplementary assistance found in Section 78 is not consistent with best budget practices. It is inappropriate, but unfortunately necessary due to federal maintenance of effort requirements. We must return predictability and sustainability back to government budgeting. It is my goal that in next year's biennial budget, the legislature will forgo the use of any carry-forward language for general fund dollars.

The DHS carry-forwards for facilities, field operations and general administration found in Sections 79-83 and 85 are not consistent with best budget practices. They are inappropriate, but unfortunately necessary due to underfunding. We must return predictability and sustainability back to government budgeting. It is my goal that in next year's biennial budget, the legislature will forgo the use of any carry-forward language for general fund dollars.

I am unable to approve the item designated as Section 84 in its entirety. This item creates carry-forward language which is unnecessary for the Department of Human Services from fiscal year 2012 to 2013 for child protection system improvements because the carry-forward for general administration makes this carry-forward unnecessary.

I am unable to approve the item designated as Section 92 in its entirety. This language creates a grant program to provide housing or infrastructure funds for organizations which provide the Psychiatric Medical Institution for Children (PMIC) level of care. It is no longer needed due to the disapproval of Section 73 which would have funded the grant program.

I am unable to approve the item designated as Section 100 in its entirety. Given current uncertainty about what charges may be billed as costs of special education instructional programs, it is expected that all impacted entities will continue existing billing practices through June 30, 2013. Clarification of allowable costs is anticipated by the fiscal year that begins July 1, 2014. The goal is to provide stability and predictability, assuring a high level of educational services and a fair playing field for use of funding for all involved.

For the above reasons, I respectfully disapprove the designated items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2336 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

## CHAPTER 1134

### APPROPRIATIONS — JUSTICE SYSTEM

#### *H.F. 2335*

**AN ACT** relating to appropriations to the justice system, and providing effective dates.

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

Section 1. 2011 Iowa Acts, chapter 134, section 30, is amended to read as follows:  
SEC. 30. 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, 2012, and ending June 30, 2013, 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, matching funds for federal violence against women grant programs, victim assistance grants, office of

drug control policy prosecuting attorney program, and odometer fraud enforcement, and for not more than the following full-time equivalent positions:

.....	\$	3,896,465
		<u>7,792,930</u>
.....	FTEs	212.00
		<u>214.00</u>

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:

.....	\$	1,438,200
		<u>2,876,400</u>

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.

The balance of the victim compensation fund established in section 915.94 may be used to provide salary and support of not more than 24 FTEs and to provide maintenance for the victim compensation functions of the department of justice.

The department of justice shall transfer at least \$150,000 from the victim compensation fund established in section 915.94 to the victim assistance grant program.

c. For legal services for persons in poverty grants as provided in section 13.34:

.....	\$	907,416
		<u>1,814,831</u>

2. a. The department of justice, in submitting budget estimates for the fiscal year commencing July 1, 2013, 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, 2011, and actual and expected reimbursements for the fiscal year commencing July 1, 2012.

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, 2013.

Sec. 2. 2011 Iowa Acts, chapter 134, section 31, is amended to read as follows:

SEC. 31. OFFICE OF CONSUMER ADVOCATE. There is appropriated from the department of commerce revolving fund created in section 546.12 to the office of consumer advocate of the department of justice for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	1,568,082
		<u>3,136,163</u>
.....	FTEs	22.00

Sec. 3. 2011 Iowa Acts, chapter 134, section 32, is amended to read as follows:

SEC. 32. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used 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:

..... \$ 20,515,641  
42,686,899

The department of corrections shall submit, to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system by January 15, 2013, the plans for the integration of the John Bennett facility and the clinical care unit into the new Fort Madison maximum security correctional facility and the future plans for the use of the current Fort Madison maximum security correctional facility after the inmates are transferred to the new facility.

b. For the operation of the Anamosa correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 15,992,987  
32,920,521

c. For the operation of the Oakdale correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 27,797,213  
57,950,613

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 12,979,379  
27,127,290

e. For the operation of the Mt. Pleasant correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 12,958,908  
26,751,707

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 4,658,233  
9,671,148

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 12,241,178  
25,241,616

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:

..... \$ 7,807,687  
16,341,725

i. For the operation of the Fort Dodge correctional facility, including salaries, support, maintenance, and miscellaneous purposes:

..... \$ 14,531,118  
29,865,232

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:

..... \$ 387,546  
1,075,092

k. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... \$ 119,706  
484,411

~~l. For three correctional officer full-time equivalent positions that are to be assigned to a correctional institution by the director of the department of corrections:~~

~~..... \$ 78,581~~

2. The department of corrections shall use moneys appropriated in subsection 1 to continue to contract for the services of a Muslim imam and a Native American spiritual leader.

Sec. 4. 2011 Iowa Acts, chapter 134, section 33, is amended to read as follows:

SEC. 33. DEPARTMENT OF CORRECTIONS — ADMINISTRATION.

There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For general administration, including salaries, support, maintenance, employment of an education director to administer a centralized education program for the correctional system, and miscellaneous purposes:

..... \$ 2,417,771  
5,081,582

b. 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.

c. It is the intent of the general assembly that as a condition of receiving the appropriation provided in this subsection the department of corrections shall not enter into a lease or contractual agreement pursuant to section 904.809 with a private corporation for the use of building space for the purpose of providing inmate employment without providing that the terms of the lease or contract establish safeguards to restrict, to the greatest extent feasible, access by inmates working for the private corporation to personal identifying information of citizens.

2. For educational programs for inmates at state penal institutions:

..... \$ 1,154,055  
2,358,109

b. It is the intent of the general assembly that moneys appropriated in this subsection shall be used solely for the purpose indicated and that the moneys shall not be transferred for any other purpose. In addition, it is the intent of the general assembly that the department shall consult with the community colleges in the areas in which the institutions are located to utilize moneys appropriated in this subsection to fund the high school completion, high school equivalency diploma, adult literacy, and adult basic education programs in a manner so as to maintain these programs at the institutions.

c. 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.

d. The director of the department of corrections may transfer moneys from Iowa prison industries and the canteen operating funds established pursuant to section 904.310, for use in educational programs for inmates.

e. Notwithstanding section 8.33, moneys appropriated in this subsection that remain unobligated or unexpended at the close of the fiscal year shall not revert but shall remain available to be used only for the purposes designated in this subsection until the close of the succeeding fiscal year.

3. For the development of the Iowa corrections offender network (ICON) data system:

..... \$ 212,182  
424,364

4. For offender mental health and substance abuse treatment:

..... \$ 11,160  
22,319

5. For viral hepatitis prevention and treatment:

..... \$ 83,941  
167,881

6. It is the intent of the general assembly that for the fiscal year addressed by this section 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, 2011; 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, 2011, without prior legislative approval; and shall further attempt to provide job opportunities at the farms for inmates. The department shall attempt to provide job opportunities at the farms for inmates by encouraging labor-intensive farming or gardening where appropriate; using inmates to grow produce and meat for institutional consumption; researching the possibility of instituting food canning and cook-and-chill operations; and exploring opportunities for organic farming and gardening, livestock ventures, horticulture, and specialized crops.

~~7. The department of corrections shall solicit requests for information to improve efficiencies at the pharmacy under the control of the department.~~

Sec. 5. 2011 Iowa Acts, chapter 134, section 34, is amended to read as follows:

SEC. 34. 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, 2012, and ending June 30, 2013, for salaries, support, maintenance, and miscellaneous purposes, 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:	\$	6,102,474
.....		<u>12,958,763</u>
b. For the second judicial district department of correctional services:	\$	5,168,474
.....		<u>10,870,425</u>
c. For the third judicial district department of correctional services:	\$	2,799,883
.....		<u>6,238,455</u>
d. For the fourth judicial district department of correctional services:	\$	2,695,678
.....		<u>5,495,309</u>
e. For the fifth judicial district department of correctional services, including funding for electronic monitoring devices for use on a statewide basis:	\$	9,371,065
.....		<u>19,375,428</u>
f. For the sixth judicial district department of correctional services:	\$	6,556,282
.....		<u>14,095,408</u>
g. For the seventh judicial district department of correctional services:	\$	3,246,407
.....		<u>6,895,634</u>
h. For the eighth judicial district department of correctional services:	\$	3,439,858
.....		<u>7,518,935</u>

1A. In order to enhance the safety of the general public, the judicial district departments of correctional services, in cooperation with the department of corrections and the department of human services, shall designate a facility for persons who are placed in a transitional release program under chapter 229A or discharged from commitment as a sexually violent predator under chapter 229A because the person is in need of medical treatment.

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 or any succeeding entity of 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. 2011 Iowa Acts, chapter 134, section 39, is amended to read as follows:

SEC. 39. 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, 2012, and ending June 30, 2013, 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:

.....	\$	434,349
		<u>968,698</u>
.....	FTEs	24.55
		<u>25.50</u>

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 in this subsection 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. 7. 2011 Iowa Acts, chapter 134, section 40, is amended to read as follows:

SEC. 40. 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, 2012, and ending June 30, 2013, 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:

.....	\$	12,541,591
		<u>25,862,182</u>
.....	FTEs	219.00

2. For the fees of court-appointed attorneys for indigent payments on behalf of eligible adults and juveniles from the indigent defense fund, in accordance with section 232.141 and ~~chapter 815~~ 815.11:

.....	\$	15,340,464
		<u>29,901,929</u>

Sec. 8. 2011 Iowa Acts, chapter 134, section 41, is amended to read as follows:

SEC. 41. 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, 2012, and ending June 30, 2013, 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:

.....	\$	526,918
		<u>1,203,835</u>
.....	FTEs	12.50
		<u>13.00</u>

Sec. 9. 2011 Iowa Acts, chapter 134, section 42, is amended to read as follows:

SEC. 42. 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, 2012, and ending June 30, 2013, 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:

.....	\$	2,763,521
		<u>5,527,042</u>
.....	FTEs	313.00
		<u>296.00</u>

The military division may temporarily exceed and draw more than the amount appropriated in this subsection 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

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

.....	\$	918,439
		<u>1,836,877</u>
.....	FTEs	40.00
		<u>35.34</u>

a. The homeland security and emergency management division may temporarily exceed and draw more than the amount appropriated in this subsection 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.

b. 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. 10. 2011 Iowa Acts, chapter 134, section 43, is amended to read as follows:

SEC. 43. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For the department's administrative functions, including the criminal justice information system, and for not more than the following full-time equivalent positions:

.....	\$	2,003,538
		<u>4,007,075</u>
.....	FTEs	36.00

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:

.....	\$	6,266,966
		<u>12,533,931</u>
.....	FTEs	159.10
		<u>154.60</u>

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 2.00 FTEs.

3. For the criminalistics laboratory fund created in section 691.9:

.....	\$	151,173
		<u>302,345</u>

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:

.....	\$	3,214,942
		<u>6,429,884</u>
.....	FTEs	74.00
		<u>68.00</u>

b. For the division of narcotics enforcement for undercover purchases:

.....	\$	54,521
		<u>109,042</u>

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:

.....	\$	2,149,354
		<u>4,298,707</u>
.....	FTEs	55.00
		<u>54.00</u>

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:

.....	\$	25,951,617
		<u>53,493,490</u>
.....	FTEs	513.00
		<u>498.05</u>

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 departmental employees eligible to receive benefits for accrued sick leave under the collective bargaining agreement:

.....	\$	139,759
		<u>279,517</u>



8. For costs associated with the training and equipment needs of volunteer fire fighters:

.....	\$	362,760
		<u>725,520</u>

a. 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.

b. Notwithstanding section 8.39, within the moneys appropriated in this section, the department of public safety may reallocate moneys 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 regarding the rationale for reallocating the appropriation. The department shall not reallocate an appropriation made in this section for the purpose of eliminating any program.

9. For costs associated with the training and operation of the statewide interoperable communications system board excluding salaries and contracts:

.....	\$	48,000
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Sec. 11. 2011 Iowa Acts, chapter 134, section 44, is amended to read as follows:

SEC. 44. GAMING ENFORCEMENT.

1. There is appropriated from the gaming enforcement revolving fund created in section 80.43 to the department of public safety for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For any direct and indirect support costs for agents and officers of the division of criminal investigation's excursion gambling boat, gambling structure, and racetrack enclosure enforcement activities, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	4,918,153
		<u>10,335,709</u>
.....	FTEs	<u>120.00</u>
		<u>115.00</u>

2. For each additional license to conduct gambling games on an excursion gambling boat, gambling structure, or racetrack enclosure issued during the fiscal year beginning July 1, 2012, there is appropriated from the gaming enforcement fund to the department of public safety for the fiscal year beginning July 1, 2012, and ending June 30, 2013, an additional amount of not more than \$521,000 to be used for not more than 6.00 additional full-time equivalent positions.

3. 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, 2012, and one special agent for each racing facility which becomes operational during the fiscal year which begins July 1, 2012. 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 subsection are in addition to the full-time equivalent positions otherwise authorized in this section.

Sec. 12. 2011 Iowa Acts, chapter 134, section 45, is amended to read as follows:

SEC. 45. 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, 2012, and ending June 30, 2013, 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:

.....	\$	648,535
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	<u>1,297,069</u>
..... FTEs	28.00

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. 13. 2011 Iowa Acts, chapter 134, section 46, is amended to read as follows:

SEC. 46. 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, 2012, and ending June 30, 2013, an amount not exceeding ~~\$200,000~~ \$250,000 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. 14. Section 80.43, subsection 1, Code 2011, is amended to read as follows:

1. A gaming enforcement revolving fund is created in the state treasury under the control of the department. The fund shall consist of fees collected and deposited into the fund paid by licensees pursuant to section 99D.14, subsection 2, paragraph "b", and fees paid by licensees pursuant to section 99F.10, subsection 4, paragraph "b". All costs for agents and officers plus any direct and indirect support costs for such agents and officers of the division of criminal investigation's racetrack, excursion boat, or gambling structure enforcement activities shall be paid from the fund as provided in appropriations made for this purpose by the general assembly.

Sec. 15. Section 99D.14, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Notwithstanding sections 8.60 and 99D.17, the portion of the fee paid pursuant to paragraph "a" relating to the costs of special agents plus any direct and indirect support costs for the agents, for the division of criminal investigation's racetrack activities, ~~shall not be deposited in the general fund of the state but instead~~ shall be deposited into the gaming enforcement revolving fund established in section 80.43. However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents to the general fund of the state.

Sec. 16. Section 99F.10, subsection 4, paragraph b, Code Supplement 2011, is amended to read as follows:

b. Notwithstanding sections 8.60 and 99F.4, the portion of the fee paid pursuant to paragraph "a" relating to the costs of special agents and officers plus any direct and indirect support costs for the agents and officers, for the division of criminal investigation's excursion gambling boat or gambling structure activities, ~~shall not be deposited in the general fund of the state but instead~~ shall be deposited into the gaming enforcement revolving fund established in section 80.43. However, the department of public safety shall transfer, on an annual basis, the portion of the regulatory fee attributable to the indirect support costs of the special agents and gaming enforcement officers to the general fund of the state.

Sec. 17. Section 654.4B, subsection 2, paragraph b, Code Supplement 2011, is amended to read as follows:

b. This subsection is repealed July 1, ~~2012~~ 2013.

Sec. 18. Section 904A.4A, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 7. Act as the representative of the board relative to the passage, defeat, approval, or modification of legislation that is being considered by the general assembly.

NEW SUBSECTION. 8. Develop a budget for the board subject to the approval of the board and prepare all reports required by law.

NEW SUBSECTION. 9. Hire and supervise all staff pursuant to the provisions of chapter 8A, subchapter IV.

Sec. 19. REPEAL. Section 904A.4B, Code 2011, is repealed.

Sec. 20. DEPARTMENT OF PUBLIC SAFETY BUILDING DESIGNATION. The state office building located at 215 east seventh street, which houses the department of public safety, shall be named after Oran Pape, the first member of the state patrol killed in the line of duty and the only member of the state patrol to have been murdered. An appropriate commemorative plaque shall be placed near the entrance of the state building in recognition of Oran Pape and his sacrifice as a member of the state patrol.

Sec. 21. EFFECTIVE UPON ENACTMENT. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

- 1. The section of this Act amending section 80.43, subsection 1.
- 2. The section of this Act amending section 99D.14, subsection 2, paragraph “b”.
- 3. The section of this Act amending section 99F.10, subsection 4.
- 4. The section of this Act amending section 654.4B, subsection 2, paragraph “b”.

Approved May 25, 2012

**CHAPTER 1135**

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

*H.F. 2336*

**AN ACT** relating to appropriations involving state government entities involved with agriculture, natural resources, and environmental protection, and including effective date provisions.

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

DIVISION I  
 DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP  
 GENERAL APPROPRIATIONS FOR FY 2012-2013

Section 1. 2011 Iowa Acts, chapter 128, section 46, is amended to read as follows:  
 SEC. 46. GENERAL FUND — DEPARTMENT.

1. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

	\$	8,248,654
		17,081,328
	FTEs	366.00
		371.00

2. The department shall submit a report each quarter of the fiscal year to the legislative services agency, the department of management, the members of the joint appropriations subcommittee on agriculture and natural resources, and the chairpersons and ranking members of the senate and house committees on appropriations. The report shall describe in detail the expenditure of moneys appropriated in this section to support the department’s administration, regulation, and programs.

3. Of the amount appropriated in this section, ~~\$119,000~~ \$238,000 is transferred to Iowa state university of science and technology, to be used for the university’s midwest grape and wine industry institute.

4. The department shall use one of the full-time equivalent positions authorized in subsection 1 to employ one new assistant state veterinarian.

5. The department shall use two of the full-time equivalent positions authorized in subsection 1 to employ two new full-time positions whose primary responsibility shall be to inspect commercial establishments as defined in section 162.2 and to otherwise administer and enforce the provisions of chapter 162. The department may charge the salaries and benefits of the positions to the commercial establishment fund created in section 162.2C.

DESIGNATED APPROPRIATIONS — ANIMAL HUSBANDRY

Sec. 2. 2011 Iowa Acts, chapter 128, section 47, is amended to read as follows:

SEC. 47. UNCLAIMED PARI-MUTUEL WAGERING WINNINGS — 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, 2012, and ending June 30, 2013, 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:

.....	\$	152,758
		<u>305,516</u>

DESIGNATED APPROPRIATIONS — MOTOR FUEL

Sec. 3. 2011 Iowa Acts, chapter 128, section 48, is amended to read as follows:

SEC. 48. RENEWABLE FUEL INFRASTRUCTURE FUND — MOTOR FUEL INSPECTION. There is appropriated from the renewable fuel infrastructure fund created in section ~~15G.205~~ 159A.16 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	250,000
		500,000

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.

SPECIAL APPROPRIATIONS

Sec. 4. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:

NEW SECTION. SEC. 48A. GENERAL FUND — DAIRY REGULATION. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For purposes of performing functions pursuant to section 192.109, including conducting a survey of grade “A” milk and certifying the results to the secretary of agriculture:

.....	\$	189,196
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2. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2012, 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 purposes designated until the close of the succeeding fiscal year.

Sec. 5. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:  
NEW SECTION. SEC. 48B. GENERAL FUND — LOCAL FOOD AND FARM PROGRAM COORDINATOR. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For purposes of supporting the local food and farm program pursuant to chapter 267A:  
 ..... \$ 75,000

2. The department shall enter into a cost-sharing agreement with Iowa state university to support the local food and farm program coordinator position as part of the university’s cooperative extension service in agriculture and home economics pursuant to chapter 267A.

3. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2012, 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 purposes designated until the close of the succeeding fiscal year.

Sec. 6. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:  
NEW SECTION. SEC. 48C. GENERAL FUND — AGRICULTURAL EDUCATION. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For purposes of allocating moneys to an Iowa association affiliated with a national organization which promotes agricultural education providing for future farmers:  
 ..... \$ 25,000

2. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2012, 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 purposes designated until the close of the succeeding fiscal year.

Sec. 7. 2011 Iowa Acts, chapter 131, section 81, is amended to read as follows:  
SEC. 81. APPROPRIATION — FARMERS WITH DISABILITIES. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the following fiscal years, the following amounts, or so much thereof as is necessary, for a program for farmers with disabilities:

FY 2011–2012 .....	\$	97,000
FY 2012–2013 .....	\$	48,500
		<u>130,000</u>

The moneys appropriated in this section shall be used for the public purpose of providing a grant to a national nonprofit organization with over 80 years of experience in assisting children and adults with disabilities and special needs. The moneys shall be used to support 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, and 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. 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.

DIVISION II  
 DEPARTMENT OF NATURAL RESOURCES  
 GENERAL APPROPRIATIONS FOR FY 2012-2013

Sec. 8. 2011 Iowa Acts, chapter 128, section 49, is amended to read as follows:  
SEC. 49. GENERAL FUND — DEPARTMENT.

1. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	6,133,344
		<u>12,516,700</u>
.....	FTEs	1,145.95

2. Of the number of full-time equivalent positions authorized to the department pursuant to subsection 1, 50.00 full-time equivalent positions shall be allocated by the department for seasonal employees for purposes of providing maintenance, upkeep, and sanitary services at state parks. This subsection shall not impact park ranger positions within the department.

*\*2A. a. The department shall use 32 of the full-time equivalent positions authorized pursuant to subsection 1 to support full-time park ranger positions, including four new full-time park ranger positions.*

*b. Notwithstanding paragraph "a", if the department determines that the amount of the appropriation made in subsection 1 is not sufficient to support 32 full-time park ranger positions, it shall support at least 30 full-time park ranger positions.*

*c. The department shall not reduce the number of full-time park ranger positions to fewer than 30.\**

3. The department shall submit a report each quarter of the fiscal year to the legislative services agency, the department of management, the members of the joint appropriations subcommittee on agriculture and natural resources, and the chairpersons and ranking members of the senate and house committees on appropriations. The report shall describe in detail the expenditure of moneys appropriated under this section to support the department's administration, regulation, and programs.

Sec. 9. 2011 Iowa Acts, chapter 128, section 50, is amended to read as follows:

SEC. 50. STATE FISH AND GAME PROTECTION FUND — DIVISION OF FISH AND WILDLIFE.

1. There is appropriated from the state fish and game protection fund to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	19,396,577
		<u>39,951,171</u>

*\*1A. From the amount appropriated in subsection 1, the department shall support at least 84 full-time conservation officer positions.\**

2. 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.

3. Notwithstanding section 455A.10, the department of natural resources may use the unappropriated balance remaining in the state fish and game protection fund for the fiscal year beginning July 1, 2012, and ending June 30, 2013, as is necessary to fund salary adjustments for departmental employees which the general assembly has made an operating budget appropriation for in subsection 1.

Sec. 10. 2011 Iowa Acts, chapter 128, section 51, is amended to read as follows:

SEC. 51. 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, 2012, and ending June

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

30, 2013, 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, including for administration, regulation, and programs, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... \$ 1,727,916  
3,455,832

DESIGNATED APPROPRIATIONS — MISCELLANEOUS

Sec. 11. 2011 Iowa Acts, chapter 128, section 52, is amended to read as follows:

SEC. 52. SPECIAL SNOWMOBILE FUND — SNOWMOBILE PROGRAM. There is appropriated from the special snowmobile fund created under section 321G.7 to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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 programs:

..... \$ 50,000  
100,000

Sec. 12. 2011 Iowa Acts, chapter 128, section 53, is amended to read as follows:

SEC. 53. 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, 2012, and ending June 30, 2013, 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:

..... \$ 100,000  
200,000

SPECIAL APPROPRIATIONS

Sec. 13. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:

NEW SECTION. SEC. 54A. GENERAL FUND — FLOODPLAIN MANAGEMENT AND DAM SAFETY.

1. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of supporting floodplain management and dam safety:

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

2. Of the amount appropriated in subsection 1, up to \$400,000 may be used by the department to acquire or install stream gages for purposes of tracking and predicting flood events and for compiling necessary data to improve flood frequency analysis.

3. Notwithstanding section 8.33, moneys appropriated in subsection 1 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, 2013.

Sec. 14. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:

NEW SECTION. SEC. 54B. GENERAL FUND — FORESTRY HEALTH MANAGEMENT.

1. There is appropriated from the general fund of the state to the department of natural resources for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of providing for forestry health management programs:

..... \$ 100,000

2. Notwithstanding section 8.33, moneys appropriated for the fiscal year beginning July 1, 2012, 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 purposes designated until the close of the succeeding fiscal year beginning July 1, 2013.

DIVISION III  
USE OF MONEYS IN THE STATE FISH AND GAME PROTECTION FUND — PURCHASE OF RADIOS

Sec. 15. 2011 Iowa Acts, chapter 128, section 19, subsection 1, is amended to read as follows:

1. Notwithstanding 2010 Iowa Acts, chapter 1191, section 7, the department of natural resources may use the unappropriated balance remaining in the state fish and game protection fund for the fiscal year beginning July 1, 2010, and ending June 30, 2011, to purchase mobile radios to meet federal and state requirements for homeland security and public safety. This section applies to those moneys in the fund that are not otherwise used, obligated, or encumbered for payment of health and life insurance premium payments for conservation peace officer retirements for that fiscal year. The department may use such moneys until June 30, ~~2012~~ 2013.

Sec. 16. EFFECTIVE UPON ENACTMENT. This division of this Act amending 2011 Iowa Acts, chapter 128, section 19, subsection 1, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV  
IOWA STATE UNIVERSITY  
APPROPRIATION FOR FY 2012-2013

Sec. 17. 2011 Iowa Acts, chapter 128, section 55, is amended to read as follows:

SEC. 55. GENERAL FUND — 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, 2012, and ending June 30, 2013, 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:

.....	\$	1,618,818
		<u>3,237,636</u>
.....	FTEs	50.00

2. a. 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.

b. Paragraph “a” does not apply to a reduction made to support the college of veterinary medicine, if the same percentage of reduction imposed on the college of veterinary medicine is also imposed on all of Iowa state university’s budget units.

3. If by June 30, 2013, 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.

DIVISION V  
ENVIRONMENT FIRST FUND  
GENERAL APPROPRIATIONS FOR FY 2012-2013

Sec. 18. 2011 Iowa Acts, chapter 128, section 57, is amended to read as follows:

SEC. 57. 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, 2012, and ending June 30, 2013, 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:

..... \$ 500,000  
1,000,000

b. 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.

c. Notwithstanding any other provision in law, the department may provide state resources from this appropriation, in combination with other appropriate environment first fund appropriations, for cost sharing to match United States department of agriculture, natural resources conservation service, wetlands reserve enhancement program (WREP) funding available to Iowa.

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:

..... \$ 450,000  
900,000

b. 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.

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:

..... \$ 312,500  
625,000

~~b. 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.~~

c. Of the amount appropriated in paragraph “a”, ~~\$185,000~~ \$400,000 shall be allocated to an organization representing soybean growers to provide for an agriculture and environment performance program in order to carry out the purposes of this subsection as specified in paragraph “a”.

4. SOIL AND WATER CONSERVATION — ADMINISTRATION

For use by the department for costs of administration and implementation of soil and water conservation practices:

..... \$ 1,000,000  
2,550,000

5. CONSERVATION RESERVE PROGRAM (CRP)

a. To encourage and assist farmers in enrolling in and the implementation of the federal conservation reserve program and to work with them to enhance their revegetation efforts to improve water quality and habitat:

..... \$ 500,000  
1,000,000

b. 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. SOIL AND WATER CONSERVATION

a. For use by the department in providing for soil and water conservation administration, the conservation of soil and water resources, or the support of soil and water conservation district commissioners:

..... \$ 3,150,000  
6,650,000

b. Not more than 5 percent of the moneys appropriated in paragraph “a” may be allocated for cost sharing to address 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 established by 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 15 percent of the moneys appropriated in paragraph "a" may be used for costs of administration and implementation of soil and water conservation practices.

h. In lieu of moneys appropriated in section 466A.5, not more than \$50,000 of the moneys appropriated in paragraph "a" shall be used by the soil conservation division of the department of agriculture and land stewardship to provide administrative support to the watershed improvement review board established in section 466A.3.

**7. LOCAL FOOD AND FARM PROGRAM COORDINATOR**

~~a. For purposes of supporting a local food and farm program coordinator as established pursuant to new Code chapter 267A as enacted in this Act, for salaries, support, maintenance, and miscellaneous purposes:~~

~~..... \$ 37,500~~

~~b. The department shall enter into a cost-sharing agreement with Iowa state university to support the local food and farm program coordinator position as part of the university's cooperative extension service in agriculture and home economics pursuant to new Code chapter 267A as enacted in this Act.~~

**8. AGRICULTURAL EDUCATION**

~~For purposes of allocating moneys to an Iowa association affiliated with a national organization which promotes agricultural education providing for future farmers:~~

~~..... \$ 12,500~~

**9. LOESS HILLS DEVELOPMENT AND CONSERVATION FUND**

a. For deposit in the loess hills development and conservation fund created in section 161D.2:

..... \$ 237,500  
525,000

b. (1) Of the amount appropriated in paragraph "a", ~~\$178,125~~ \$393,750 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", ~~\$59,375~~ \$131,250 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.

Sec. 19. 2011 Iowa Acts, chapter 128, section 57, is amended by adding the following new subsection:

**NEW SUBSECTION. 10. AGRICULTURAL DRAINAGE WELL WATER QUALITY ASSISTANCE FUND.**

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:

..... \$ 550,000

Sec. 20. 2011 Iowa Acts, chapter 128, section 58, is amended to read as follows:

SEC. 58. 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, 2012, and ending June 30, 2013, 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:

..... \$ 50,000  
100,000

2. STATE PARKS MAINTENANCE AND OPERATIONS

For regular maintenance of state parks and staff time associated with these activities:

..... \$ 1,605,000  
3,710,000

3. FORESTRY HEALTH MANAGEMENT

To provide for forestry health management programs:

..... \$ 50,000

4. 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:

..... \$ 97,500  
195,000

5. WATER QUALITY MONITORING

For continuing the establishment and operation of water quality monitoring stations:

..... \$ 1,477,500  
2,955,000

6. 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:

..... \$ 250,000  
500,000

7. REGULATION OF ANIMAL FEEDING OPERATIONS

For the regulation of animal feeding operations, including as provided for in chapters 459 through 459B:

..... \$ 210,000  
620,000

8. 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:

..... \$ 212,500  
425,000

9. 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:

..... \$ 247,500  
495,000

10. GEOLOGICAL AND WATER SURVEY

For continuing the operations of the department's geological and water survey including but not limited to providing analysis, data collection, investigative programs, and information for water supply development and protection:

..... \$ 100,000  
200,000

DIVISION VI  
RESOURCES ENHANCEMENT AND PROTECTION (REAP) FUND  
GENERAL APPROPRIATION FOR FY 2012-2013

Sec. 21. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:  
NEW SECTION. SEC. 59A. ENVIRONMENT FIRST 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, 2012, and ending June 30, 2013, the following amount, to be allocated as provided in section 455A.19:

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

DIVISION VII  
AGRICULTURAL DRAINAGE WELL WATER QUALITY ASSISTANCE FUND  
SPECIAL APPROPRIATION FOR FY 2012-2013

Sec. 22. 2011 Iowa Acts, chapter 128, is amended by adding the following new section:  
NEW SECTION. SEC. 59B. REBUILD IOWA INFRASTRUCTURE FUND. Notwithstanding section 8.57, subsection 6, paragraph “c”, there is appropriated from the rebuild Iowa infrastructure fund created in section 8.57 to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the agricultural drainage well water quality assistance fund created in section 460.303 in order to support the agricultural drainage well water quality assistance program as provided in section 460.304:

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

*Approved May 25, 2012, with exceptions noted.*

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2336, an Act relating to appropriations involving state government entities involved with agriculture, natural resources, and environmental protection, and including effective date provisions.

House File 2336 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 8, amending 2011 Iowa Acts, Chapter 128, Section 49, inserting numbered paragraph 2A. This language would require Department of Natural Resources (“DNR”) to hire two to four additional park rangers. While I support efforts to ensure adequate numbers of park rangers, I believe that the language mentioned above requiring specific staff levels, hinders the state’s ability to manage overall operational needs. I believe that flexibility is needed to determine how many park rangers are hired based on costs, availability of funding and specific park needs.

I am unable to approve the designated portion of the item designated as Section 9, amending 2011 Iowa Acts, Chapter 128, Section 50, inserting numbered paragraph 1A. This item would require DNR to support at least 84 full-time conservation officer positions. While I support efforts to ensure adequate numbers of conservation officers, I believe that the language mentioned above requiring specific staff levels, hinders the state’s ability to manage overall operational needs. I believe that flexibility is needed to determine how many conservation officers are hired based on costs, availability of funding and specific park needs.

For the above reasons, I respectfully disapprove the designated items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2336 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, Governor

**CHAPTER 1136**

APPROPRIATIONS — ECONOMIC DEVELOPMENT

H.F. 2337

AN ACT relating to appropriations to the department of cultural affairs, the economic development authority, certain board of regents institutions, the department of workforce development, the Iowa finance authority, the rebuild Iowa infrastructure fund, and the public employment relations board, eliminating the film tax credit program, providing for other properly related matters, including effective date and retroactive and other applicability provisions.

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

DIVISION I  
GENERAL APPROPRIATIONS

Section 1. 2011 Iowa Acts, chapter 130, section 48, is amended to read as follows:

SEC. 48. 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, 2012, and ending June 30, 2013, 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 for the department:

.....	\$	85,907
		<u>171,813</u>
.....	FTEs	74.50

The department of cultural affairs shall coordinate activities with the tourism office of the ~~department of economic development authority~~ to promote attendance at the state historical building and at this state's historic sites.

Full-time equivalent positions authorized under this subsection shall be funded, in full or in part, using moneys appropriated under this subsection and subsections 3 through 7.

2. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3:

.....	\$	86,045
		<u>172,090</u>

3. HISTORICAL DIVISION

For the support of the historical division:

.....	\$	1,383,851
		<u>2,767,701</u>

4. HISTORIC SITES

For the administration and support of historic sites:

.....	\$	213,199
		<u>426,398</u>

5. ARTS DIVISION

For the support of the arts division:	\$	466,882
.....		<u>1,133,764</u>
6. IOWA GREAT PLACES		
For the Iowa great places program established under section 303.3C:	\$	75,000
.....		<u>150,000</u>
7. ARCHIVE IOWA GOVERNORS' RECORDS		
For archiving the records of Iowa governors:	\$	32,967
.....		<u>65,933</u>
8. RECORDS CENTER RENT		
For payment of rent for the state records center:	\$	113,622
.....		<u>227,243</u>
9. BATTLE FLAGS		
For continuation of the project recommended by the Iowa battle flag advisory committee to stabilize the condition of the battle flag collection:	\$	30,000
.....		<u>60,000</u>

Sec. 2. 2011 Iowa Acts, chapter 130, section 49, is amended to read as follows:

SEC. 49. GOALS AND ACCOUNTABILITY — ECONOMIC DEVELOPMENT.

1. For the fiscal year beginning July 1, 2012, the goals for the ~~department of~~ economic development authority 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 authority shall do all of the following for the fiscal year beginning July 1, 2012:

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.

d. Work with businesses and communities to continually improve the economic development climate along with the economic well-being and quality of life for Iowans.

e. Coordinate with other state agencies to ensure that they are attentive to the needs of an entrepreneurial culture.

f. 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 be placed on entrepreneurial development through helping entrepreneurs secure capital, and developing networks and a business climate conducive to entrepreneurs and small businesses.

g. Encourage the development of communities and quality of life to foster economic growth.

h. Prepare communities for future growth and development through development, expansion, and modernization of infrastructure.

i. 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.

j. Develop, to the fullest extent possible, cooperative efforts for advertising with contributions from other sources.

Sec. 3. 2011 Iowa Acts, chapter 130, section 50, subsections 1, 2, 4, 5, and 6, are amended to read as follows:

1. APPROPRIATION

There is appropriated from the general fund of the state to the ~~department of~~ economic development authority for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, to be used for the purposes designated

in subsection 2, and for not more than the following full-time equivalent positions:

.....	\$	4,891,712
		<u>9,783,424</u>
.....	FTEs	149.00

2. DESIGNATED PURPOSES

a. For salaries, support, miscellaneous purposes, programs, and the maintenance of an administration division, a business development division, and a community development division.

b. The full-time equivalent positions authorized under this section shall be funded, in whole or in part, by the moneys appropriated under subsection 1 or by other moneys received by the ~~department~~ authority, including certain federal moneys.

c. For business development operations and programs, ~~the film office~~, international trade, export assistance, workforce recruitment, and the partner state program.

d. For transfer to the strategic investment fund created in section 15.313.

e. For 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.

f. For achieving the goals and accountability, and fulfilling the requirements and duties required under this Act.

4. FINANCIAL ASSISTANCE RESTRICTIONS

a. A business creating jobs through moneys appropriated in this section shall be subject to contract provisions requiring new and retained jobs to 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.

b. Any vendor who receives moneys appropriated in this section 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.

c. A business that receives financial assistance from the ~~department~~ authority from moneys appropriated in this section shall only employ individuals legally authorized to work in this state. In addition to all other applicable penalties provided by current law, all or a portion of the assistance received by a business which is found to knowingly employ individuals not legally authorized to work in this state is subject to recapture by the ~~department~~ authority.

5. USES OF APPROPRIATIONS

a. From the moneys appropriated in this section, the ~~department~~ authority 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.

b. From the moneys appropriated in this section, the ~~department~~ authority may provide financial assistance to early stage industry companies being established by women entrepreneurs.

c. From the moneys appropriated in this section, the ~~department~~ authority 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.

d. The ~~department~~ authority shall not use any moneys appropriated in this section for purposes of providing financial assistance for the Iowa green streets pilot project or for any other program or project that involves the installation of geothermal systems for melting snow and ice from streets or sidewalks.

6. WORLD FOOD PRIZE

For allocating moneys for the world food prize and notwithstanding in lieu of the standing appropriation in section 15.368, subsection 1:

.....	\$	250,000
		<u>750,000</u>

Sec. 4. 2011 Iowa Acts, chapter 130, section 50, subsection 7, unnumbered paragraphs 1 and 2, are amended to read as follows:

For allocation to the Iowa commission on volunteer service for the Iowa’s promise and mentoring partnership programs, for transfer to the Iowa state commission grant program, and for not more than the following full-time equivalent positions:

.....	\$	89,067
		<u>178,133</u>
.....	FTEs	7.00

Of the moneys appropriated in this subsection, the ~~department~~ authority shall allocate ~~\$37,500~~ \$75,000 for purposes of the Iowa state commission grant program and ~~\$51,567~~ \$103,133 for purposes of the Iowa’s promise and mentoring partnership programs.

Sec. 5. 2011 Iowa Acts, chapter 130, section 51, is amended to read as follows:

SEC. 51. VISION IOWA PROGRAM — FTE AUTHORIZATION. For purposes of administrative duties associated with the vision Iowa program for the fiscal year beginning July 1, 2012, the ~~department of economic development~~ authority is authorized an additional 2.25 FTEs above those otherwise authorized in this division of this Act.

Sec. 6. 2011 Iowa Acts, chapter 130, section 52, is amended to read as follows:

SEC. 52. 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, 2012, \$100,000 shall be transferred to the ~~department of economic development~~ authority for insurance economic development and international insurance economic development.

Sec. 7. 2011 Iowa Acts, chapter 130, section 53, is amended to read as follows:

SEC. 53. COMMUNITY DEVELOPMENT LOAN FUND. Notwithstanding section 15E.120, subsection 5, there is appropriated from the Iowa community development loan fund all moneys available during the fiscal year beginning July 1, 2012, and ending June 30, 2013, to the ~~department of economic development~~ authority for purposes of the community development program.

Sec. 8. 2011 Iowa Acts, chapter 130, section 54, is amended to read as follows:

SEC. 54. 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, 2012, and ending June 30, 2013, the following amount, for purposes of the workforce development fund:

.....	\$	2,000,000
		<u>4,000,000</u>

Sec. 9. 2011 Iowa Acts, chapter 130, section 55, is amended to read as follows:

SEC. 55. WORKFORCE DEVELOPMENT ADMINISTRATION. From moneys 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, 2012, and ending June 30, 2013, are appropriated to the ~~department of economic development~~ authority for the administration of workforce development activities including salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	FTEs	4.00
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Sec. 10. 2011 Iowa Acts, chapter 130, section 57, is amended to read as follows:

SEC. 57. 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, 2012, and ending June 30, 2013, 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:

.....	\$	1,212,151
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.....	2,424,302
..... FTEs	56.63

2. Of the moneys appropriated in subsection 1, Iowa state university of science and technology shall allocate at least ~~\$468,178~~ \$735,728 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 6 10, 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.

5. 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. 11. 2011 Iowa Acts, chapter 130, section 58, is amended to read as follows:

SEC. 58. 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, 2012, and ending June 30, 2013, 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:

.....	\$	104,640
.....		209,279
..... 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. 12. 2011 Iowa Acts, chapter 130, section 59, is amended to read as follows:

SEC. 59. 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, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the metal casting institute, the MyEntreNet internet application, and the institute of decision making, including salaries,

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

.....	\$	287,358
		<u>574,716</u>
.....	FTEs	6.75

2. Of the moneys appropriated pursuant to subsection 1, the university of northern Iowa shall allocate at least ~~\$58,820~~ \$117,639 for purposes of support of entrepreneurs through the university’s regional business center.

3. 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.

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

Sec. 13. 2011 Iowa Acts, chapter 130, section 67, subsection 1, is amended to read as follows:

1. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used to provide reimbursement for rent expenses to eligible persons under the rent subsidy program:

.....	\$	329,000
		<u>658,000</u>

Sec. 14. 2011 Iowa Acts, chapter 130, section 69, is amended to read as follows:

SEC. 69. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. There is appropriated from the general fund of the state to the public employment relations board for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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:

.....	\$	528,936
		<u>1,278,426</u>
.....	FTEs	10.00

2. Of the moneys appropriated in this section, the board shall allocate \$15,000 for maintaining a website that allows searchable access to a database of collective bargaining information.

Sec. 15. IOWA ECONOMIC EMERGENCY FUND — APPROPRIATION. There is appropriated from the Iowa economic emergency fund created in section 8.55 to the department of management for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount for deposit in the rebuild Iowa infrastructure fund, notwithstanding section 8.55, subsection 1, and subsection 3, paragraph “a”:

.....	\$	20,000,000
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Sec. 16. BUSINESS DEVELOPMENT FINANCIAL ASSISTANCE. There is appropriated from the rebuild Iowa infrastructure fund to the economic development authority for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount to be used for the purposes of providing assistance under the high quality jobs program as described in section 15.335B, if enacted by the 2012 regular session of the Eighty-fourth General Assembly,<sup>1</sup> notwithstanding section 8.57, subsection 6, paragraph “c”:

.....	\$	15,000,000
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Notwithstanding section 8.33, moneys appropriated in this section that remain

<sup>1</sup> See chapter 1126, §13 herein

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. REGENTS INNOVATION FUND.

1. There is appropriated from the rebuild Iowa infrastructure fund to the institutions of higher learning under the control of the state board of regents for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount to be used for the purposes provided in this section, notwithstanding section 8.57, subsection 6, paragraph "c":

..... \$ 3,000,000

Of the moneys appropriated pursuant to this section, thirty-five percent shall be allocated for Iowa state university, thirty-five percent shall be allocated for university of Iowa, and thirty percent shall be allocated for university of northern Iowa.

2. The institutions shall use moneys appropriated in this section for capacity building infrastructure in areas related to technology commercialization, marketing and business development efforts in areas related to technology commercialization, entrepreneurship, and business growth, and infrastructure projects and programs needed to assist in the implementation of activities under chapter 262B.

3. The institutions shall provide a one-to-one match of additional moneys for the activities funded with moneys appropriated under this section.

4. 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 allocated under this section. The report shall be provided in an electronic format and shall include a list of metrics and criteria mutually agreed to in advance by the board of regents and the economic development authority. The metrics and criteria shall allow the governor's office and the general assembly to quantify and evaluate the progress of the board of regents institutions with regard to their activities, projects, and programs in the areas of technology commercialization, entrepreneurship, regional development, and market research.

DIVISION II  
FY 2012-2013 WORKFORCE DEVELOPMENT APPROPRIATIONS

Sec. 18. LEGISLATIVE FINDINGS. It is the finding of the general assembly that the recent Iowa supreme court decision of Homan v. Branstad, No. 11-2022, March 16, 2012,<sup>2</sup> has invalidated the proper enactment of certain provisions contained in the 2011 Iowa Acts, chapter 130 (Senate File 517). It is the intent of the general assembly to reenact, as amended, certain invalidated provisions of Senate File 517 that were published in the 2011 Iowa Acts and to validate actions entered into in reliance on the enactment of the invalidated provisions published in the 2011 Iowa Acts.

Sec. 19. 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, 2012, and ending June 30, 2013, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. DIVISION OF LABOR SERVICES

a. For the division of labor services, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... \$ 3,495,440  
..... FTEs 64.00

b. 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

<sup>2</sup> Published in 812 N.W. 2d 623

a. For the division of workers' compensation, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	\$	3,262,044
.....	FTEs	30.00

b. The division of workers' compensation shall charge a \$100 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.

\*c. *Of the moneys appropriated under this subsection, the department shall allocate \$153,000 for the purpose of employing a chief deputy commissioner.\**

3. WORKFORCE DEVELOPMENT OPERATIONS

a. For the operation of field offices, the workforce development board, and for not more than the following full-time equivalent positions:

.....	\$	9,179,413
.....	FTEs	130.00

b. Of the moneys appropriated in paragraph "a" of this subsection, the department shall allocate at least \$1,130,602 for the operation of satellite field offices in Decorah, Fort Madison, Iowa City, and Webster City, and of the moneys appropriated in paragraph "a" of this subsection, the department shall allocate \$150,000 to the state library for the purpose of licensing an online resource which prepares persons to succeed in the workplace through programs which improve job skills and vocational test-taking abilities.

4. OFFENDER REENTRY PROGRAM

a. 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:

.....	\$	284,464
.....	FTEs	4.00

b. 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.

5. NONREVERSION

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. 20. EMPLOYMENT SECURITY CONTINGENCY FUND.

1. There is appropriated from the special employment security contingency fund to the department of workforce development for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for field offices:

.....	\$	1,627,084
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2. Any remaining additional penalty and interest revenue collected by the department of workforce development is appropriated to the department for the fiscal year beginning July 1, 2012, and ending June 30, 2013, to accomplish the mission of the department.

Sec. 21. UNEMPLOYMENT COMPENSATION RESERVE FUND — FIELD OFFICES. 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, 2012, and ending June 30, 2013, the following amount or so much thereof as is necessary, for the purposes designated:

For the operation of field offices:

.....	\$	633,000
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\* Item veto; see message at end of the Act

Sec. 22. GENERAL FUND — EMPLOYEE MISCLASSIFICATION PROGRAM. There is appropriated from the general fund of the state to the department of workforce development for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For enhancing efforts to investigate employers that misclassify workers and for not more than the following full-time equivalent positions:

.....	\$	451,458
.....	FTEs	8.10

Sec. 23. VIRTUAL ACCESS WORKFORCE DEVELOPMENT OFFICES. The department of workforce development shall require a unique identification login for all users of workforce development centers operated through electronic means.

DIVISION III  
MISCELLANEOUS PROVISIONS

Sec. 24. 2010 Iowa Acts, chapter 1184, section 26, as amended by 2011 Iowa Acts, chapter 131, section 105, is amended to read as follows:

SEC. 26. There is appropriated from the rebuild Iowa infrastructure fund to the department of economic development for deposit in the grow Iowa values fund, for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amount, notwithstanding section 8.57, subsection 6, paragraph “c”:

.....	\$	38,000,000
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Of the moneys appropriated in this section, from the amount allocated to the department of economic development in accordance with 2010 Iowa Acts, chapter 1184, section 28, subsection 1, ~~\$1,200,000~~ \$1,417,219 shall be used for the department’s Iowans helping Iowans business assistance program. Notwithstanding section 8.33, moneys designated pursuant to this unnumbered paragraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 25. Section 15G.111, subsection 2, paragraph b, subparagraph (1), Code Supplement 2011, is amended by striking the subparagraph and inserting in lieu thereof the following:

(1) For the fiscal year beginning July 1, 2011, and ending June 30, 2012, the authority shall allocate three hundred fifty thousand dollars for purposes of providing financial assistance to Iowa’s councils of governments. Notwithstanding section 8.33, moneys allocated pursuant to this subparagraph that remain unencumbered or unobligated at the close of the fiscal year shall not revert to the fund from which allocated at the close of the fiscal year but shall remain available for expenditure for the purposes designated until the close of the succeeding fiscal year.

Sec. 26. Section 123.183, subsection 2, paragraph b, subparagraph (2), subparagraph division (a), Code Supplement 2011, is amended to read as follows:

(a) To the midwest grape and wine industry institute at Iowa state university of science and technology, ~~one hundred twenty~~ two hundred fifty thousand dollars.

Sec. 27. BATTLE FLAG RESTORATION FUND.

1. A battle flag restoration fund is created and established as a separate and distinct fund in the state treasury under the control of the department of cultural affairs. The moneys in the fund are appropriated to the department for purposes of continuing the project recommended by the Iowa battle flag advisory committee to stabilize the condition of the battle flag collection. 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 battle flag restoration fund.

2. The battle flag restoration fund shall consist of any moneys appropriated by the general assembly and any other moneys available to and obtained or accepted by the department for placement in the fund including any proceeds from insurance settlements received by the state involving battle flags loaned to other states or entities.

3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

Sec. 28. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this division of this Act amending 2010 Iowa Acts, chapter 1184, section 26.

2. The section of this division of this Act amending section 15G.111.

#### DIVISION IV FILM OFFICE

Sec. 29. Section 2.48, subsection 3, paragraph c, subparagraph (5), Code 2011, is amended by striking the subparagraph.

Sec. 30. Section 15.119, subsection 2, paragraph b, Code Supplement 2011, is amended by striking the paragraph.

Sec. 31. Section 303.1, subsection 4, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Film office.

Sec. 32. NEW SECTION. **303.95 Film office establishment and purpose.**

The department shall establish and administer a film office. The purpose of the film office is to assist legitimate film, television, and video producers in the production of film, television, and video projects in the state and to increase the fiscal impact on the state's economy of film, television, and video projects produced in the state.

Sec. 33. Section 422.7, subsection 52, Code Supplement 2011, is amended by striking the subsection.

Sec. 34. Section 422.33, subsections 23 and 24, Code Supplement 2011, are amended by striking the subsections.

Sec. 35. Section 422.35, subsection 23, Code Supplement 2011, is amended by striking the subsection.

Sec. 36. Section 422.60, subsections 10 and 11, Code Supplement 2011, are amended by striking the subsections.

Sec. 37. Section 533.329, subsection 2, paragraphs f and g, Code Supplement 2011, are amended by striking the paragraphs.

Sec. 38. REPEAL. Sections 15.391, 15.392, 15.393, 422.11T, 422.11U, 432.12J, and 432.12K, Code and Code Supplement 2011, are repealed.

Sec. 39. APPLICABILITY. The sections of this division of this Act amending sections 2.48, 15.119, 422.7, 422.33, 422.35, 422.60, and 533.329, and repealing sections 15.391, 15.392, 15.393, 422.11T, 422.11U, 432.12J, and 432.12K do not apply to contracts or agreements entered into on or before the effective date of this division of this Act.

Sec. 40. RETROACTIVE APPLICABILITY. The sections of this division of this Act amending sections 2.48, 15.119, 422.7, 422.33, 422.35, 422.60, and 533.329, and repealing sections 15.391, 15.392, 15.393, 422.11T, 422.11U, 432.12J, and 432.12K apply retroactively to January 1, 2012, for tax years beginning on or after that date.

Sec. 41. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

*Approved May 25, 2012, with exception noted.*

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2337, an Act relating to appropriations to the Department of Cultural Affairs, the Economic Development Authority, certain Board of Regents institutions, the department of Workforce Development, the Iowa Finance Authority, the Rebuild Iowa Infrastructure Fund, and the Public Employment Relations Board, eliminating the film tax credit program, providing for other properly related matters, including effective date and retroactive and other applicability provisions.

House File 2337 is, therefore, signed on this date with the following exception, which I hereby disapprove.

I am unable to approve the item designated as Section 19, numbered paragraph 2, subparagraph c in its entirety. This item provides \$153,000 to the Workers Compensation Division to create a new position of Chief Deputy Commissioner. The effect of this disapproval shall cause the \$153,000 contained in this item to revert to the General Fund. Even after this item veto, the Division of Workers Compensation will receive an increase in its state appropriation over the current fiscal year to assist its efforts to effectively accomplish its mission.

For the above reasons, I respectfully disapprove the designated item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2337 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

## CHAPTER 1137

### APPROPRIATIONS — JUDICIAL BRANCH

*H.F. 2338*

**AN ACT** relating to appropriations to the judicial branch.

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

Section 1. 2011 Iowa Acts, chapter 135, section 7, is amended to read as follows:  
SEC. 7. JUDICIAL BRANCH.

1. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

a. 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, 2012; and maintenance, equipment, and miscellaneous purposes:

..... \$ 77,055,911  
 158,911,822

b. For deposit in the revolving fund created pursuant to section 602.1302, subsection 3, for jury and witness fees, mileage, costs related to summoning jurors, fees for interpreters, and reimbursement of attorney fees paid by the state public defender:

..... \$ 1,150,000  
 3,100,000

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 administration 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. 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 division of 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.

7. 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.

8. The judicial branch shall provide a report to the general assembly by January 1, 2013, 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, 2011, and ending June 30, 2012, and the plans for expenditures from each fund during the fiscal year beginning July 1, 2012, and ending June 30, 2013. A copy of the report shall be provided to the legislative services agency.

~~9. 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, 2012, exceeding \$5,000.~~



**CHAPTER 1138**

**STATE AND LOCAL GOVERNMENT FINANCIAL AND REGULATORY MATTERS —  
APPROPRIATIONS AND MISCELLANEOUS CHANGES**

*H.F. 2465*

**AN ACT** relating to state and local finances by making and adjusting appropriations, providing for funding of property tax credits and reimbursements and for other matters pertaining to taxation, providing for fees and criminal penalties, providing for legal responsibilities, providing for certain insurance and employee benefits, and providing for properly related matters, and including effective date and retroactive and other applicability provisions.

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

**DIVISION I  
STANDING APPROPRIATIONS AND RELATED MATTERS**

Section 1. GENERAL ASSEMBLY. The appropriations made pursuant to section 2.12 for the expenses of the general assembly and the legislative agencies for the fiscal year beginning July 1, 2012, and ending June 30, 2013, are reduced by the following amount:

..... \$ 1,672,924

Sec. 2. 2011 Iowa Acts, chapter 131, section 42, is amended to read as follows:

SEC. 42. LIMITATION OF STANDING APPROPRIATIONS. Notwithstanding the standing appropriations in the following designated sections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, 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 operational support grants and community cultural grants under section 99F.11, subsection 3, paragraph “d”, subparagraph (1):

..... \$ 208,351  
416,702

2. For regional tourism marketing under section 99F.11, subsection 3, paragraph “d”, subparagraph (2):

..... \$ 405,153  
810,306

~~3. For the center for congenital and inherited disorders central registry under section 144.13A, subsection 4, paragraph “a”:~~

~~..... \$ 85,560~~

~~4. For primary and secondary child abuse prevention programs under section 144.13A, subsection 4, paragraph “a”:~~

~~..... \$ 108,886~~

5. For programs for at-risk children under section 279.51:

..... \$ 5,364,446  
10,728,891

The amount of any reduction in this subsection shall be prorated among the programs specified in section 279.51, subsection 1, paragraphs “a”, “b”, and “c”.

6. For payment for nonpublic school transportation under section 285.2:

..... \$ 7,060,931

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.

7. For the enforcement of chapter 453D relating to tobacco product manufacturers under section 453D.8:

..... \$ 9,208  
18,416

8. For reimbursement for the homestead property tax credit under section 425.1:

..... \$ 106,983,518

Sec. 3. Section 97A.11A, subsection 1, Code 2011, is amended to read as follows:

1. Beginning with the fiscal year commencing July 1, 2012 2013, and ending June 30 of the fiscal year during which the board determines that the system’s funded ratio of assets to liabilities is at least eighty-five percent, there is appropriated from the general fund of the state for each fiscal year to the retirement fund described in section 97A.8, an amount equal to five million dollars.

DIVISION II  
MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

Sec. 4. WATERSHED IMPROVEMENT FUND — APPROPRIATION. There is appropriated from the rebuild Iowa infrastructure fund to the department of agriculture and land stewardship for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated, notwithstanding section 8.57, subsection 6, paragraph “c”:

For deposit in the watershed improvement fund created in section 466A.2:

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

Sec. 5. TUITION GRANTS — FOR-PROFIT ACCREDITED PRIVATE INSTITUTIONS.

1. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For tuition grants for students attending for-profit accredited private institutions located in Iowa under 261.25, subsection 2:

..... \$ 500,000

2. Moneys appropriated in this section shall supplement and not supplant moneys appropriated in section 261.25, subsection 2, for the fiscal year beginning July 1, 2012, and ending June 30, 2013.

Sec. 6. IOWA READING RESEARCH CENTER. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For establishing an Iowa reading research center pursuant to 2012 Iowa Acts, Senate File 2284, <sup>1</sup> if enacted:

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

Sec. 7. JOINT STATE-FEDERAL MORTGAGE SERVICING SETTLEMENT MONEYS — APPROPRIATIONS.

1. A mortgage servicing settlement fund is established, separate and apart from all other public moneys or funds of the state, under the control of the department of justice. The department of justice shall deposit moneys received by the department from the joint state-federal mortgage servicing settlement into the fund. The department of justice is authorized to make expenditures of moneys in the fund consistent with the terms of the consent decree signed in federal court on April 5, 2012. Any unencumbered or unobligated moneys remaining in the fund on June 30, 2015, shall be transferred to the general fund of the state.

2. A banking division mortgage servicing settlement fund is established, separate and apart from all other public moneys or funds of the state, under the control of the division of banking of the department of commerce. The banking division shall deposit moneys received by the division from the joint state-federal mortgage servicing settlement into the fund. Moneys deposited in the fund are appropriated to the banking division to be used as provided in a financial plan developed by the superintendent of banking and approved by the department of management to support state financial regulation, including oversight

<sup>1</sup> Chapter 1119 herein

of mortgage lending and mortgage servicing, real estate and real estate appraisal, state chartered banks, and other financial services regulated by the division of banking. Moneys in the fund may also be used to support financial literacy efforts. The financial plan may be updated periodically as provided by the superintendent and approved by the department of management. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a 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, 2014. Any unencumbered or unobligated moneys remaining in the fund on June 30, 2015, shall be transferred to the general fund of the state.

3. There is appropriated from the mortgage servicing settlement fund to the department of management for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the rebuild Iowa infrastructure fund:

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

4. a. The department of justice shall submit a report to the general assembly detailing the expenditure of moneys from the mortgage servicing settlement fund by the department of justice for the previous calendar year and how the expenditures related to the implementation, monitoring, or enforcement of the settlement and how expenditures in the current and succeeding calendar year will be used for implementation, monitoring, or enforcement of the settlement. The initial report shall be submitted on or before January 15, 2013.

b. The division of banking shall submit a report to the general assembly detailing the expenditure of moneys from the banking division mortgage servicing settlement fund by the division of banking for the previous calendar year and how the expenditures related to the implementation, monitoring, or enforcement of the settlement and how expenditures in the current and succeeding calendar year will be used for implementation, monitoring, or enforcement of the settlement. The initial report shall be submitted on or before January 15, 2013.

Sec. 8. DEPARTMENT OF PUBLIC HEALTH — IOWA YOUTH SUICIDE PREVENTION PROGRAM. There is appropriated from the general fund of the state to the department of public health for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To contract for a program to develop an Iowa youth suicide prevention program:

..... \$ 50,000

1. The department shall establish a request for proposals process which shall be based upon specifications established under a suicide prevention plan for youth who are targets of bullying, which was developed in partnership with the department during the 2011-2012 fiscal year and shall include but is not limited to an antibullying internet site, internet-based communications including texting capabilities, and a telephone hotline.

2. The department shall submit to the general assembly a progress report on or before January 15, 2013, providing a detailed analysis of the program, its budgetary requirements, and the department’s findings and recommendations for continuation of the program.

Sec. 9. PLUMBERS — LICENSE EXTENSIONS. Until January 1, 2013, the plumbing and mechanical systems board shall grant a one-time renewal of an expired license if the person holding the expired license demonstrates successful passage of a municipal or block examination. For any licensee receiving a renewal under this section, the board shall clearly state in any correspondence for succeeding license renewals that the provisions of Code section 105.20 shall apply.

Sec. 10. 2007 Iowa Acts, chapter 219, section 2, subsection 2, paragraph a, as enacted by 2011 Iowa Acts, chapter 133, section 32, is amended to read as follows:

a. Notwithstanding section 8.33, moneys appropriated in section 1, subsection 1, paragraphs “a” and “f” of this division of this Act that remain unencumbered or unobligated at the close of the fiscal year for which they were appropriated shall not revert but shall remain available for the purposes designated until the close of the fiscal year that begins

July 1, ~~2011~~ 2012, or until the project for which the appropriation was made is completed, whichever is earlier.

Sec. 11. 2010 Iowa Acts, chapter 1193, section 29, subsection 2, as enacted by 2011 Iowa Acts, chapter 127, section 54, is amended to read as follows:

2. Notwithstanding section 8.33, moneys appropriated in this section that remain unencumbered or unobligated at the close of the fiscal year ending June 30, 2011, shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year ending June 30, ~~2012~~ 2013.

Sec. 12. 2011 Iowa Acts, chapter 127, section 72, subsection 4, paragraph b, unnumbered paragraph 1, as amended by 2012 Iowa Acts, Senate File 2313,<sup>2</sup> section 13,<sup>3</sup> if enacted, is amended to read as follows:

The department shall, in coordination with the health facilities division, make the following information available to the public by December 31, 2012, as part of the department's development efforts to revise the department's internet website:

Sec. 13. 2012 Iowa Acts, House File 675,<sup>4</sup> section 28, subsection 2, is amended to read as follows:

2. The notice provisions contained in this Act relating to residential construction apply only to material furnished or labor performed after the effective date of this Act.

Sec. 14. 2012 Iowa Acts, Senate File 2289,<sup>5</sup> as enacted, is amended by adding the following new section:

SEC. \_\_\_. **EFFECTIVE UPON ENACTMENT.** This Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 15. **NEW SECTION. 15E.71 Executive council action.**

Notwithstanding section 7D.29, subsection 1, the executive council in full consultation with the attorney general, and with the agreement of the attorney general, shall take any action deemed necessary to protect the interests of the state with respect to any certificates, tax credits, entities created, or action taken in relation to this division. Such actions may include but are not limited to initiation of legal action, commencement of special investigations, institution of special audits of any involved entity, or establishment of receiverships. If such action is taken, the council may incur the necessary expense to perform such a duty or cause such a duty to be performed, and pay the same out of any money in the state treasury not otherwise appropriated.

Sec. 16. Section 16.27, subsections 4 and 5, Code 2011, are amended by striking the subsections.

Sec. 17. Section 16.27, subsection 6, Code 2011, is amended to read as follows:

6. The authority shall cause to be delivered to the legislative fiscal committee within ninety days of the close of its fiscal year its annual report certified by an independent certified public accountant (who may be the accountant or a member of the firm of accountants who regularly audits the books and accounts of the authority) selected by the authority. ~~In the event that the principal amount of any bonds or notes deposited in a bond reserve fund is withdrawn for payment of principal or interest thereby reducing the amount of that fund to less than the bond reserve fund requirement, the authority shall immediately notify the general assembly of this event and shall thereafter take steps to restore such bond reserve to the bond reserve fund requirement for that fund from any amounts available, other than principal of a bond issue, which are not pledged to the payment of other bonds or notes.~~

Sec. 18. **NEW SECTION. 17A.6A Rulemaking internet site.**

<sup>2</sup> Chapter 1131 herein

<sup>3</sup> According to enrolled Act; a reference to section 15 probably intended

<sup>4</sup> Chapter 1105 herein

<sup>5</sup> Chapter 1078 herein

1. Subject to the direction of the administrative rules coordinator, each agency shall make available to the public a uniform, searchable, and user-friendly rules database, published on an internet site.

2. An agency's rulemaking internet site shall also make available to the public all of the following:

a. A brief summary of the rulemaking process, including a description of any opportunity for public participation in the process.

b. Process forms for filing comments or complaints concerning proposed or adopted rules.

c. Process forms and instructions for filing a petition for rulemaking, a petition for a declaratory order, or a request for a waiver of an administrative rule.

d. Any other material prescribed by the administrative rules coordinator.

3. To the extent practicable, the administrative rules coordinator shall create a uniform format for rulemaking internet sites.

Sec. 19. Section 17A.7, subsection 2, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

2. Beginning July 1, 2012, over each five-year period of time, an agency shall conduct an ongoing and comprehensive review of all of the agency's rules. The goal of the review is the identification and elimination of all rules of the agency that are outdated, redundant, or inconsistent or incompatible with statute or its own rules or those of other agencies. An agency shall commence its review by developing a plan of review in consultation with major stakeholders and constituent groups. When the agency completes its five-year review of its rules, the agency shall provide a summary of the results to the administrative rules coordinator and the administrative rules review committee.

Sec. 20. Section 17A.8, subsection 4, Code 2011, is amended to read as follows:

4. a. The committee shall choose a chairperson from its membership and prescribe its rules of procedure. The committee may employ a secretary or may appoint the administrative code editor or a designee to act as secretary.

b. The chairperson of the committee shall be chosen as provided in this paragraph. For the term commencing with the convening of the first regular session of each general assembly and ending upon the convening of the second regular session of that general assembly, the chairperson shall be chosen by the committee from its members who are members of the house of representatives. For the term commencing with the convening of the second regular session of each general assembly and ending upon the convening of the first regular session of the next general assembly, the chairperson shall be chosen by the committee from its members who are members of the senate. 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.

Sec. 21. Section 97B.52A, subsection 1, paragraph c, subparagraph (2), subparagraph division (b), Code 2011, is amended to read as follows:

(b) For a member whose first month of entitlement is July 2004 or later, but before July 2012 2014, covered employment does not include employment as a licensed health care professional by a public hospital as defined in section 249J.3, with the exception of public hospitals governed pursuant to chapter 226.

Sec. 22. Section 123.49, subsection 2, paragraph d, Code Supplement 2011, is amended to read as follows:

d. (1) Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the division, and except mixed drinks or cocktails mixed on the premises for immediate consumption on the licensed premises or as otherwise provided by this paragraph "d". This prohibition does not apply to common carriers holding a class "D" liquor control license.

(2) Mixed drinks or cocktails mixed on the premises that are not for immediate consumption may be consumed on the licensed premises subject to the requirements of this subparagraph pursuant to rules adopted by the division. The rules shall provide that the mixed drinks or cocktails be stored, for no longer than seventy-two hours, in a labeled container in a quantity that does not exceed three gallons. The rules shall also provide that

added flavors and other nonbeverage ingredients included in the mixed drinks or cocktails shall not include hallucinogenic substances or added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine. In addition, the rules shall require that the licensee keep records as to when the contents in a particular container were mixed and the recipe used for that mixture.

Sec. 23. Section 256C.4, subsection 1, Code 2011, is amended by adding the following new paragraphs:

NEW PARAGRAPH. g. For the fiscal year beginning July 1, 2011, and each succeeding fiscal year, of the amount of preschool foundation aid received by a school district for a fiscal year in accordance with section 257.16, not more than five percent may be used by the school district for administering the district's approved local program.

NEW PARAGRAPH. h. For the fiscal year beginning July 1, 2012, and each succeeding fiscal year, of the amount of preschool foundation aid received by a school district for a fiscal year in accordance with section 257.16, not less than ninety-five percent of the per pupil amount shall be passed through to a community-based provider for each pupil enrolled in the district's approved local program. For the fiscal year beginning July 1, 2011, and each succeeding fiscal year, not more than five percent of the amount of preschool foundation aid passed through to a community-based provider may be used by the community-based provider for administrative costs.

Sec. 24. Section 257.35, subsection 7, Code Supplement 2011, is amended to read as follows:

7. 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, 2012, and ending June 30, 2013, shall be reduced by the department of management by ~~ten~~ twenty million 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. 25. Section 257.37, subsections 1 and 2, Code 2011, are amended to read as follows:

1. For the budget year beginning July 1, 1991, and succeeding budget years, the total amount funded in each area for media services shall be computed as provided in this subsection. For the budget year beginning July 1, 1991, the total amount funded in each area for media services in the base year, ~~including the cost for media resource material which shall only be used for the purchase or replacement of material required in section 273.6, subsection 1, paragraphs "a", "b", and "c",~~ shall be divided by the enrollment served in the base year to provide an area media services cost per pupil in the base year, and the department of management shall compute the state media services cost per pupil in the base year which is equal to the average of the area media services costs per pupil in the base year. For the budget year beginning July 1, 1991, and succeeding budget years, the department of management shall compute the allowable growth for media services in the budget year by multiplying the state media services cost per pupil in the base year times the state percent of growth for the budget year, and the total amount funded in each area for media services cost in the budget year equals the area media services cost per pupil in the base year plus the allowable growth for media services in the budget year times the enrollment served in the budget year. Funds shall be paid to area education agencies as provided in section 257.35.

2. ~~Thirty~~ Up to thirty percent of the budget of an area for media services ~~shall~~ may be expended for media resource material ~~which shall only be used for~~ including the purchase or replacement of material required in section 273.6, subsection 1. Funds shall be paid to area education agencies as provided in section 257.35.

Sec. 26. Section 261.93, Code 2011, is amended to read as follows:

**261.93 Program established — who qualified.**

1. An Iowa grant program is established.

2. *a.* A grant may be awarded to a resident of Iowa who is admitted and in attendance as a full-time or part-time resident student at an accredited higher education institution and who establishes financial need.

b. Top priority in awarding program grants shall be given to a qualified student who is a resident of Iowa; is under the age of twenty-six, or the age of thirty if the student is a veteran who is eligible for benefits, or has exhausted the benefits, under the federal Post-9/11 Veterans Educational Assistance Act of 2008; is not a convicted felon as defined in section 910.15; and who meets any of the following criteria:

(1) Is the child of a peace officer, as defined in section 97A.1, who was killed in the line of duty as determined by the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system in accordance with section 97A.6, subsection 16.

(2) Is the child of a police officer or a fire fighter, as defined in section 411.1, who was killed in the line of duty as determined by the statewide fire and police retirement system in accordance with section 411.6, subsection 15.

(3) Is the child of a sheriff or deputy sheriff as defined in section 97B.49C, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with section 97B.52, subsection 2.

(4) Is the child of a fire fighter included under section 97B.49B, who was killed in the line of duty as determined by the Iowa public employees' retirement system in accordance with section 97B.52, subsection 2.

3. Grants awarded shall be distributed to the appropriate accredited higher education institution for payment of educational expenses, including tuition, room, board, and mandatory fees, with any balance to be distributed to the student for whom the grant is awarded.

Sec. 27. Section 261.93A, Code 2011, is amended to read as follows:

**261.93A Appropriation — percentages.**

1. Of the funds appropriated to the college student aid commission to be allocated for the Iowa grant program for each fiscal year, ~~thirty-seven~~ moneys shall be distributed for grants awarded to qualified students who meet the criteria established pursuant to section 261.93, subsection 2, and the funds remaining shall be distributed as follows:

a. ~~Thirty-seven~~ and six-tenths percent shall be reserved for students attending regents institutions, ~~twenty-five~~.

b. ~~Twenty-five~~ and nine-tenths percent shall be reserved for students attending community colleges, ~~and thirty-six~~.

c. ~~Thirty-six~~ and five-tenths percent shall be reserved for students attending private colleges and universities.

2. Funds appropriated for the Iowa grant program shall be used to supplement, not supplant, funds appropriated for other existing programs at the eligible institutions.

Sec. 28. Section 261.95, subsection 1, Code 2011, is amended to read as follows:

1. The amount of a grant to a qualified full-time student for an academic year shall be ~~the~~ as follows:

a. For a student who qualifies under section 261.93, subsection 2, paragraph "a", the lesser of the student's financial need for that period or up to one thousand dollars.

b. For a student who qualifies under section 261.93, subsection 2, paragraph "b", the lesser of the student's financial need for that period or not more than the resident tuition rate established for institutions of higher learning under the control of the state board of regents.

Sec. 29. Section 321.20B, subsection 6, Code 2011, is amended to read as follows:

6. This section does not apply to a ~~snowmobile or all-terrain vehicle or to a motor vehicle~~ identified in section 321.18, ~~subsections 1 through 6, and subsection 1, 2, 3, 4, 5, 6, or 8.~~

Sec. 30. Section 418.4, subsection 3, paragraph b, as enacted by 2012 Iowa Acts, Senate File 2217,<sup>6</sup> section 5, is amended to read as follows:

b. For projects proposing to use sales tax increment revenues or approved by the board to use sales tax increment revenues, the project, or an earlier phase of the project, has been

<sup>6</sup> Chapter 1094 herein

approved to receive financial assistance in an amount equal to at least twenty percent of the total project cost or thirty million dollars, whichever is less, under a financial assistance program administered by the United States environmental protection agency, the federal Water Resources Development Act, the federal Clean Water Act as defined in section 455B.291, or other federal program providing assistance specifically for hazard mitigation.

Sec. 31. Section 422.11D, subsection 2, Code 2011, is amended to read as follows:

2. An individual may claim a historic preservation and cultural and entertainment district tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust except when low-income housing tax credits authorized under section 42 of the Internal Revenue Code are used to assist in the financing of the housing development in which case the amount claimed by a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company shall be based on the amounts designated by the eligible partnership, S corporation, or limited liability company. For tax credits reserved for a fiscal year beginning on or after July 1, 2012, the amount claimed by a partner if the business is a partnership, a shareholder if the business is an S corporation, or a member if the business is a limited liability company shall be based on the amounts designated by the eligible partnership, S corporation, or limited liability company.

Sec. 32. Section 476C.3, subsection 4, paragraph b, Code Supplement 2011, is amended to read as follows:

b. The maximum amount of energy production capacity equivalent of all other facilities the board may find eligible under this chapter shall not exceed a combined output of fifty-three megawatts of nameplate generating capacity and one hundred sixty-seven billion British thermal units of heat for a commercial purpose. Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, no more than ten megawatts of nameplate generating capacity or energy production capacity equivalent shall be allocated to any one facility. Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, fifty-five billion British thermal units of heat for a commercial purpose shall be reserved for an eligible facility that is a refuse conversion facility for processed, engineered fuel from a multicounty solid waste management planning area. The maximum amount of energy production capacity the board may find eligible for a single refuse conversion facility is fifty-five billion British thermal units of heat for a commercial purpose. ~~Of the maximum amount of energy production capacity equivalent of all other facilities found eligible under this chapter, an amount equivalent to ten megawatts of nameplate generating capacity shall be reserved for eligible renewable energy facilities incorporated within or associated with an ethanol cogeneration plant engaged in the sale of ethanol to states to meet a low carbon fuel standard.~~

Sec. 33. Section 476C.3, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Notwithstanding the definition of "*eligible renewable energy facility*" in section 476C.1, subsection 6, unnumbered paragraph 1, of the maximum amount of energy production capacity equivalent of all other facilities found eligible pursuant to subsection 4, paragraph "b", an amount equivalent to ten megawatts of nameplate generating capacity shall be reserved for natural gas cogeneration facilities incorporated within or associated with an ethanol plant to assist the ethanol plant in meeting a low carbon fuel standard.

Sec. 34. Section 507.14, subsection 4, Code 2011, is amended to read as follows:

4. Confidential documents, materials, information, administrative or judicial orders, or other actions may be disclosed to a regulatory official of any state, federal agency, or foreign country provided that the recipients are required, under their law, to maintain their confidentiality. Confidential records may be disclosed to the national association of



insurance commissioners, the international association of insurance supervisors, and the bank for international settlements provided that the ~~association certifies associations and bank certify~~ by written statement that the confidentiality of the records will be maintained.

Sec. 35. Section 511.8, subsection 19, Code Supplement 2011, is amended to read as follows:

19. *Other foreign government or corporate obligations.*

*a.* Bonds or other evidences of indebtedness, not to include currency, issued, assumed, or guaranteed by a foreign government other than Canada, or by a corporation incorporated under the laws of a foreign government other than Canada. Such governmental obligations must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Such corporate obligations must meet the qualifications established in subsection 5 for bonds and other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada. Foreign investments authorized by this subsection are not eligible in excess of ~~twenty~~ twenty-five percent of the legal reserve of the life insurance company or association. Investments in obligations of a foreign government, other than Canada ~~and~~, the United Kingdom, and foreign governments rated AAA by Standard and Poor's division of McGraw-Hill companies, inc., or Aaa by Moody's investors services, inc., are not eligible in excess of two percent of the legal reserve in the securities of foreign governments of any one foreign nation. Investments in obligations of the United Kingdom are not eligible in excess of four percent of the legal reserve. Investments in obligations of foreign governments rated either AAA by Standard and Poor's division of McGraw-Hill companies, inc., or Aaa by Moody's investors services, inc., are not eligible in excess of five percent of the legal reserve. Investments in a corporation incorporated under the laws of a foreign government other than Canada are not eligible in excess of two percent of the legal reserve in the securities of any one foreign corporation.

*b.* Eligible investments in foreign obligations under this subsection are limited to the types of obligations specifically referred to in this subsection. This subsection in no way limits or restricts investments in Canadian obligations and securities specifically authorized in other subsections of this section.

*c.* This subsection shall not authorize investment in evidences of indebtedness issued, assumed, or guaranteed by a foreign government which engages in a consistent pattern of gross violations of human rights.

Sec. 36. **NEW SECTION. 514C.29 Services provided by a doctor of chiropractic.**

1. Notwithstanding the uniformity of treatment requirements of section 514C.6, a policy, contract, or plan providing for third-party payment or prepayment of health or medical expenses shall not impose a copayment or coinsurance amount on an insured for services provided by a doctor of chiropractic licensed pursuant to chapter 151 that is greater than the copayment or coinsurance amount imposed on the insured for services provided by a person engaged in the practice of medicine and surgery or osteopathic medicine and surgery under chapter 148 for the same or a similar diagnosed condition even if a different nomenclature is used to describe the condition for which the services are provided.

2. This section applies to the following classes of third-party payment provider policies, contracts, or plans delivered, issued for delivery, continued, or renewed in this state on or after July 1, 2012:

*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.* A plan established pursuant to chapter 509A for public employees.

*e.* An organized delivery system licensed by the director of public health.

3. This section shall not apply to accident-only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement,

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.

Sec. 37. Section 598.41, subsection 3, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** *k.* Whether a parent has allowed a person custody or control of, or unsupervised access to a child after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A.

Sec. 38. REPEAL. 2012 Iowa Acts, House File 2168,<sup>7</sup> section 5, is repealed.

Sec. 39. HOUSING ENTERPRISE ZONE TAX CREDIT ISSUANCE.

1. Notwithstanding section 15E.193B, subsection 4, the authority may issue a tax credit to an eligible housing business for a project not completed within two years from the time the business began construction if a city failed to file the appropriate paperwork with the authority requesting an extension for the project pursuant to section 15E.193B, subsection 4.

2. The authorization described in subsection 1 only applies to projects for which a city failed to file an extension between January 1, 2007, and January 1, 2008, and only to benefits earned for a project between February 8, 2005, and February 8, 2008.

Sec. 40. CODE EDITOR DIRECTIVE. Sections 572.1, 572.8, 572.10, 572.13, 572.18, 572.22, and 572.24, Code and Code Supplement 2011, as amended by 2012 Iowa Acts, House File 675,<sup>8</sup> sections 2, 4, 6, 8, 15, 16, and 18, if enacted, are amended as follows:

1. By striking from the sections the words "state construction registry" and inserting in lieu thereof the words "mechanics' notice and lien registry".

Sec. 41. CODE EDITOR DIRECTIVE. Sections 572.13A, 572.13B, and 572.34, if enacted by 2012 Iowa Acts, House File 675,<sup>9</sup> sections 9, 10, and 25, are amended as follows:

1. By striking from the sections the words "state construction registry" and inserting in lieu thereof the words "mechanics' notice and lien registry".

Sec. 42. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this division of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this division of this Act enacting section 256C.4, subsection 1, paragraphs "g" and "h".

2. The section of this division of this Act amending section 418.4, subsection 3, paragraph "b", as enacted by 2012 Iowa Acts, Senate File 2217,<sup>10</sup> section 5.

3. The section of this division of this Act amending 2012 Iowa Acts, Senate File 2289.<sup>11</sup>

4. The section of this division of this Act amending 2010 Iowa Acts, chapter 1193, section 29, subsection 2, as enacted by 2011 Iowa Acts, chapter 127, section 54.

5. The section of this division of this Act amending 2007 Iowa Acts, chapter 219, section 2, subsection 2, paragraph a, as enacted by 2011 Iowa Acts, chapter 133, section 32.

6. The section of this division of this Act relating to joint state-federal mortgage servicing settlement moneys.

Sec. 43. EFFECTIVE DATE. The sections of this division of this Act amending sections 572.1, 572.8, 572.10, 572.13, 572.13A, 572.13B, 572.18, 572.22, 572.24, and 572.34, take effect January 1, 2013.

Sec. 44. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to April 19, 2012:

<sup>7</sup> Chapter 1051 herein

<sup>8</sup> Chapter 1105 herein

<sup>9</sup> Chapter 1105 herein

<sup>10</sup> Chapter 1094 herein

<sup>11</sup> Chapter 1078 herein

1. The section of this division of this Act amending section 418.4, subsection 3, paragraph “b”, as enacted by 2012 Iowa Acts, Senate File 2217,<sup>12</sup> section 5.

Sec. 45. RETROACTIVE APPLICABILITY. The following provision or provisions of this division of this Act apply retroactively to April 12, 2012:

1. The section of this division of this Act amending 2012 Iowa Acts, Senate File 2289.<sup>13</sup>

### DIVISION III CORRECTIVE PROVISIONS

Sec. 46. Section 9B.2, subsection 10, paragraph a, if enacted by 2012 Iowa Acts, Senate File 2265,<sup>14</sup> section 2, is amended to read as follows:

a. “*Personal appearance*” means an act of a party to physically appear within the presence of a ~~notary public~~ notarial officer at the time the ~~notarization occurs~~ notarial act is performed.

Sec. 47. Section 105.2, subsection 8, Code Supplement 2011, as amended by 2012 Iowa Acts, House File 2285,<sup>15</sup> section 1, if enacted, 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 heating or cooling system or appliance whose primary purpose is to provide comfort using a liquid, water, or steam as the heating or cooling media. “*Hydronic*” includes all low-pressure and high-pressure systems and all natural, propane, liquid propane, or other gas lines associated with any component of a hydronic system. For purposes of this definition, “*primary purpose is to provide comfort*” means a system or appliance in which at least fifty-one percent of the capacity generated by its operation, on an annual average, is dedicated to comfort heating or cooling.

Sec. 48. Section 135.156E, subsection 1, paragraph b, if enacted by 2012 Iowa Acts, Senate File 2318,<sup>16</sup> section 14, is amended to read as follows:

b. Require authentication controls to verify the ~~identify~~ identity and role of the participant using the Iowa health information network.

Sec. 49. Section 135C.6, subsection 8, paragraphs a and b, Code 2011, as amended by 2012 Iowa Acts, Senate File 2247,<sup>17</sup> section 15, are amended to read as follows:

a. Residential programs providing care to not more than four individuals and receiving moneys appropriated to the department of human services under provisions of a federally approved home and community-based services waiver for persons with an ~~intellectual disabilities~~ disability or other medical assistance program under chapter 249A. In approving a residential program under this paragraph, the department of human services shall consider the geographic location of the program so as to avoid an overconcentration of such programs in an area. In order to be approved under this paragraph, a residential program shall not be required to involve the conversion of a licensed residential care facility for persons with an intellectual disability.

b. Not more than forty residential care facilities for persons with an intellectual disability that are licensed to serve not more than five individuals may be authorized by the department of human services to convert to operation as a residential program under the provisions of a medical assistance home and community-based services waiver for persons with an ~~intellectual disabilities~~ disability. A converted residential program operating under this paragraph is subject to the conditions stated in paragraph “a” except that the program shall not serve more than five individuals.

<sup>12</sup> Chapter 1094 herein

<sup>13</sup> Chapter 1078 herein

<sup>14</sup> Chapter 1050 herein

<sup>15</sup> Chapter 1026 herein

<sup>16</sup> Chapter 1080 herein

<sup>17</sup> Chapter 1019 herein

Sec. 50. Section 144D.3, subsection 4, as enacted by 2012 Iowa Acts, House File 2165,<sup>18</sup> section 4, is amended to read as follows:

4. In the absence of actual notice of the revocation of a POST form, a health care provider, hospital, health care facility, or any other person who complies with a POST form shall not be subject to civil or criminal liability or professional disciplinary action for actions taken under this chapter which are in accordance with reasonable medical standards. A health care provider, hospital, health care facility, or other person against whom criminal or civil liability or professional disciplinary action is asserted because of conduct in compliance with this chapter may interpose the restriction on liability in this ~~paragraph~~ subsection as an absolute defense.

Sec. 51. Section 152B.2, subsection 1, paragraph a, subparagraph (2), Code 2011, as amended by 2012 Iowa Acts, Senate File 2248,<sup>19</sup> section 2, if enacted, is amended to read as follows:

(2) Direct and indirect respiratory care services including but not limited to the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a licensed physician, or surgeon, or a qualified health care professional prescriber.

Sec. 52. Section 152B.3, subsection 1, unnumbered paragraph 1, Code 2011, as amended by 2012 Iowa Acts, Senate File 2248,<sup>20</sup> section 5, if enacted, is amended to read as follows:

The performance of respiratory care shall be in accordance with the prescription of a licensed physician, or surgeon, or a qualified health care professional prescriber and includes but is not limited to the diagnostic and therapeutic use of the following:

Sec. 53. Section 152B.3, subsection 2, Code 2011, as amended by 2012 Iowa Acts, Senate File 2248,<sup>21</sup> section 6, if enacted, is amended to read as follows:

2. A respiratory care practitioner may transcribe and implement a written or verbal order from a licensed physician, or surgeon, or a qualified health care professional prescriber pertaining to the practice of respiratory care.

Sec. 54. Section 152B.4, Code 2011, as amended by 2012 Iowa Acts, Senate File 2248,<sup>22</sup> section 7, if enacted, is amended to read as follows:

**152B.4 Location of respiratory care.**

The practice of respiratory care may be performed in a hospital as defined in section 135B.1, subsection 3, and other settings where respiratory care is to be provided in accordance with a prescription of a licensed physician, or surgeon, or a qualified health care professional prescriber. Respiratory care may be provided during transportation of a patient and under circumstances where an emergency necessitates respiratory care.

Sec. 55. Section 161A.63, Code 2011, as amended by 2012 Iowa Acts, Senate File 2311,<sup>23</sup> section 16, if enacted, is amended to read as follows:

**161A.63 Right of purchaser of agricultural land to obtain information.**

A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain from the seller, or from the office of the soil and water conservation district in which the land is located, a copy of the most recently updated farm unit soil conservation plan, developed pursuant to section 161A.62, subsection 2, which ~~are~~ is applicable to the agricultural land proposed to be purchased. A prospective purchaser of an interest in agricultural land located in this state is entitled to obtain additional copies of ~~either or both of the documents~~ document referred to in this section from the office of the soil and water conservation district in which the land is located, promptly upon request, at a fee

<sup>18</sup> Chapter 1008 herein

<sup>19</sup> Chapter 1041 herein

<sup>20</sup> Chapter 1041 herein

<sup>21</sup> Chapter 1041 herein

<sup>22</sup> Chapter 1041 herein

<sup>23</sup> Chapter 1095 herein

not to exceed the cost of reproducing them. All persons who identify themselves to the commissioners or staff of a soil and water conservation district as prospective purchasers of agricultural land in the district shall be given information, prepared in accordance with rules of the department, which clearly explains the provisions of section 161A.76.

Sec. 56. Section 203C.14, Code 2011, as amended by 2012 Iowa Acts, Senate File 2311,<sup>24</sup> section 107, if enacted, is amended to read as follows:

**203C.14 Suit — claims — notice of revocation.**

1. A person injured by the breach of an obligation of a warehouse operator, for the performance of which a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit has been given under any of the provisions of this chapter, may sue on the bond on agricultural products other than bulk grain, deficiency bond, or irrevocable letter of credit in the person's own name in a court of competent jurisdiction to recover any damages the person has sustained by reason of the breach.

2. *a.* Upon the cessation of a warehouse operator's license due to revocation, cancellation, or expiration, a claim against the warehouse operator arising under this chapter shall be made in writing with the warehouse operator, with the issuer of a bond on agricultural products other than bulk grain, a deficiency bond, or an irrevocable letter of credit, and, if the claim relates to bulk grain, with the department. The claim must be made within one hundred twenty days after the cessation of the license. The failure to make a timely claim relieves the issuer and, if the claim relates to bulk grain, the grain depositors and sellers indemnity fund provided in chapter 203D of all obligations to the claimant.

3. *b.* Upon revocation of a warehouse license, the department shall cause notice of the revocation to be published once each week for two consecutive weeks in a newspaper of general circulation in each of the counties in which the licensee maintains a business location and in a newspaper of general circulation within the state. The notice shall state the name and address of the warehouse operator and the effective date of revocation. The notice shall also state that any claims against the warehouse operator shall be made in writing and sent by ordinary mail to the warehouse operator, to the issuer of a bond on agricultural products other than bulk grain, deficiency bond, or an irrevocable letter of credit, and to the department within one hundred twenty days after revocation, and the notice shall state that the failure to make a timely claim does not relieve the warehouse operator from liability to the claimant.

*c.* ~~This paragraph subsection~~ does not apply if a receiver is appointed as provided in this chapter pursuant to a petition which is filed by the department prior to the expiration of one hundred twenty days after ~~revocation, termination, or cancellation~~ cessation of warehouse operator's license.

Sec. 57. Section 249A.12, subsection 5, paragraph a, unnumbered paragraph 1, Code 2011, as amended by 2012 Iowa Acts, Senate File 2247,<sup>25</sup> section 101, is amended to read as follows:

The mental health and disability services commission shall recommend to the department the actions necessary to assist in the transition of individuals being served in an intermediate care facility for persons with an intellectual disability, who are appropriate for the transition, to services funded under a medical assistance home and community-based services waiver for persons with an intellectual disability in a manner which maximizes the use of existing public and private facilities. The actions may include but are not limited to submitting any of the following or a combination of any of the following as a request for a revision of the medical assistance home and community-based services waiver for persons with an intellectual disabilities disability:

Sec. 58. Section 261.115, subsection 3, paragraphs c and d, if enacted by 2012 Iowa Acts, House File 2458,<sup>26</sup> section 1, are amended to read as follows:

*c.* Complete ~~their~~ the residency program requirement with an Iowa-based residency program.

<sup>24</sup> Chapter 1095 herein

<sup>25</sup> Chapter 1019 herein

<sup>26</sup> Chapter 1108 herein

d. Within nine months of graduating from ~~their~~ the residency program and receiving a permanent license in accordance with paragraph “b”, engage in the full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery for a period of sixty consecutive months in the service commitment area specified under subsection 6, unless the loan repayment recipient receives a waiver from the commission to complete the months of practice required under the agreement in another service commitment area pursuant to subsection 6.

Sec. 59. Section 261.115, subsection 8, if enacted by 2012 Iowa Acts, House File 2458,<sup>27</sup> section 1, is amended to read as follows:

8. *Part-time practice — agreement amended.* A person who entered into an agreement pursuant to subsection 3 may apply to the commission to amend the agreement to allow the person to engage in less than the full-time practice specified in the agreement and under subsection 3, paragraph “d”. If the commission determines exceptional circumstances exist, the commission and the person may consent to amend the agreement under which the person shall engage in less than full-time practice of medicine and surgery or osteopathic medicine and surgery specializing in family medicine, pediatrics, psychiatry, internal medicine, or general surgery in a service commitment area for an extended period of part-time practice determined by the commission to be proportional to the amount of full-time practice remaining under the original agreement.

Sec. 60. Section 261.115, subsection 9, paragraph b, if enacted by 2012 Iowa Acts, House File 2458,<sup>28</sup> section 1, is amended to read as follows:

b. Except for a postponement under paragraph “a”, subparagraph (6), an obligation to engage in practice under an agreement entered into pursuant to subsection 3, shall not be postponed for more than two years from the time the full-time practice was to have commenced under the agreement.

Sec. 61. Section 273.2, subsection 3, Code Supplement 2011, as amended by 2012 Iowa Acts, Senate File 2203,<sup>29</sup> section 38, if enacted, is amended to read as follows:

3. The area education agency board shall furnish educational services and programs as provided in ~~sections~~ section 273.1, this section, sections 273.3 to 273.9, and chapter 256B to the pupils enrolled in public or nonpublic schools located within its boundaries which are on the list of accredited schools pursuant to section 256.11. The programs and services provided shall be at least commensurate with programs and services existing on July 1, 1974. The programs and services provided to pupils enrolled in nonpublic schools shall be comparable to programs and services provided to pupils enrolled in public schools within constitutional guidelines.

Sec. 62. Section 321.188, subsection 6, paragraph c, if enacted by 2012 Iowa Acts, House File 2403,<sup>30</sup> section 1, is amended to read as follows:

c. An applicant who obtains a skills test waiver under this subsection shall take and successfully pass the knowledge test required pursuant to subsection ~~2~~ 1.

Sec. 63. Section 321.323A, subsection 3, paragraph c, subparagraph (1), if enacted by 2012 Iowa Acts, House File 2228,<sup>31</sup> section 3, is amended to read as follows:

(1) For a violation causing damage to the property of another person, but not resulting in bodily injury to or death of ~~to~~ another person, the department shall suspend the violator’s driver’s license or operating privileges for ninety days.

<sup>27</sup> Chapter 1108 herein

<sup>28</sup> Chapter 1108 herein

<sup>29</sup> Chapter 1023 herein

<sup>30</sup> Chapter 1058 herein

<sup>31</sup> Chapter 1083 herein

Sec. 64. Section 321.457, subsection 2, paragraph n, subparagraph (4), if enacted by 2012 Iowa Acts, House File 2428,<sup>32</sup> section 1, is amended to read as follows:

(4) For purposes of this paragraph “n”, “*full trailer*” means as defined in 49 C.F.R. § 390.390.5.

Sec. 65. Section 3211.7, subsection 3, Code 2011, as amended by 2012 Iowa Acts, House File 2467,<sup>33</sup> section 39, is amended to read as follows:

3. Duplicate registrations may be issued by a county recorder or a license agent ~~and~~ upon the payment of a five dollar fee plus a writing fee as provided in section 3211.29.

Sec. 66. Section 322.5, subsection 6, paragraph b, subparagraph (2), if enacted by 2012 Iowa Acts, Senate File 2249,<sup>34</sup> section 4, is amended to read as follows:

(2) The state in which the person is licensed as a motor vehicle dealer allows a motor vehicle dealer licensed in Iowa to be issued a permit substantially similar to the temporary permit authorized under this ~~section~~ subsection.

Sec. 67. Section 326.3, subsection 19, if enacted by 2012 Iowa Acts, Senate File 2216,<sup>35</sup> section 18, is amended to read as follows:

19. “*Operational records*” means source documents that evidence distance traveled by a fleet in each member jurisdiction, such as ~~fuel~~ fuel reports, trip sheets, and driver logs, including those which may be generated through on-board devices and maintained electronically, as required by the audit procedures manual.

Sec. 68. Section 418.4, subsection 1, paragraph b, if enacted by 2012 Iowa Acts, Senate File 2217,<sup>36</sup> section 5, is amended to read as follows:

b. A governmental entity as defined in section 418.1, subsection 4, paragraph “c”, shall have the power to construct, acquire, own, repair, improve, operate, and maintain a project, may sue and be sued, contract, and acquire and hold real and personal property, subject to the limitation in paragraph “c”, and shall have such other powers as may be included in the chapter 28E agreement. Such a governmental entity may contract with a city or the county participating in the chapter 28E agreement to perform any governmental service, activity, or undertaking that the city or county is authorized by law to perform, including but not limited to contracts for administrative services.

Sec. 69. Section 418.5, subsection 7, if enacted by 2012 Iowa Acts, Senate File 2217,<sup>37</sup> section 6, is amended to read as follows:

7. A majority of the ~~board~~ voting members constitutes a quorum.

Sec. 70. Section 418.9, subsection 2, paragraph g, if enacted by 2012 Iowa Acts, Senate File 2217,<sup>38</sup> section 10, is amended to read as follows:

g. Whether the project plan is consistent with the applicable comprehensive, ~~countywide~~ emergency ~~operations~~ plan in effect and other applicable local hazard mitigation plans.

Sec. 71. Section 504.719, subsection 3, as enacted by 2012 Iowa Acts, Senate File 2260,<sup>39</sup> section 8, is amended to read as follows:

3. An inspector may, but is not required to, be a director, ~~member of a designated body~~, member, officer, or employee of the corporation. A person who is a candidate for an office to be filled at the meeting shall not be an inspector at that meeting.

<sup>32</sup> Chapter 1090 herein

<sup>33</sup> Chapter 1100 herein

<sup>34</sup> Chapter 1048 herein

<sup>35</sup> Chapter 1093 herein

<sup>36</sup> Chapter 1094 herein

<sup>37</sup> Chapter 1094 herein

<sup>38</sup> Chapter 1094 herein

<sup>39</sup> Chapter 1049 herein

Sec. 72. Section 508.37, subsection 5, paragraph c, Code 2011, as amended by 2012 Iowa Acts, Senate File 2203,<sup>40</sup> section 105, if enacted, is amended to read as follows:

c. The adjusted premiums for a policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (1) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased during the period for which premiums for such term insurance benefits are payable, by (2) the adjusted premiums for such term insurance, the foregoing items (1) and (2) being calculated separately and as specified in paragraphs “a” and “b” of this subsection except that, for the purposes of ~~of~~ paragraph “a”, subparagraph (1), subparagraph divisions (b), (c), and (d), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in item (2) in this paragraph shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in item (1) in this paragraph.

Sec. 73. Section 515I.1, subsection 2, if enacted by 2012 Iowa Acts, House File 2145,<sup>41</sup> section 1, is amended to read as follows:

2. This ~~division~~ chapter shall be liberally construed to promote these purposes.

Sec. 74. Section 536A.10, Code 2011, as amended by 2012 Iowa Acts, Senate File 2203,<sup>42</sup> section 139, if enacted, is amended to read as follows:

**536A.10 Issuance of license.**

1. If The superintendent shall approve the application and issue to the applicant a license to engage in the industrial loan business in accordance with the provisions of this chapter, if the superintendent shall find:

a. That the financial responsibility, experience, character and general fitness of the applicant and of the officers thereof are such as to command the confidence of the community, and to warrant the belief that the business will be operated honestly, fairly and efficiently within the purpose of this chapter;

b. That a reasonable necessity exists for a new industrial loan company in the community to be served;

c. That the applicant has available for the operation of the business at the specified location paid-in capital and surplus as required by section 536A.8; and

d. That the applicant is a corporation organized for pecuniary profit under the laws of the state of Iowa.

2. ~~The superintendent shall approve the application and issue to the applicant a license to engage in the industrial loan business in accordance with the provisions of this chapter.~~ The superintendent shall approve or deny an application for a license within one hundred twenty days from the date of the filing of such application.

Sec. 75. Section 602.9202, subsection 4, Code 2011, as amended by 2012 Iowa Acts, Senate File 2285,<sup>43</sup> section 106, is amended to read as follows:

4. “*Senior judge retirement age*” means seventy-eight years of age or, if the senior judge is reappointed as a senior judge for an additional one-year term upon attaining seventy-eight years of age, and then to a succeeding one-year term, pursuant to section 602.9203, eighty years of age.

Sec. 76. Section 617.11, subsection 3, unnumbered paragraph 1, if enacted by 2012 Iowa Acts, House File 2370,<sup>44</sup> section 1, is amended to read as follows:

If a claim of interest against the property is acquired prior to the indexing of a petition or municipal infracition citation affecting real estate and filed by a city and such claim is not indexed or filed of record prior to the indexing of the petition or citation, it is subject to the pending action as provided in subsection 1, unless either of the following occurs:

<sup>40</sup> Chapter 1023 herein

<sup>41</sup> Chapter 1025 herein

<sup>42</sup> Chapter 1023 herein

<sup>43</sup> Chapter 1021 herein

<sup>44</sup> Chapter 1053 herein



Sec. 77. EFFECTIVE DATE. The section of this division of this Act amending section 9B.2, subsection 10, paragraph a, takes effect January 1, 2013.

Sec. 78. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending section 105.2, subsection 8, being deemed of immediate importance, takes effect upon enactment.

Sec. 79. RETROACTIVE APPLICABILITY. The section of this division of this Act amending section 105.2, subsection 8, applies retroactively to the effective date of 2012 Iowa Acts, House File 2285.<sup>45</sup>

Sec. 80. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending section 135.156E, subsection 1, paragraph “b”, being deemed of immediate importance, takes effect upon enactment.

Sec. 81. RETROACTIVE APPLICABILITY. The section of this division of this Act amending section 135.156E, subsection 1, paragraph “b”, applies retroactively to the effective date of 2012 Iowa Acts, Senate File 2318.<sup>46</sup>

Sec. 82. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending section 322.5, subsection 6, paragraph “b”, subparagraph (2), being deemed of immediate importance, takes effect upon enactment.

Sec. 83. RETROACTIVE APPLICABILITY. The section of this division of this Act amending section 322.5, subsection 6, paragraph “b”, subparagraph (2), applies retroactively to the effective date of 2012 Iowa Acts, Senate File 2249.<sup>47</sup>

Sec. 84. EFFECTIVE UPON ENACTMENT. The sections of this division of this Act amending section 418.4, subsection 1, paragraph “b”, section 418.5, subsection 7, and section 418.9, subsection 2, paragraph “g”, being deemed of immediate importance, take effect upon enactment.

Sec. 85. RETROACTIVE APPLICABILITY. The sections of this division of this Act amending section 418.4, subsection 1, paragraph “b”, section 418.5, subsection 7, and section 418.9, subsection 2, paragraph “g”, apply retroactively to the effective date of 2012 Iowa Acts, Senate File 2217.<sup>48</sup>

Sec. 86. EFFECTIVE UPON ENACTMENT. The section of this division of this Act amending section 515I.1, subsection 2, being deemed of immediate importance, takes effect upon enactment.

Sec. 87. RETROACTIVE APPLICABILITY. The section of this division of this Act amending section 515I.1, subsection 2, applies retroactively to the effective date of 2012 Iowa Acts, House File 2145.<sup>49</sup>

#### DIVISION IV CARRY FORWARD APPROPRIATIONS

Sec. 88. IOWA STATE MEMORIAL — RESTORATION. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 2011, and ending June 30, 2012, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the preservation and restoration of the Iowa state memorial at Vicksburg national military park:

<sup>45</sup> Chapter 1026 herein

<sup>46</sup> Chapter 1080 herein

<sup>47</sup> Chapter 1048 herein

<sup>48</sup> Chapter 1094 herein

<sup>49</sup> Chapter 1025 herein

..... \$ 320,000  
 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 fiscal year that begins July 1, 2013.

Sec. 89. DEPARTMENT OF NATURAL RESOURCES — ECONOMIC EMERGENCY FUND. There is appropriated from the Iowa economic emergency fund to the department of natural resources for the fiscal year beginning July 1, 2011, and ending June 30, 2012, the following amount, or so much thereof as is necessary, to be used for the purposes designated, notwithstanding section 8.55, subsection 1:

For the repair of damages due to the flooding of the Missouri river during the calendar year 2011 in the Lewis and Clark, lake Manawa, and Wilson island state parks and recreation area:  
 ..... \$ 2,865,743

For purposes of section 8.33, unless specifically provided otherwise, unencumbered or unobligated moneys remaining from the appropriation made in this section shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends two years after the end of the fiscal year for which the appropriation is made. However, if the project or projects for which the appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

Sec. 90. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION V  
 TIME SERVED

Sec. 91. Section 907.3, subsection 3, unnumbered paragraph 1, Code Supplement 2011, is amended to read as follows:

By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility to be followed by a period of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall not be given credit for such time served. However, the a person committed to an alternate jail facility or a community correctional residential treatment facility who has probation revoked shall be given credit for time served in the facility. The court shall not suspend any of the following sentences:

Sec. 92. APPLICABILITY AND WAIVER OF RIGHTS. A person who commits an offense prior to the effective date of this division of this Act may expressly state to the court, at the time of sentencing, that the person waives any rights under Anderson v. State, 801 N.W.2d 1, relating to the calculation of credit for time served, and agree to be sentenced using credits as calculated under section 907.3, as amended by this division of this Act. If the court finds the waiver voluntary, the sentencing order shall reference the person’s waiver of rights under Anderson, and order that credit for time served be calculated under section 907.3, as amended by this division of this Act.

Sec. 93. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI  
COUNTY TREASURERS

Sec. 94. Section 161A.35, unnumbered paragraph 1, Code 2011, is amended to read as follows:

If the owner of any premises against which a levy exceeding ~~one~~ five hundred dollars has been made and certified shall, within thirty days from the date of such levy, agree in writing in a separate agreement, that in consideration of having a right to pay the owner's assessment in installments, the owner will not make any objection as to the legality of the assessment for benefit, or the levy of the taxes against the owner's property, then such owner shall have the following options:

Sec. 95. Section 311.17, subsection 1, Code 2011, is amended to read as follows:

1. If an owner other than the state or a county or city, of any tracts of land on which the assessment is more than ~~one~~ five hundred dollars, shall, within twenty days from the date of the assessment, agree in writing filed in the office of the county auditor, that in consideration of the owner having the right to pay the assessment in installments, the owner will not make any objection of illegality or irregularity as to the assessment upon the real estate, and will pay the assessment plus interest, the assessment shall be payable in ten equal installments. The first installment shall be payable on the date of the agreement. The other installments shall be paid annually at the same time and in the same manner as the September semiannual payment of ordinary taxes with interest accruing as provided in section 384.65, subsection 3. The rate of interest shall be as established by the board, but not exceeding that permitted by chapter 74A.

Sec. 96. Section 311.19, unnumbered paragraph 1, Code 2011, is amended to read as follows:

Assessments of ~~one~~ five hundred dollars or less against any tract of land, and assessments against lands owned by the state, county, or city, shall be due and payable from the date of levy by the board of supervisors, or in the case of any appeal, from the date of final confirmation of the levy by the court.

Sec. 97. Section 331.384, subsection 3, Code 2011, is amended to read as follows:

3. If any amount assessed against property under this section exceeds ~~one~~ five hundred dollars, a county may permit the assessment to be paid in up to ten annual installments in the same manner and with the same interest rates provided for assessments against benefited property under chapter 384, division IV.

Sec. 98. Section 357.20, Code 2011, is amended to read as follows:

**357.20 Due date — bonds.**

Assessments of ~~less than one~~ five hundred dollars ~~or less~~ will come due at the first taxpaying date after the approval of the final assessment, and assessments of ~~one hundred dollars or more~~ than five hundred dollars may be paid in ten annual installments with interest on the unpaid balance at a rate not exceeding that permitted by chapter 74A. The board of supervisors shall issue bonds against the completed assessment in an amount equal to the total cost of the project, so that the amount of the assessment will be approximately ten percent greater than the amount of the bonds.

Sec. 99. Section 358.16, subsection 3, Code 2011, is amended to read as follows:

3. If any amount assessed against property pursuant to this section will exceed ~~one~~ five hundred dollars, the board of trustees may permit the assessment to be paid in up to ten annual installments, in the manner and with the same interest rates as provided for assessments against benefited property under chapter 384, division IV.

Sec. 100. Section 364.13, Code 2011, is amended to read as follows:

**364.13 Installments.**

If any amount assessed against property under section 364.12 will exceed ~~one~~ five hundred dollars, a city may permit the assessment to be paid in up to ten annual installments, in the

same manner and with the same interest rates provided for assessments against benefited property under chapter 384, division IV.

Sec. 101. Section 384.60, subsection 1, paragraph b, Code 2011, is amended to read as follows:

b. State the number of annual installments, not exceeding fifteen, into which assessments of ~~one more than five~~ more than five hundred dollars ~~or more~~ are divided.

Sec. 102. Section 384.65, subsection 1, Code 2011, is amended to read as follows:

1. The first installment of each assessment, or the total amount if ~~less than one~~ five hundred dollars or less, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of acceptance of the work by the council to the first day of December following the due date.

Sec. 103. Section 435.24, subsection 6, paragraph b, Code 2011, is amended to read as follows:

b. Partial payment of taxes which are delinquent may be made to the county treasurer. For the installment being paid, payment shall first be applied toward any interest, fees, and costs accrued and the remainder applied to the tax due. A partial payment must equal or exceed the interest, fees, and costs of the installment being paid. A partial payment made under this paragraph shall be apportioned in accordance with section 445.57, however, such partial payment may, at the discretion of the county treasurer, be apportioned either on or before the tenth day of the month following the receipt of the partial payment or on or before the tenth day of the month following the due date of the next semiannual tax installment. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 104. Section 445.36A, subsection 2, Code 2011, is amended to read as follows:

2. Partial payment of taxes which are delinquent may be made to the county treasurer. For the installment being paid, payment shall first be applied to any interest, fees, and costs accrued and the remainder applied to the taxes due. A partial payment must equal or exceed the amount of interest, fees, and costs of the installment being paid. A partial payment made under this subsection shall be apportioned in accordance with section 445.57, however, such partial payment may, at the discretion of the county treasurer, be apportioned either on or before the tenth day of the month following the receipt of the partial payment or on or before the tenth day of the month following the due date of the next semiannual tax installment. If the payment does not include the whole of any installment of the delinquent tax, the unpaid tax shall continue to accrue interest pursuant to section 445.39. Partial payment shall not be permitted in lieu of redemption if the property has been sold for taxes under chapter 446 and under any circumstances shall not constitute an extension of the time period for a sale under chapter 446.

Sec. 105. Section 445.57, unnumbered paragraph 1, Code 2011, is amended to read as follows:

On or before the tenth day of each month, the county treasurer shall apportion all taxes collected during the preceding month, except partial payment amounts collected pursuant to section 445.36A, subsection 1 and, partial payments collected and not yet designated by the county treasurer for apportionment pursuant to section 445.36A, subsection 2, partial payments collected pursuant to section 435.24, subsection 6, paragraph "a", and partial payments collected and not yet designated by the county treasurer for apportionment pursuant to section 435.24, subsection 6, paragraph "b", among the several funds to which they belong according to the amount levied for each fund, and shall apportion the interest, fees, and costs on the taxes to the general fund, and shall enter those amounts upon the treasurer's cash account, and report the amounts to the county auditor.

Sec. 106. Section 446.32, Code 2011, is amended to read as follows:

**446.32 Payment of subsequent taxes by purchaser.**

The county treasurer shall provide to the purchaser of a parcel sold at tax sale a receipt for the total amount paid by the purchaser after the date of purchase for a subsequent year. Taxes for a subsequent year may be paid by the purchaser beginning one month and fourteen days following the date from which an installment becomes delinquent as provided in section 445.37. Notwithstanding any provision to the contrary, a subsequent payment must be received and recorded by the treasurer in the county system no later than five 5:00 p.m. on the last business day of the month for interest for that month to accrue and be added to the amount due under section 447.1. However, the treasurer may establish a deadline for receipt of subsequent payments that is other than five 5:00 p.m. on the last business day of the month to allow for timely processing of the subsequent payments. Late interest shall be calculated through the date that the subsequent payment is recorded by the treasurer in the county system. In no instance shall the date of postmark of a subsequent payment be used by a treasurer either to calculate interest or to determine whether interest shall accrue on the subsequent payment.

Sec. 107. Section 468.57, subsection 1, Code Supplement 2011, is amended to read as follows:

1. If the owner of any land against which a levy exceeding ~~one~~ five hundred dollars has been made and certified shall, within thirty days from the date of such levy, agree in writing endorsed upon any improvement certificate referred to in section 468.70, or in a separate agreement, that in consideration of having a right to pay the owner's assessment in installments, the owner will not make any objection as to the legality of the assessment for benefit, or the levy of the taxes against the property, then such owner shall have the following options:

a. To pay one-third of the amount of the assessment at the time of filing the agreement; one-third within twenty days after the engineer in charge certifies to the auditor that the improvement is one-half completed; and the remaining one-third within twenty days after the improvement has been completed and accepted by the board. All installments shall be without interest if paid at said times, otherwise the assessments shall bear interest from the date of the levy at a rate determined by the board notwithstanding chapter 74A, payable annually, and be collected as other taxes on real estate, with like interest for delinquency.

b. To pay the assessments in not less than ten nor more than twenty equal installments, with the number of payments and interest rate determined by the board, notwithstanding chapter 74A. The first installment of each assessment, or the total amount if ~~less than one~~ five hundred dollars or less, is due and payable on July 1 next succeeding the date of the levy, unless the assessment is filed with the county treasurer after May 31 in any year. The first installment shall bear interest on the whole unpaid assessment from the date of the levy as set by the board to the first day of December following the due date. The succeeding annual installments, with interest on the whole unpaid amount, to the first day of December following the due date, are respectively due on July 1 annually, and must be paid at the same time and in the same manner as the first semiannual payment of ordinary taxes. All future installments of an assessment may be paid on any date by payment of the then outstanding balance plus interest to the next December 1, or additional annual installments may be paid after the current installment has been paid before December 1 without interest. A payment must be for the full amount of the next installment. If installments remain to be paid, the next annual installment with interest added to December 1 will be due. After December 1, if a drainage assessment is not delinquent, a property owner may pay one-half or all of the next annual installment of principal and interest of a drainage assessment prior to the delinquency date of the installment. When the next installment has been paid in full, successive principal installments may be prepaid. The county treasurer shall accept the payments of the drainage assessment, and shall credit the next annual installment or future installments of the drainage assessment to the extent of the payment or payments, and shall remit the payments to the drainage fund. If a property owner elects to pay one or more principal installments in advance, the pay schedule shall be advanced by the number of principal installments prepaid. Each installment of an assessment with interest on the

unpaid balance is delinquent from October 1 after its due date. However, when the last day of September is a Saturday or Sunday, that amount shall be delinquent from the second business day of October. Taxes assessed pursuant to this chapter which become delinquent shall bear the same delinquent interest as ordinary taxes. When collected, the interest must be credited to the same drainage fund as the drainage special assessment.

DIVISION VII  
BOARDS AND COMMISSIONS

Sec. 108. Section 28B.1, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The In accordance with a resolution adopted for this purpose by the legislative council, an Iowa commission on interstate cooperation is hereby established shall be appointed to address the charge and other responsibilities for the commission outlined in the resolution. It The commission shall consist of thirteen members to be appointed as follows:

Sec. 109. Section 28B.4, Code 2011, is amended to read as follows:

**28B.4 Report.**

1. The commission shall report to the governor and to the legislature within fifteen days after the convening of each general assembly general assembly in accordance with the commission's charge, and at may report at other times as it deems deemed appropriate by the commission.

2. Its The commission's members and the members of all committees which it establishes shall be reimbursed for their travel and other necessary expenses in carrying out their obligations under this chapter and legislative members shall be paid a per diem as specified in section 7E.6 for each day in which engaged in the performance of their duties, the per diem and legislators' expenses to be paid from funds appropriated by sections 2.10 and 2.12. Expenses of administrative officers, state officials, or state employees who are members of the Iowa commission on interstate cooperation or a committee appointed by the commission shall be paid from funds appropriated to the agencies or departments which persons represent except as may otherwise be provided by the general assembly. Expenses of citizen members who may be appointed to committees of the commission may be paid from funds as authorized by the general assembly. Expenses of the secretary or employees of the secretary and support services in connection with the administration of the commission shall be paid from funds appropriated to the legislative services agency unless otherwise provided by the general assembly. Expenses of commission members shall be paid upon approval of the chairperson or the secretary of the commission.

Sec. 110. Section 216A.132, subsection 1, paragraph c, Code 2011, is amended to read as follows:

c. (1) The chief justice of the supreme court shall designate one member who is a district judge and one member who is either a district associate judge or associate juvenile judge. The chairperson and ranking member of the senate committee on judiciary shall be members. In alternating four-year intervals, the chairperson and ranking member of the house committee on judiciary or of the house committee on public safety shall be members, with the chairperson and ranking member of the house committee on public safety serving during the initial interval. Nonlegislative The members appointed pursuant to this paragraph subparagraph shall serve as ex officio, nonvoting members for four-year terms beginning and ending as provided in section 69.19, unless the member ceases to serve as a district court judge.

(2) The chairperson and ranking member of the senate committee on judiciary shall be ex officio, nonvoting members. In alternating two-year terms, beginning and ending as provided in section 69.16B, the chairperson and ranking member of the house committee on judiciary or of the house committee on public safety shall be ex officio, nonvoting members, with the chairperson and ranking member of the house committee on public safety serving during the term beginning in January 2011.

Sec. 111. REPEAL. Section 249A.36, Code 2011, is repealed.

\*DIVISION VIII  
CITY FRANCHISE FEES

Sec. 112. Section 364.2, subsection 4, paragraph f, Code 2011, is amended to read as follows:

f. (1) (a) A franchise fee assessed by a city may be based upon a percentage of gross revenues generated from sales of the franchisee within the city not to exceed five percent, except as provided in subparagraph division (b), without regard to the city's cost of inspecting, supervising, and otherwise regulating the franchise.

(b) For franchise fees assessed and collected during fiscal years beginning on or after July 1, 2012, but before July 1, 2030, by a city that is the subject of a judgment, court-approved settlement, or court-approved compromise providing for payment of restitution, a refund, or a return described in section 384.3A, subsection 3, paragraph "j", the rate of the franchise fee shall not exceed seven and one-half percent of gross revenues generated from sales of the franchisee in the city, and franchise fee amounts assessed and collected during such fiscal years in excess of five percent of gross revenues generated from sales shall be used solely for the purpose specified in section 384.3A, subsection 3, paragraph "j". A city may assess and collect a franchise fee in excess of five percent of gross revenues generated from the sales of the franchisee pursuant to this subparagraph division (b) for a period not to exceed seven consecutive fiscal years once the franchise fee is first imposed at a rate in excess of five percent. An ordinance increasing the franchise fee rate to greater than five percent pursuant to this subparagraph division (b) shall not become effective unless approved at an election. After passage of the ordinance, the council shall submit the proposal at a special election held on a date specified in section 39.2, subsection 4, paragraph "b". If a majority of those voting on the proposal approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance along with the absentee ballot. This subparagraph division is repealed July 1, 2030.

(2) Franchise fees collected pursuant to an ordinance in effect on May 26, 2009, shall be deposited in the city's general fund and such fees collected in excess of the amounts necessary to inspect, supervise, and otherwise regulate the franchise may be used by the city for any other purpose authorized by law. Franchise fees collected pursuant to an ordinance that is adopted or amended on or after May 26, 2009, to increase the percentage rate at which franchise fees are assessed shall be credited to the franchise fee account within the city's general fund and used pursuant to section 384.3A. If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer. Before a city adopts or amends a franchise fee rate ordinance or franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended. If property tax relief is listed as a purpose, the revenue purpose statement shall also include information regarding the amount of the property tax relief to be provided with revenue collected from the increased rate. The revenue purpose statement shall be published as provided in section 362.3.

Sec. 113. Section 384.3A, subsection 3, Code 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** j. For franchise fees assessed and collected by a city in excess of five percent of gross revenues generated from sales of the franchisee within the city pursuant to section 364.2, subsection 4, paragraph "f", subparagraph (1), subparagraph division (b), during fiscal years beginning on or after July 1, 2012, but before July 1, 2030, the adjustment, renewing, or extension of any part or all of the legal indebtedness of a city, whether evidenced by bonds, warrants, court-approved settlements, court-approved compromises, or judgments, or the funding or refunding of the same, if such legal indebtedness relates to restitution, a refund, or a return ordered by a court of competent jurisdiction for franchise fees assessed

and collected by the city before the effective date of this division of this Act. This paragraph is repealed July 1, 2030.

Sec. 114. *EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.\**

DIVISION IX  
EARLY INTERVENTION BLOCK GRANT PROGRAM

Sec. 115. Section 256D.9, Code 2011, is amended to read as follows:

**256D.9 Future repeal.**

This chapter is repealed effective July 1, ~~2012~~ 2013.

Sec. 116. *EFFECTIVE DATE.* This division of this Act takes effect June 30, 2012.

DIVISION X  
STATE BOARD OF REGENTS

Sec. 117. Section 8D.10, Code 2011, is amended to read as follows:

**8D.10 Report of savings by state agencies.**

A state agency which is a part of the network shall annually provide a written report to the general assembly certifying the identified savings associated with the state agency's use of the network. The report shall be delivered on or before January 15 for the previous fiscal year of the state agency. This section does not apply to the state board of regents or to any institution under control of the state board of regents.

Sec. 118. Section 262.93, Code 2011, is amended to read as follows:

**262.93 Reports to general assembly.**

The college student aid commission and the state board of regents each shall submit to the general assembly, by January 15 of each year, a report on the progress and implementation of the programs which they administer under sections 261.102 through 261.105, ~~262.82,~~ and 262.92. By January 31 of each year, the state board of regents shall submit a report to the general assembly regarding the progress and implementation of the program administered pursuant to section 262.82. The reports shall include, but are not limited to, the numbers of students and educators participating in the programs and allocation of funds appropriated for the programs.

Sec. 119. Section 263.19, Code 2011, is amended to read as follows:

**263.19 Purchases.**

Any purchase ~~in excess of ten thousand dollars,~~ of materials, appliances, instruments, or supplies by the university of Iowa hospitals and clinics, ~~when the price of the materials, appliances, instruments, or supplies to be purchased is subject to competition,~~ shall be made pursuant to open competitive quotations, and all contracts for such purchases shall be subject to chapter 72. ~~However, purchases may be made through a hospital group purchasing organization provided that the university of Iowa hospitals and clinics is a member of the organization~~ in compliance with purchasing policies of the state board of regents.

Sec. 120. Section 432.13, Code 2011, is amended to read as follows:

**432.13 Premium tax exemption — hawk-i program — state employee benefits.**

1. Premiums collected by participating insurers under chapter 514I are exempt from premium tax.

2. Premiums received for benefits acquired on behalf of state employees by the department of administrative services ~~on behalf of state employees~~ pursuant to section 8A.402, subsection 1, and by the state board of regents pursuant to chapter 262, are exempt from premium tax.

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



DIVISION XI  
NAVIGATOR — INSURANCE

Sec. 121. NEW SECTION. 522D.1 Definitions.

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

1. “*Commissioner*” means the commissioner of insurance.
2. “*Navigator*” means a public or private entity or an individual that is qualified and licensed, if appropriate, to engage in the activities and meet the standards described in 45 C.F.R. § 155.210.

Sec. 122. NEW SECTION. 522D.2 License required.

A person shall not act as a navigator in this state unless the person is licensed by the commissioner as required in this chapter.

Sec. 123. NEW SECTION. 522D.3 Actions prohibited.

A navigator shall not perform the functions of a person required to be licensed as an insurance producer under chapter 522B unless the navigator is licensed as a navigator pursuant to this chapter and as an insurance producer pursuant to chapter 522B.

Sec. 124. NEW SECTION. 522D.4 Application for examination.

1. An individual applying for a navigator license shall pass a written examination. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a navigator and the insurance laws and regulations of this state. The commissioner shall adopt rules pursuant to chapter 17A related to the development and conduct of the examination.

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

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

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

Sec. 125. NEW SECTION. 522D.5 Application for license.

1. A person applying for a navigator license shall make application to the commissioner on an application form approved by the commissioner and declare under penalty of refusal, suspension, or revocation of the license that the statements made on the application are true, correct, and complete to the best of the individual’s knowledge and belief. Before approving the application, the commissioner shall find all of the following:

- a. The individual is at least eighteen years of age.
- b. The individual has not committed any act that is a ground for denial, suspension, or revocation as set forth in section 522D.7.
- c. The individual has paid the license fee, as established by the commissioner by rule.
- d. The individual has successfully completed the initial training and education program for a license as established by the commissioner by rule.
- e. The individual has successfully passed the examination as provided in section 522D.4.
- f. In order to protect the public interest, the individual has the requisite character and competence to receive a license as a navigator.

2. A public or private entity acting as a navigator may elect to obtain a navigator license. Application shall be made using the application form approved by the commissioner. Prior to approving the application, the commissioner shall find both of the following:

- a. The entity has paid the appropriate fees.
- b. The entity has designated a licensed navigator responsible for the entity’s compliance with this chapter.

Sec. 126. NEW SECTION. 522D.6 License.

1. A person who meets the requirements of sections 522D.4 and 522D.5, unless otherwise denied licensure pursuant to section 522D.7, shall be issued a navigator license. A navigator license is valid for three years.

2. A navigator license remains in effect unless revoked or suspended as long as all required fees are paid and continuing education requirements are met by any applicable due date. A navigator is required to complete continuing education requirements required by law in order to be eligible for license renewal.

3. A licensed navigator who is unable to comply with license renewal procedures due to military service or other extenuating circumstances may request a waiver of those procedures. The licensed navigator may also request a waiver of any examination requirement or any other penalty or sanction imposed for failure to comply with renewal procedures.

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

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

6. The commissioner shall require by rule that a licensed navigator furnish a surety bond or other evidence of financial responsibility that protects all persons against wrongful acts, misrepresentations, errors, omissions, or negligence of the navigator.

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

Sec. 127. NEW SECTION. **522D.7 License denial, nonrenewal, or revocation.**

1. The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a navigator's license or may levy a civil penalty as provided in section 522D.8 for any one or more of the following causes:

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

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

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

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

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

f. Having been convicted of a felony.

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

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

i. Having a navigator license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

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

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

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

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

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

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

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

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

4. In addition to, or in lieu of, any applicable denial, suspension, or revocation of a license, a person, after hearing, may be subject to a civil penalty as provided in section 522D.8.

5. The commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.

6. a. In order to assure a free flow of information for accomplishing the purposes of this section, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A final written decision of the commissioner in a disciplinary proceeding is a public record.

b. Investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license.

c. If the investigative information in the possession of the commissioner or the commissioner's employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

d. Pursuant to the provisions of section 17A.19, subsection 6, upon an appeal by the licensee, the commissioner shall transmit the entire record of the contested case to the reviewing court.

e. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

**Sec. 128. NEW SECTION. 522D.8 Cease and desist orders — penalties.**

1. A navigator who, after hearing, is found to have violated this chapter, may be ordered to cease and desist from engaging in the conduct resulting in the violation and may be assessed a civil penalty pursuant to chapter 507B.

2. If a person does not comply with an order issued pursuant to this section, the commissioner may petition a court of competent jurisdiction to enforce the order. The court shall not require the commissioner to post a bond in an action or proceeding under this section. If the court finds, after notice and opportunity for hearing, that the person is not in compliance with an order, the court may adjudge the person to be in civil contempt of the order. The court may impose a civil penalty against the person for contempt in an amount not less than three thousand dollars but not greater than ten thousand dollars for each violation and may grant any other relief that the court determines is just and proper in the circumstances.

Sec. 129. **NEW SECTION. 522D.9 Injunctive relief.**

1. A person may bring an action in district court to enjoin another person from acting as a navigator in violation of section 522D.2. However, before bringing an action in district court to enjoin a person pursuant to this section, the person shall file a complaint with the insurance division alleging that another person is acting as a navigator in violation of section 522D.2.

2. If the division makes a determination to proceed administratively against the person for a violation of section 522D.2, the complainant shall not bring an action in district court against the person pursuant to this section based upon the allegations contained in the complaint filed with the division.

3. If the division does not make a determination to proceed administratively against the person for a violation of section 522D.2, the division shall issue, by ninety days from the date of filing of the complaint, a release to the complainant that permits the complainant to bring an action in district court pursuant to this section.

4. The filing of a complaint with the division pursuant to this section tolls the statute of limitations pursuant to section 614.1 as to the alleged violation for a period of one hundred twenty days from the date of filing the complaint.

5. Any action brought in district court by a complainant against a person pursuant to this section, based upon the allegations contained in the complaint filed with the division, shall be brought within one year after the ninety-day period following the filing of the complaint with the division, or the date of the issuance of a release by the division, whichever is earlier.

6. If the court finds that the person is in violation of section 522D.2 and enjoins the person from acting as a navigator in violation of that section, the court's findings of fact and law, and the judgment and decree, when final, shall be admissible in any proceeding initiated pursuant to section 522D.8 by the commissioner against the person enjoined and the person enjoined shall be precluded from contesting in that proceeding the court's determination that the person acted as a navigator in violation of section 522D.2.

Sec. 130. **NEW SECTION. 522D.10 Rules.**

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

Sec. 131. **NEW SECTION. 522D.11 Severability.**

If any provision of this chapter or its application to any person or circumstance is held invalid by a court of competent jurisdiction or by federal law, the invalidity does not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable and the valid provisions or applications shall remain in full force and effect.

Sec. 132. **NEW SECTION. 522D.12 Future repeal.**

If the federal law providing for the sale of qualified health benefit plans of the state is repealed by federal legislation or is ruled invalid by a decision of the United States supreme court, the commissioner shall notify the Iowa Code editor of the effective date of the repeal or the date of the ruling. This chapter is repealed on the effective date of such federal legislation or the date of the United States supreme court decision.

## DIVISION XII

### CAPITAL GAIN DEDUCTION FOR SALE TO AN IOWA ESOP

Sec. 133. Section 422.7, subsection 21, Code Supplement 2011, is amended by adding the following new paragraph:

**NEW PARAGRAPH. e.** (1) To the extent not already excluded, fifty percent of the net capital gain from the sale or exchange of employer securities of an Iowa corporation to a qualified Iowa employee stock ownership plan when, upon completion of the transaction, the qualified Iowa employee stock ownership plan owns at least thirty percent of all outstanding employer securities issued by the Iowa corporation.

(2) For purposes of this paragraph:

(a) "*Employer securities*" means the same as defined in section 409(l) of the Internal Revenue Code.

(b) "Iowa corporation" means a corporation whose commercial domicile, as defined in section 422.32, is in this state.

(c) "Qualified Iowa employee stock ownership plan" means an employee stock ownership plan, as defined in section 4975(e)(7) of the Internal Revenue Code, and trust that are established by an Iowa corporation for the benefit of the employees of the corporation.

Sec. 134. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2012, for tax years beginning on or after that date.

*Approved May 25, 2012, with exception noted.*

TERRY E. BRANSTAD, *Governor*

Dear Mr. Secretary:

I hereby transmit House File 2465, an Act relating to state and local finances by making and adjusting appropriations, providing for funding of property tax credits and reimbursements and for other matters pertaining to taxation, providing for fees and criminal penalties, providing for legal responsibilities, providing for certain insurance and employee benefits, and providing for properly related matters, and including effective date and retroactive and other applicability provisions.

House File 2465 is approved on this date with the following exception, which I hereby disapprove.

I am unable to approve of the item designated as Division VIII in its entirety. This item allows a city subject to a judgment, where the city is required to return previously collected franchise fees revenue, the ability to impose a franchise fee at the rate of up to 7.5%. A referendum approving this increase must be passed by the voters before a rate greater than 5.0% can be imposed. I am committed to continuing a tax and jobs policy discussion with the House and Senate to adopt a package of tax reductions that facilitates our long-term economic growth and job creation. It is my desire to approach tax policy in a comprehensive and holistic manner. As such, I urge members of the House and Senate to continue to work with my office on an overall tax reduction package that both fits within our sound budgeting principles while reducing those taxes that are impeding our state's ability to compete for new business and jobs.

For the above reasons, I respectfully disapprove the designated item in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2465 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

**CHAPTER 1139**

**APPROPRIATIONS — VETERANS AFFAIRS**

*H.F. 2466*

**AN ACT** relating to veterans by making appropriations to the commission of veterans affairs for the provision of veterans services and by providing certain sales tax exemptions to qualified organizations representing veterans, and including effective date and retroactive applicability provisions.

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

Section 1. Section 35A.13, subsection 4, Code Supplement 2011, is amended to read as follows:

4. 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 2, paragraph “a”;~~ the first three hundred thousand dollars transferred each fiscal year pursuant to section 99G.9A from the lottery fund to the trust fund are appropriated to the commission to be used to achieve the purposes of this section. Moneys appropriated to the commission that remain unobligated or unexpended at the end of each fiscal year shall revert to the trust fund. It is the intent of the general assembly that the balance in the trust fund reach fifty million dollars.

Sec. 2. Section 423.3, subsection 78, paragraph c, Code Supplement 2011, is amended to read as follows:

c. ~~This~~ Except as otherwise provided in section 423.3, subsection 96, this exemption does not apply to the sales price from games of skill, games of chance, raffles, and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the sales price only to the extent the profits from the sales, rental, or services are not used by or donated to the appropriate entity and expended for educational, religious, or charitable purposes.

Sec. 3. Section 423.3, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 96. The sales price from raffles, as raffle is defined in section 99B.1, if the raffle provides for educational scholarships and is conducted by a qualified organization representing veterans as defined in section 99B.7B.

Sec. 4. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the veterans trust fund, created in section 35A.13, to the commission of veterans affairs for the fiscal year beginning July 1, 2011, and ending June 30, 2012, to be used for the purposes stated in section 35A.13, subsection 6, the following amount:

..... \$ 300,000

Sec. 5. EFFECTIVE UPON ENACTMENT. The following provision or provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. The section of this Act making an appropriation to the commission of veterans affairs for the fiscal year beginning July 1, 2011.

Sec. 6. RETROACTIVE APPLICABILITY. The following provision or provisions of this Act apply retroactively to January 1, 2012, to all such raffles occurring on or after that date:

1. The sections of this Act amending section 423.3.

Approved May 25, 2012

**CHAPTER 1140**

**APPROPRIATIONS — INFRASTRUCTURE AND CAPITAL PROJECTS**

*S.F. 2316*

**AN ACT** relating to and making appropriations to state departments and agencies from the rebuild Iowa infrastructure fund, the technology reinvestment fund, the endowment for Iowa’s health restricted capitals fund, and the mortgage servicing settlement fund, providing for related matters, and including effective date and retroactive applicability 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 following fiscal years the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

**1. DEPARTMENT OF ADMINISTRATIVE SERVICES**

a. For projects related to major repairs and major maintenance for state buildings and facilities:

FY 2012-2013 ..... \$ 10,250,000

The moneys appropriated in this lettered paragraph shall be used according to the department’s major maintenance project recommendation list submitted to the Governor’s vertical infrastructure advisory committee.

b. For renovations and related improvements to a cottage at the Iowa juvenile home at Toledo:

FY 2012-2013 ..... \$ 500,000

**2. DEPARTMENT OF CORRECTIONS**

For repairs and renovation of the hot water loop system at the Newton correctional facility:

FY 2012-2013 ..... \$ 425,000

**3. DEPARTMENT OF CULTURAL AFFAIRS**

a. For exterior and interior repairs and related improvements to the state historical building, including the addition of a visitor center:

FY 2012-2013 ..... \$ 1,450,000

FY 2013-2014 ..... \$ 1,000,000

b. 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 the term “vertical infrastructure” in section 8.57, subsection 6, paragraph “c”:

FY 2012-2013 ..... \$ 1,000,000

**4. ECONOMIC DEVELOPMENT AUTHORITY**

a. 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”:

FY 2012-2013 ..... \$ 500,000

b. For administration and support of the world food prize including the Borlaug/Ruan scholar program, notwithstanding section 8.57, subsection 6, paragraph “c”:

FY 2012-2013 ..... \$ 100,000

c. For roof repairs, restoration of the chapel, and improvements and interior renovation to develop a collections room at the museum at Fort Des Moines:

FY 2012-2013 ..... \$ 100,000

d. For remodeling, renovations, and related improvements of a kitchen at a year-round camp for persons with disabilities in a central Iowa city with a population between one hundred ninety-five thousand and two hundred five thousand as determined by the 2010 federal decennial census:

FY 2012-2013 ..... \$ 125,000

Moneys appropriated in this lettered paragraph are contingent upon receipt of matching funds.

5. DEPARTMENT OF EDUCATION

For accelerated career education program capital projects at community colleges that are authorized under chapter 260G and that meet the definition of the term “vertical infrastructure” in section 8.57, subsection 6, paragraph “c”:

FY 2012-2013 ..... \$ 6,000,000

6. DEPARTMENT OF HUMAN SERVICES

For the renovation and construction of certain nursing facilities, consistent with the provisions of chapter 249K:

FY 2012-2013 ..... \$ 250,000

7. DEPARTMENT OF NATURAL RESOURCES

a. 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”:

FY 2012-2013 ..... \$ 6,000,000

b. For the restoration and reconstruction of a dam in a county with a population between seventeen thousand seven hundred and seventeen thousand eight hundred as determined by the 2010 federal decennial census, for a lake with public access that has the support of a benefited lake district:

FY 2012-2013 ..... \$ 2,500,000

FY 2013-2014 ..... \$ 2,500,000

The appropriations in this lettered paragraph are conditioned upon the completion of a plan by the benefited lake district to increase public access areas to the lake such as boat ramps and beaches, and to address wastewater treatment systems for homeowners in an effort to reduce pollution and increase the water quality at the lake. The plan shall be submitted to the general assembly no later than December 31, 2012.

c. For the administration of a water trails and low head dam public hazard statewide plan, including salaries, support, maintenance, and miscellaneous purposes, notwithstanding section 8.57, subsection 6, paragraph “c”:

FY 2012-2013 ..... \$ 1,000,000

8. DEPARTMENT OF PUBLIC DEFENSE

a. For major maintenance projects at national guard armories and facilities:

FY 2012-2013 ..... \$ 2,000,000

b. For construction improvement projects at statewide readiness centers:

FY 2012-2013 ..... \$ 2,050,000

c. For construction upgrades at Camp Dodge including sanitary system and sewer system improvements:

FY 2012-2013 ..... \$ 610,000

d. For renovation, repair, and related improvements at the joint forces headquarters building:

FY 2012-2013 ..... \$ 500,000

9. BOARD OF REGENTS

a. For allocation by the state board of regents to the state university of Iowa, Iowa state university of science and technology, and the university of northern Iowa to reimburse the institutions for deficiencies in the 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:

FY 2012-2013 ..... \$ 25,130,412

*\*b. To Iowa state university of science and technology to the college of veterinary medicine for renovations and improvements of facilities:*

FY 2012-2013 ..... \$ 400,000\*

c. To Iowa state university of science and technology to be used for the phase II expansion of a building at the science and technology research park:

FY 2012-2013 ..... \$ 1,000,000

10. DEPARTMENT OF TRANSPORTATION

a. For acquiring, constructing, and improving recreational trails within the state:

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



FY 2012-2013 .....	\$	3,000,000
b. For deposit into the public transit infrastructure grant fund created in section 324A.6A, for projects that meet the definition of “vertical infrastructure” in section 8.57, subsection 6, paragraph “c”:		
FY 2012-2013 .....	\$	1,500,000
c. For infrastructure improvements at the commercial service airports within the state:		
FY 2012-2013 .....	\$	1,500,000
d. For infrastructure improvements at general aviation airports within the state:		
FY 2012-2013 .....	\$	750,000
e. For deposit into the railroad revolving loan and grant fund created in section 327H.20A, notwithstanding section 8.57, subsection 6, paragraph “c”:		
FY 2012-2013 .....	\$	1,500,000
11. DEPARTMENT OF VETERANS AFFAIRS		
For a boiler replacement and related improvements at the Iowa veterans home:		
FY 2012-2013 .....	\$	975,919
12. STATE FAIR AUTHORITY		
For renovations and improvements including but not limited to the cultural center at the state fair:		
FY 2012-2013 .....	\$	250,000
FY 2013-2014 .....	\$	250,000
13. TREASURER OF STATE		
For distribution in accordance with chapter 174 to qualified fairs which belong to the association of Iowa fairs for county fair infrastructure improvements:		
FY 2012-2013 .....	\$	1,060,000

Sec. 2. REVERSION. For purposes of section 8.33, unless specifically provided otherwise, unencumbered or unobligated moneys made from an appropriation in this division of this Act shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends three years after the end of the fiscal year for which the appropriation is made. However, if the project or projects for which such appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

## DIVISION II TECHNOLOGY REINVESTMENT FUND

Sec. 3. There is appropriated from the technology reinvestment fund created in section 8.57C to the following entities for the following fiscal years, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

### 1. DEPARTMENT OF CORRECTIONS

a. For costs associated with the Iowa corrections offender network data system:

FY 2012-2013 .....	\$	500,000
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b. For the provision of land mobile radio communications equipment purchased by the department of corrections with the goal of achieving compliance with the federal communications commission’s narrowbanding mandate deadline, and for achieving interoperability as defined in section 80.28:

FY 2012-2013 .....	\$	3,500,000
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If the department of public safety enters into a public-private partnership, through a competitive bidding process, for the provision of the statewide network and the purchase of compatible equipment, the department of corrections shall join that effort.

As a condition of this appropriation, all land mobile radio communications equipment purchased by the department of corrections shall be compliant with the federal communications commission’s narrowbanding mandate and shall provide the maximum amount of statewide coverage and interoperability, throughout all phases of migration, to the department of public safety’s future statewide digital radio network utilizing P-25 standards.

### 2. DEPARTMENT OF CULTURAL AFFAIRS

For providing a grant to the Grout museum district for the Sullivan brothers veterans

museum for costs associated with the oral history exhibit including but not limited to exhibit information technology, computer connectivity, and interactive display technologies:

FY 2012-2013 .....	\$	150,000
FY 2013-2014 .....	\$	129,450

3. DEPARTMENT OF EDUCATION

a. For the continued development and 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:

FY 2012-2013 .....	\$	600,000
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The department may use a portion of the moneys appropriated in this lettered paragraph for an e-transcript data system capable of tracking students throughout their education via interconnectivity with multiple schools.

b. To the public broadcasting division for the purchase of eight high-powered transmitting tubes:

FY 2012-2013 .....	\$	320,000
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c. For maintenance and lease costs associated with connections for part III of the Iowa communications network:

FY 2013-2014 .....	\$	2,727,000
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4. DEPARTMENT OF HUMAN RIGHTS

For the cost of equipment and computer software for the continued development and implementation of Iowa’s criminal justice information system:

FY 2012-2013 .....	\$	1,714,307
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5. IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION

\*a. For a comprehensive audit and appraisal, notwithstanding section 8.57C, subsection 2:

FY 2012-2013 .....	\$	500,000
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*Prior to the sale or lease of the Iowa communications network, the network shall conduct a comprehensive accounting to include a complete inventory of all the components included in the network including all fiber, switching stations, end user equipment, and individual components purchased by the network and the state of Iowa since the creation of the network. The network shall then conduct an appraisal of the network to determine the market value of the assets listed in the accounting as well as the market value of the network’s current and future operations.*

*The inventory audit and appraisal shall be conducted by an independent professional firm selected through a competitive bidding process not associated with the network or any of its vendors. The selected firm shall be accredited in business valuation from either the American institute of certified public accountants or the American society of appraisers, be technology-based, and have extensive industry experience in telecommunications. In addition, the selected firm shall have experience and knowledge regarding the public markets for telecommunications companies, potential buyers of telecommunications networks, and specific attributes of telecommunications networks that impact their valuation.\**

b. For replacement of equipment for the Iowa communications network:

FY 2012-2013 .....	\$	2,198,653
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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 moneys appropriated in 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.

6. DEPARTMENT OF MANAGEMENT

a. For the continued development and implementation of a searchable database that can be placed on the internet for budget and financial information:

FY 2012-2013 .....	\$	45,000
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b. For completion of the comprehensive electronic grant management system:

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

FY 2012-2013 .....	\$	125,000
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7. IOWA JUDICIAL BRANCH

For costs associated with the continued development and implementation of the electronic document management system:

FY 2012-2013 .....	\$	1,000,000
FY 2013-2014 .....	\$	3,000,000

Sec. 4. REVERSION. For purposes of section 8.33, unless specifically provided otherwise, unencumbered or unobligated moneys made from an appropriation in this division of this Act shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends three years after the end of the fiscal year for which the appropriation was made. However, if the project or projects for which such appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

DIVISION III

ENDOWMENT FOR IOWA'S HEALTH RESTRICTED CAPITALS FUND ACCOUNT —  
APPROPRIATION

Sec. 5. ENDOWMENT FOR IOWA'S HEALTH RESTRICTED CAPITALS FUND ACCOUNT. There is appropriated from the endowment for Iowa's health restricted capitals fund account to the department of corrections for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the construction project and one-time furniture, fixture, and equipment costs at Fort Madison:

.....	\$	2,000,000
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Sec. 6. REVERSION. For purposes of section 8.33, unless specifically provided otherwise, unencumbered or unobligated moneys made from an appropriation in this division of this Act shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends one year after the end of the fiscal year for which the appropriation is made. However, if the project or projects for which such appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

DIVISION IV

DEPARTMENT OF TRANSPORTATION — RADIOS

Sec. 7. DEPARTMENT OF TRANSPORTATION — RADIOS. All land mobile radio communications equipment purchased by the department of transportation shall be compliant with the federal communications commission's narrowbanding mandate and shall provide the maximum amount of statewide coverage and interoperability, throughout all phases of migration, to the department of public safety's future statewide digital radio network utilizing P-25 standards.

Sec. 8. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 9. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to July 1, 2011.

DIVISION V

MORTGAGE SERVICING SETTLEMENT FUND — APPROPRIATION — DEPARTMENT OF EDUCATION

Sec. 10. MORTGAGE SERVICING SETTLEMENT FUND. There is appropriated from the mortgage servicing settlement fund to the department of education for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose 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, and for routine maintenance and building operations, for buildings and facilities under the purview of the community colleges:

..... \$ 5,000,000

Sec. 11. REVERSION. For purposes of section 8.33, unless specifically provided otherwise, unencumbered or unobligated moneys made from an appropriation in this division of this Act shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that ends three years after the end of the fiscal year for which the appropriation is made. However, if the project or projects for which such appropriation was made are completed in an earlier fiscal year, unencumbered or unobligated moneys shall revert at the close of that same fiscal year.

DIVISION VI

CHANGES TO PRIOR APPROPRIATIONS

Sec. 12. 2009 Iowa Acts, chapter 170, section 25, subsection 1, paragraph d, is amended to read as follows:

d. DEPARTMENT OF PUBLIC SAFETY

For construction of a state emergency response training facility to be located in merged area XI:

..... \$ 2,000,000  
0

Sec. 13. 2011 Iowa Acts, chapter 128, section 19, subsection 2, is amended to read as follows:

2. a. The mobile radios purchased by the department of natural resources pursuant to subsection 1 shall be compatible with a statewide public safety radio network, ~~if created in legislation enacted by the 2011 regular session of the General Assembly, which may include provisions in 2011 Iowa Acts, Senate File 541, <sup>1</sup> if enacted 2011 Iowa Acts, ch. 133, section 3, subsection 8, paragraph a.~~ The department shall purchase the mobile radios after conducting a competitive bidding process.

b. As a condition of this appropriation, all land mobile radio communications equipment purchased by the department of natural resources shall be compliant with the federal communications commission’s narrowbanding mandate and shall provide the maximum amount of statewide coverage and interoperability, throughout all phases of migration, to the department of public safety’s future statewide digital radio network utilizing P-25 standards.

Sec. 14. 2011 Iowa Acts, chapter 133, section 1, subsection 3, paragraphs a and b, are amended to read as follows:

a. For the construction project and one-time furniture, fixture, and equipment costs at Fort Madison:

FY 2011-2012 .....	\$	5,155,077
FY 2012-2013 .....	\$	18,269,124
		<u>16,269,124</u>
FY 2013-2014 .....	\$	3,000,000

<sup>1</sup> Not enacted

b. For the construction project and one-time furniture, fixture, and equipment costs at the Iowa correctional facility for women at Mitchellville:

FY 2011-2012 .....	\$	3,061,556
FY 2012-2013 .....	\$	5,391,062
FY 2013-2014 .....	\$	26,769,040

Sec. 15. 2011 Iowa Acts, chapter 133, section 1, subsection 10, paragraphs c through f, are amended to read as follows:

c. For projects for immediate fire safety needs and for compliance with the federal Americans with Disabilities Act, at the regents institutions:

FY 2011-2012 .....	\$	2,000,000
FY 2012-2013 .....	\$	2,000,000

Of the amounts appropriated in this lettered paragraph, up to \$2,000,000 may be used to fund deductibles on property insurance and to provide the necessary match for funds which may be available from the federal emergency management agency for the cleanup, repair, and restoration of facilities at the state school for the deaf and the Iowa braille and sight saving school due to storm damage in the calendar year 2011, notwithstanding section 8.57, subsection 6, paragraph "c".

d. For construction, renovation, and related improvements for phase II of the agricultural and biosystems engineering complex, including classrooms, laboratories, and offices at Iowa state university of science and technology:

FY 2011-2012 .....	\$	1,000,000
FY 2012-2013 .....	\$	20,800,000
		<u>19,050,000</u>
FY 2013-2014 .....	\$	20,000,000
		<u>21,750,000</u>
FY 2014-2015 .....	\$	18,600,000

e. For the renovation and related improvements to the dental science building at the state university of Iowa including but not limited to renovation of clinical spaces and development of a multidisciplinary clinical area:

FY 2011-2012 .....	\$	1,000,000
FY 2012-2013 .....	\$	12,000,000
		<u>10,250,000</u>
FY 2013-2014 .....	\$	8,000,000
		<u>9,750,000</u>
FY 2014-2015 .....	\$	8,000,000

f. For renovation and related improvements for Bartlett hall at the university of northern Iowa including providing faculty offices, seminar rooms, and laboratories in the building and the associated demolition of Baker hall:

FY 2011-2012 .....	\$	1,000,000
FY 2012-2013 .....	\$	8,286,000
		<u>7,786,000</u>
FY 2013-2014 .....	\$	9,767,000
		<u>10,267,000</u>
FY 2014-2015 .....	\$	1,947,000

Sec. 16. 2011 Iowa Acts, chapter 133, section 1, subsection 13, paragraph b, is amended to read as follows:

b. For the Iowa veterans home to upgrade generator emissions controls to meet required stack emissions for four generators and related improvements for the construction of a building that secures vehicles during nonuse and inclement weather:

FY 2011-2012 .....	\$	250,000
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Sec. 17. 2011 Iowa Acts, chapter 133, section 3, subsection 5, paragraph a, is amended to read as follows:

a. To be used for medical contracts under the medical assistance program for technology upgrades necessary to support Medicaid claims and other health operations, worldwide

HIPAA claims transactions and coding requirements, and the Iowa automated benefits calculation system:

FY 2011-2012 .....	\$	3,494,176
FY 2012-2013 .....	\$	4,667,600
		<u>4,120,037</u>
FY 2013-2014 .....	\$	4,267,600
		<u>4,815,163</u>
FY 2014-2015 .....	\$	1,945,684

Sec. 18. 2011 Iowa Acts, chapter 133, section 3, subsection 8, is amended to read as follows:

8. DEPARTMENT OF PUBLIC SAFETY

a. For the provision of a statewide public safety radio network and the purchase of compatible radio communications equipment with the goal of achieving compliance with the federal communications commission’s narrowbanding mandate deadline, and for achieving “interoperability”, as defined in section 80.28:

FY 2011-2012 .....	\$	2,500,000
FY 2012-2013 .....	\$	2,500,000
FY 2013-2014 .....	\$	2,500,000

Of the amounts appropriated in this lettered paragraph, the department of public safety may enter into a public-private partnership, through a competitive bidding process, for the provision of the statewide network and the purchase of compatible equipment.

As a condition of this appropriation, all land mobile radio communications equipment purchased by the department of public safety shall be compliant with the federal communications commission’s narrowbanding mandate and shall provide the maximum amount of statewide coverage and interoperability, throughout all phases of migration, to the department of public safety’s future statewide digital radio network utilizing P-25 standards.

On or before January 13, 2012, the department of public safety shall provide a report to the legislative services agency and the department of management. The report shall detail the status of the funds appropriated in this subsection and shall include the estimated needs of the departments of public safety, corrections, and natural resources to achieve interoperability and to meet the federal narrowbanding mandate, any changes in estimated costs to meet those needs, and the status of requests for proposals to develop a public-private partnership.

b. For transfer to a firefighter association in a county with a population between ninety thousand and ninety-five thousand as determined by the 2010 federal decennial census for a driving simulator to enhance the association’s emergency vehicle operations course firearms training simulator:

FY 2011-2012 .....	\$	80,000
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Sec. 19. 2011 Iowa Acts, chapter 133, section 5, subsection 1, is amended to read as follows:

1. DEPARTMENT OF CORRECTIONS

For the construction project and one-time furniture, fixture, and equipment costs at the Iowa correctional facility for women at Mitchellville:

.....	\$	4,430,952
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Sec. 20. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII  
MISCELLANEOUS CODE CHANGES

Sec. 21. Section 8.57, subsection 6, paragraph e, subparagraph (1), subparagraph division (d), subparagraph subdivision (ii), Code Supplement 2011, is amended to read as follows:

(ii) (A) However Except as otherwise provided in subparagraph part (B), in lieu of the deposit in subparagraph subdivision (i), for the fiscal year years beginning July 1, 2010, July 1, 2011, and July 1, 2013, and for each fiscal year thereafter until the principal and interest

on all bonds issued by the treasurer of state pursuant to section 12.87 are paid, as determined by the treasurer of state, sixty-four million seven hundred fifty thousand dollars of the excess moneys directed to be deposited in the rebuild Iowa infrastructure fund under subparagraph subdivision (i) shall be deposited in the general fund of the state.

(B) For the fiscal year beginning July 1, 2012, and ending June 30, 2013, thirty-eight million seven hundred fifty thousand dollars shall be deposited in the general fund of the state and the next twenty million dollars shall be deposited in the technology reinvestment fund.

Sec. 22. Section 8.57C, subsection 3, paragraph a, Code Supplement 2011, is amended to read as follows:

a. There is appropriated from the general fund of the state for the fiscal year beginning July 1, ~~2012~~ 2013, and for each subsequent fiscal year thereafter, the sum of seventeen million five hundred thousand dollars to the technology reinvestment fund.

Sec. 23. Section 15F.204, subsection 8, paragraph g, Code Supplement 2011, is amended to read as follows:

g. ~~For the each fiscal year for the fiscal period beginning July 1, 2012, and ending June 30, 2013~~ 2014, the sum of five million dollars.

*\*Sec. 24. Section 16.181A, subsection 1, Code 2011, is amended by striking the subsection.\**

*\*Sec. 25. Section 428A.8, subsection 2, paragraphs d, e, and f, Code 2011, are amended to read as follows:*

*d. For the fiscal year beginning July 1, 2012, ~~seventy-five~~ fifty-two and one-half percent of the receipts shall be deposited in the general fund, ~~twenty~~ forty-two and one-half 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~~ forty-seven and one-half percent of the receipts shall be deposited in the general fund, ~~twenty-five~~ forty-seven and one-half 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~~ forty-two and one-half percent of the receipts shall be deposited in the general fund, ~~thirty~~ fifty-two and one-half 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.\**

*\*Sec. 26. Section 428A.8, subsection 3, Code 2011, is amended to read as follows:*

*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~~ six 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.\**

Approved June 7, 2012, with exceptions noted.

TERRY E. BRANSTAD, Governor

Dear Mr. Secretary:

I hereby transmit Senate File 2316, an Act relating to and making appropriations to state departments and agencies from the Rebuild Iowa Infrastructure Fund, the Technology Reinvestment Fund, the Endowment for Iowa's Health Restricted Capitals Fund, and the Mortgage Servicing Settlement Fund, providing for related matters, and including effective date and retroactive applicability provisions.

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

Senate File 2316 is, therefore, signed on this date with the following exceptions, which I hereby disapprove.

I am unable to approve the item designated as Section 1, subsection 9, lettered paragraph b, in its entirety. This item allows \$400,000 to be used for Iowa State University (ISU) College of Veterinary Medicine to modernize animal care facilities. The Board of Regents did not request this item and was not a part of the budget recommendation I submitted to the General Assembly.

I am unable to approve the item designated as Section 3, subsection 5, lettered paragraph a, in its entirety. This item requires the Iowa Communications Network (ICN) to conduct an audit and appraisal prior to any sale or lease of the ICN. An audit and appraisal is premature and unnecessary. If such an audit is needed in the future one could be conducted at that time.

I am unable to approve the items designated as Sections 24, 25 and 26 in their entirety. These items create a permanent \$3 million revenue diversion out of the General Fund completely circumventing the annual appropriation process. This does not work to advance my goals of returning predictability and sustainability back to government budgeting. The Housing Trust Fund's funding level will remain approximately the same as the previous fiscal year. It is my goal to eliminate this bad budgeting practice of automatic diversions from General Fund revenue.

For the above reasons, I respectfully disapprove the designated items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2316 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*

## CHAPTER 1141

### NULLIFICATION OF ADMINISTRATIVE RULE — PHYSICIAN SERVICES IN FACILITY SETTINGS — REIMBURSEMENT

*H.J.R. 2008*

**A JOINT RESOLUTION** nullifying a department of human services rule relating to reimbursement of physicians for services rendered in a facility setting, and including an effective date.

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

Section 1. The amendment to 441 Iowa administrative code, rule 79.1, subrule (7), paragraph (b), as appearing in ARC 9959B, as published in the Iowa administrative bulletin, volume XXXIV, number 14, dated January 11, 2012, p. 968, is nullified.

Sec. 2. EFFECTIVE UPON ENACTMENT. This joint resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 8, 2012



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**ANALYSIS OF TABLES**

Conversion Tables of Senate and House Files and Joint Resolutions to Chapters of the Acts of the General Assembly

2011 Code and Code Supplement Chapters and Sections Amended or Repealed and New Code Sections Assigned

Session Laws Amended, Repealed, or Referred to in Acts of the Eighty-fourth General Assembly, 2012 Regular Session

Iowa Codes and Code Supplements Referred to in Acts of the Eighty-fourth General Assembly, 2012 Regular Session

Iowa Administrative Code Referred to in Acts of the Eighty-fourth General Assembly, 2012 Regular Session

Iowa Administrative Code Rule Nullified in Acts of the Eighty-fourth General Assembly, 2012 Regular Session

Acts of Congress, United States Code, and Code of Federal Regulations Referred To

Iowa Court Rules Referred To

Constitution of the State of Iowa Referred To

Vetoed Bill

Item Vetoes

**CONVERSION TABLES OF SENATE AND HOUSE FILES  
AND JOINT RESOLUTIONS TO  
CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY**

**2012 REGULAR SESSION**

**SENATE FILES**

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
93	1002	2165	1061	2282	1013
364	1101	2170	1006	2283	1118
413	1071	2172	1036	2284	1119
430	1115	2185	1037	2285	1021
451	1102	2186	1038	2288	1044
466	1116	2188	1039	2289	1078
2007	1127	2202	1017	2292	1014
2018	1001	2203	1023	2294	1045
2038	1059	2208	1075	2296	1046
2058	1010	2212	1018	2311	1095
2071	1128	2216	1093	2312	1079
2086	1003	2217	1094	2313	1131
2092	1011	2218	1015	2314	1129
2096	1030	2220	1062	2315	1120
2097	1072	2221	1047	2316	1140
2112	1091	2225	1040	2317	1096
2120	1004	2231	1063	2318	1080
2122	1031	2237	1117	2321	1132
2126	1073	2244	1012	2322	1103
2127	1009	2245	1076	2324	1130
2137	1060	2247	1019	2325	1097
2146	1016	2248	1041	2328	1110
2153	1032	2249	1048	2329	1098
2158	1092	2260	1049	2332	1111
2159	1033	2265	1050	2333	1104
2160	1034	2267	1077	2336	1133
2163	1035	2269	1042	2342	1121
2164	1074	2279	1020	2343	1122
		2280	1043		

HOUSE FILES

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563 .....	1112	2301 .....	1027	2399 .....	1099
589 .....	1005	2305 .....	1086	2402 .....	1029
609 .....	1123	2306 .....	1068	2403 .....	1058
675 .....	1105	2320 .....	1028	2404 .....	1070
2092 .....	1064	2321 .....	1052	2427 .....	1089
2101 .....	1024	2323 .....	1087	2428 .....	1090
2144 .....	1065	2335 .....	1134	2455 .....	1107
2145 .....	1025	2336 .....	1135	2458 .....	1108
2150 .....	1007	2337 .....	1136	2459 .....	1109
2165 .....	1008	2338 .....	1137	2460 .....	1124
2166 .....	1066	2343 .....	1106	2464 .....	1113
2168 .....	1051	2368 .....	1022	2465 .....	1138
2226 .....	1082	2369 .....	1069	2466 .....	1139
2228 .....	1083	2370 .....	1053	2467 .....	1100
2231 .....	1084	2379 .....	1054	2470 .....	1125
2264 .....	1067	2383 .....	1055	2472 .....	1114
2285 .....	1026	2387 .....	1056	2473 .....	1126
		2388 .....	1088		

HOUSE JOINT RESOLUTIONS

File No.	Acts Chapter
2008 .....	1141

**2011 CODE AND CODE SUPPLEMENT CHAPTERS AND SECTIONS  
AMENDED OR REPEALED  
AND NEW CODE SECTIONS ASSIGNED**

**2012 REGULAR SESSION**

Boldface type represents new Code section numbers that are subject to change when codified.

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
2.48[3a(2)]	1110, §1	<b>9B.21B</b>	<b>1050, §21, 60</b>
2.48[3b(2)]	1124, §1	<b>9B.23</b>	<b>1050, §22, 60</b>
2.48[3c(5)]	1136, §29, 39 – 41	<b>9B.24</b>	<b>1050, §23, 60</b>
2.48[3c(6)]	1124, §2	<b>9B.25</b>	<b>1050, §24, 60</b>
2C.7(1)	1050, §31, 60	<b>9B.26</b>	<b>1050, §25, 60</b>
4.1(09A)	1019, §1	<b>9B.27</b>	<b>1050, §26, 60</b>
4.1(21A)	1019, §2	<b>9B.28</b>	<b>1050, §27, 60</b>
4.1(28)	1050, §32, 60	<b>9B.30</b>	<b>1050, §28, 60</b>
6B.14(2)	1023, §1	<b>9B.31</b>	<b>1050, §29, 60</b>
7C.9	1017, §29	9E	1050, §30, 60
7E.5A(4)	1021, §124	10B.4(2g)	1023, §3
8.22A(5b)	1021, §125	11.2(3d)	1021, §4
8.55(2)	1021, §1	11.5A	1021, §5
8.57	1021, §2	11.6(1a)	1107, §1, 4
8.57[6e(1)(d)(ii)]	1140, §21	11.6(10A)	1107, §2, 4
8.57A(4)	1021, §126	11.11	1124, §3
8.57C(3a)	1140, §22	12.61(1a)	1017, §30
8.57C(3b – d)	1021, §127	12.71(5)	1017, §31
8A.123(1)	1021, §128	12.81(5)	1017, §32
8A.311(16)	1019, §3	12.87(1a)	1023, §4
8A.317(1)	1021, §3	12.87[1b(1)]	1021, §129
8A.321(6d)	1072, §1	12.87(5)	1017, §33
8A.327(1)	1072, §2	12.89(2b)	1021, §130
8A.402[2f(1, 2)]	1072, §3	12.89A(2a)	1021, §131
8A.402[2f(3)(a)]	1072, §4	12.91(6)	1017, §34
8A.512A(3)	1133, §91	12A.4(4)	1017, §35
8D.10	1138, §117	12B.10(7)	1051, §1
8F.2[8b(8)]	1023, §2	12C.1(2)	1017, §36
<b>9B.1</b>	<b>1050, §1, 60</b>	12C.13	1017, §37
<b>9B.2</b>	<b>1050, §2, 60; 1138, §46, 77</b>	12C.20(1, 4)	1017, §38
<b>9B.4</b>	<b>1050, §3, 60</b>	12C.22(2)	1051, §2
<b>9B.5</b>	<b>1050, §4, 60</b>	12C.22(6f)	1051, §3
<b>9B.6</b>	<b>1050, §5, 60</b>	12C.23A(3)	1051, §4
<b>9B.7</b>	<b>1050, §6, 60</b>	12E.11(8)	1017, §39
<b>9B.8</b>	<b>1050, §7, 60</b>	12E.12[1b(1, 2)]	1021, §132
<b>9B.9</b>	<b>1050, §8, 60</b>	13.7	1112, §1
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<b>9B.11</b>	<b>1050, §10, 60</b>	13B.4(2, 3)	1063, §1
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<b>9B.14</b>	<b>1050, §13, 60</b>	15.102(11)	1126, §28
<b>9B.15</b>	<b>1050, §14, 60</b>	15.103	1021, §119; 1126, §38
<b>9B.16</b>	<b>1050, §15, 60</b>	15.104	1126, §38
<b>9B.17</b>	<b>1050, §16, 60</b>	15.104(3)	1023, §5
<b>9B.18</b>	<b>1050, §17, 60</b>	15.106A(1o)	1126, §34
<b>9B.20</b>	<b>1050, §18, 60</b>	15.106B[2d(1)(g, h)]	1126, §29
<b>9B.21</b>	<b>1050, §19, 60</b>	15.107(1)	1021, §6
<b>9B.21A</b>	<b>1050, §20, 60</b>	15.107B(1)	1126, §35

Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
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15.117A[2a(5)]	1126, §30	15E.351(1)	1021, §22; 1126, §20
15.117A(2c)	1018, §3	15E.351(2h)	1021, §23
15.117A(6b)	1023, §6	<b>15E.362</b>	<b>1126, §21</b>
15.118(2)	1018, §9	<b>15E.363</b>	<b>1126, §22</b>
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15.119(2c)	1110, §2	15G.110	1021, §133
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15.247(8c, d)	1023, §7	15G.111(2c, d)	1021, §24
15.272	1021, §8	15G.112(1b)	1021, §25
15.292(6)	1021, §9	15G.112(1d)	1021, §26
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15.293A[2b(6)]	1110, §3	15G.112(5b)	1021, §28
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15.294(4)	1021, §12	15G.114(1)	1021, §30
15.301[2b(1, 4)]	1021, §13	15G.115(1)	1021, §31
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15.301(4)	1021, §15	15H.3(1k)	1021, §33
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15.327(2, 5, 7, 8, 10, 12, 13)	1126, §1	16.27(4, 5)	1138, §16
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15.329(1b)	1126, §4	16.30	1017, §41
15.329[1c(1, 2)]	1126, §5	16.54(1)	1072, §5
15.329(2)	1126, §6	16.177(5)	1017, §42
15.329(3)	1110, §4	16.193(2)	1021, §134
15.330	1126, §7	<b>17A.6A</b>	<b>1138, §18</b>
<b>15.330A</b>	<b>1126, §8</b>	17A.7(2)	1138, §19
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15.335(7b)	1007, §1, 7, 8	21.6[3a(3)]	1115, §1, 17
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<b>15.335B</b>	<b>1126, §13</b>	<b>23.2</b>	<b>1115, §5, 17</b>
<b>15.335C</b>	<b>1126, §14</b>	<b>23.3</b>	<b>1115, §6, 17</b>
15.391	1136, §38 – 41	<b>23.4</b>	<b>1115, §7, 17</b>
15.392	1136, §38 – 41	<b>23.5</b>	<b>1115, §8, 17</b>
15.393	1136, §38 – 41	<b>23.6</b>	<b>1115, §9, 17</b>
15.393[2a(3)]	1110, §5	<b>23.7</b>	<b>1115, §10, 17</b>
15.393[2b(2)]	1110, §6	<b>23.8</b>	<b>1115, §11, 17</b>
15.411	1126, §31	<b>23.9</b>	<b>1115, §12, 17</b>
15.411(9)	1021, §17	<b>23.10</b>	<b>1115, §13, 17</b>
15.412(2, 3)	1126, §32	<b>23.11</b>	<b>1115, §14, 17</b>
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15A.9(1b)	1023, §8	<b>23B.1</b>	<b>1112, §2</b>
15A.9[8e(2)]	1007, §2, 7, 8	<b>23B.2</b>	<b>1112, §3</b>
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<b>15E.71</b>	<b>1138, §15</b>	<b>23B.5</b>	<b>1112, §6</b>
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15E.192(4b)	1018, §4	28B.1(1)	1138, §108
15E.193[1b(1)]	1126, §16	28B.4	1138, §109
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Code Chapter or Section	Acts Chapter	Code Chapter or Section	Acts Chapter
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29B.13	1072, §22	80B.11A	1023, §10
29B.21	1072, §23	80B.11C	1023, §11
29B.22	1072, §24	80E.1(3)	1131, §33
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29C.1(3)	1023, §157	80E.2(2)	1023, §13
29C.8(3h)	1094, §1, 18	84A.6(4)	1132, §16
29C.9(2)	1071, §1	89.3[5a(4)]	1043, §1
29C.17(2, 5)	1071, §2	96.7[2a(2)(e)(i)]	1072, §31
29C.17(3A)	1071, §3	96.21	1023, §14
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34A.7(2b)	1111, §7	97C.15	1023, §18
34A.7[5b(3)]	1111, §8	99B.2(4)	1117, §1
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