# Iowa General Assembly
## Daily Bills, Amendments and Study Bills
## March 01, 2012


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**House File 2410 - Introduced**

HOUSE FILE 2410
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HSB 615)

(COMPANION TO SF 2223 BY
COMMITTEE ON NATURAL RESOURCES
AND ENVIRONMENT)

## A BILL FOR

1 An Act relating to the regulation of snowmobiles, all-terrain
2 vehicles, and watercraft by the department of natural
3 resources, establishing fees, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5210HV (4) 84
dea/nh

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1 Section 1. Section 321G.1, Code 2011, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 5A. *"Designated snowmobile trail"* means
4 a snowmobile riding trail on any public land, private land,
5 or public ice that has been designated by the department,
6 a political subdivision, or a controlling authority for
7 snowmobile use.
8 NEW SUBSECTION. 5B. *"Direct supervision"* means to provide
9 supervision of another person while maintaining visual and
10 verbal contact at all times.
11 NEW SUBSECTION. 11A. *"Nonresident"* means a person who is
12 not a resident of this state.
13 NEW SUBSECTION. 15A. *"Public ice"* means any frozen,
14 navigable waters within the territorial limits of this state
15 and the frozen marginal river areas adjacent to this state,
16 other than farm ponds, that are under the jurisdiction of the
17 commission.
18 NEW SUBSECTION. 16A. *"Public water"* means any navigable
19 waters within the territorial limits of this state and the
20 marginal river areas adjacent to this state, other than farm
21 ponds, that are under the jurisdiction of the commission.
22 NEW SUBSECTION. 17A. *"Resident"* means as defined in section
23 483A.1A.
24 Sec. 2. Section 321G.1, subsections 19 and 21, Code 2011,
25 are amended to read as follows:
26 19. *"~~Safety~~ "Education certificate"* means a snowmobile
27 ~~safety~~ education certificate, approved by the commission, which
28 is issued to a qualified applicant who is twelve years of age
29 or older.
30 21. *"Special event"* means an organized race, exhibition, or
31 demonstration of limited duration which is conducted on public
32 land, ~~or~~ public ice, or a designated snowmobile trail under
33 the jurisdiction of the commission according to a prearranged
34 schedule and in which general public interest is manifested.
35 Sec. 3. Section 321G.1, Code 2011, is amended by adding the

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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. *1.* 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

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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

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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,

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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:

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*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

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1 person of at least eighteen years of age who is experienced
2 in snowmobile operation and who possesses a valid driver's
3 license, as defined in section 321.1, or ~~a safety~~ an education
4 certificate issued under this chapter.
5 2. While operating a snowmobile on a designated snowmobile
6 trail, public land, or public ice, a person twelve through
7 fifteen years of age and possessing a valid education
8 certificate must be under the direct supervision of a parent,
9 guardian, or another adult authorized by the parent or
10 guardian, who is experienced in snowmobile operation and
11 possesses a valid driver's license, as defined in section
12 321.1, or an education certificate issued under this chapter.
13 3. A person under eighteen years of age but over the age of
14 fifteen shall not operate a snowmobile on or across a public
15 highway unless the person has in the person's possession an
16 education certificate issued to the person pursuant to this
17 chapter.
18 Sec. 22. Section 321G.21, subsections 1 through 5, Code
19 2011, are amended to read as follows:
20 1. A manufacturer, distributor, or dealer owning a
21 snowmobile required to be registered under this chapter
22 may operate the snowmobile for purposes of transporting,
23 testing, demonstrating, or selling it without the snowmobile
24 being registered, except that a special ~~identification~~
25 ~~number~~ registration decal issued to the owner as provided
26 in this chapter shall be displayed on the snowmobile in the
27 manner prescribed by rules of the commission. The special
28 ~~identification number~~ registration decal shall not be used
29 on a snowmobile offered for hire or for any work or service
30 performed by a manufacturer, distributor, or dealer.
31 2. Every manufacturer, distributor, or dealer shall
32 register with the department by making application to the
33 commission, upon forms prescribed by the commission, for
34 a special registration certificate ~~containing a general~~
35 ~~identification number and for one or more duplicate special~~

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~~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 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

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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

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1 commission. Vendors may charge for their courses and collect
2 the education certificate fee required under section 321G.24,
3 subsection 2, on behalf of the department as agreed to in the
4 memorandum of understanding.
5 Sec. 24. Section 321G.24, Code 2011, is amended to read as
6 follows:
7 **321G.24 ~~Safety~~ Education certificate — fee.**
8 1. A person under eighteen years of age shall not
9 operate a snowmobile on public land, ~~or~~ public ice, a
10 designated snowmobile trail, or land purchased with snowmobile
11 registration funds in this state without obtaining a valid
12 ~~safety~~ education certificate ~~issued~~ approved by the department
13 and having the certificate in the person's possession,
14 unless the person is accompanied on the same snowmobile by
15 a responsible person of at least eighteen years of age who
16 is experienced in snowmobile operation and possesses a valid
17 driver's license, as defined in section 321.1, or ~~a safety~~ an
18 education certificate issued under this chapter.
19 2. Upon ~~application~~ successful completion of the course
20 and payment of a fee of five dollars, a qualified applicant
21 shall be issued ~~a safety~~ an education certificate which is
22 valid until the certificate is suspended or revoked by the
23 director for a violation of a provision of this chapter or a
24 rule adopted pursuant to this chapter. ~~The application shall~~
25 ~~be made on forms issued by the commission and shall contain~~
26 ~~information as the commission may reasonably require.~~
27 3. Any person who is required to have ~~a safety~~ an education
28 certificate under this chapter and who has completed a course
29 of instruction established under section 321G.2, subsection
30 1, paragraph "j", including the successful passage of an
31 examination which includes a written test relating to such
32 course of instruction, shall be considered qualified to receive
33 ~~a safety~~ an education certificate.
34 4. The ~~permit~~ certificate fees collected under this section
35 shall be credited to the special snowmobile fund created under

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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~~

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~~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

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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 or rubber-tracked vehicle with not less than four and not more than eight low-pressure tires or rubberized tracks that is limited in engine displacement to less than one

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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.

*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.

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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~~

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~~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

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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 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

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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

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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 ~~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

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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

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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~~

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~~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~~

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~~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

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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,

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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

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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

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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

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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

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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

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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.

EXPLANATION

This bill relates to matters concerning the regulation of snowmobiles, all-terrain vehicles, and watercraft by the department of natural resources, and makes penalties applicable.

SNOWMOBILE REGULATION. The bill makes numerous revisions to Code chapter 321G, which provides for the regulation of snowmobiles by the department.

The bill defines "resident" and "nonresident", for purposes of snowmobile regulation, to mean the same as defined for purposes of hunting and fishing licenses.

The bill defines "public water" as any navigable waters within the state and the marginal river areas adjacent to the state, other than farm ponds, under the jurisdiction of the natural resource commission. A similar definition is provided for "public ice", and various sections of Code chapter 321G are amended to specify the defined term.

The bill specifies that the natural resource commission may adopt rules for the use of snowmobiles on designated snowmobile

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1 trails and for maintenance, signing, and operation of the
2 trails, and existing provisions are amended to indicate that
3 operation on designated trails is subject to regulation by
4 the department. The scope of grant programs and contracts
5 administered by the department is expanded to include
6 the signage of designated snowmobile trails. "Designated
7 snowmobile trail" is defined to mean a snowmobile riding
8 trail on any public land, private land, or public ice that is
9 designated by the department, a political subdivision, or a
10 controlling authority for snowmobile use.
11 Currently, all snowmobiles used on public land or ice in
12 this state must be registered, except for certain snowmobiles
13 owned and used by a governmental entity or snowmobiles used
14 in farming. A nonresident must obtain an annual user permit
15 to operate a snowmobile that is not registered in this state.
16 The bill extends the user permit requirement to apply to
17 residents as well as nonresidents. Under the bill, a resident
18 of this state must obtain a user permit to operate a registered
19 snowmobile on public land, public ice, or designated snowmobile
20 trails. A nonresident's snowmobile must be registered in
21 accordance with the requirements of another state and the
22 operator must obtain a user permit for operation on public
23 land, public ice, or designated snowmobile trails in Iowa.
24 The registration decal of this state or another state and the
25 user permit decal issued by this state must be displayed on a
26 snowmobile operated on public land, public ice, or designated
27 snowmobile trails in Iowa. Pursuant to current law, the fee
28 for a user permit is $15 plus an administrative fee of $1.50
29 and a writing fee of $1 if the permit is issued by a license
30 agent or $1.25 if the permit is issued by a county treasurer.
31 The bill specifies that the original application for
32 registration of a snowmobile must be filed with the county
33 recorder of the owner's county of residence or if the owner is
34 a nonresident, in the county of primary use. If a transfer
35 of ownership occurs by operation of law, the application must

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1 be filed in the transferee's county of residence. Duplicate
2 registrations and registration renewals may be accomplished
3 through a county recorder or a license agent.
4 The bill provides that a snowmobile owned by the United
5 States, this state, or another state, or by a governmental
6 subdivision, is exempt from registration and user permit
7 requirements in this state if the snowmobile is used for
8 enforcement, search and rescue, or official research and
9 studies, but not for recreational or commercial purposes.
10 Current provisions for the issuance of registration
11 certificates and registration decals for snowmobiles owned by
12 the state of Iowa or its political subdivisions are stricken.
13 The bill makes a technical change requiring that every
14 snowmobile be equipped with a headlight and a taillight, rather
15 than a headlamp and a tail lamp.
16 The bill prohibits a person from water skipping a snowmobile
17 on public water, except on rivers and streams during the period
18 between November 1 and April 1. A violation is a simple
19 misdemeanor punishable by a scheduled fine of $100. "Water
20 skipping" is defined as the operation of a snowmobile on the
21 surface of water using the skis, track, and bottom surface of
22 the snowmobile for flotation while the snowmobile is in motion.
23 The bill makes technical changes to clarify language
24 relating to stop signal violations.
25 The bill increases the fee for a special registration
26 certificate from $15 to $45 for snowmobile manufacturers,
27 distributors, and dealers and extends the registration period
28 from one year to three years. Special registration certificate
29 renewals may be issued electronically. The bill provides
30 for the issuance of a special registration decal along with
31 the special registration certificate. The decal is to be
32 displayed on a snowmobile when it is being operated for
33 purposes of transporting, testing, demonstrating, or selling
34 the snowmobile. Duplicate special registration certificates
35 and decals may be issued electronically by a county recorder

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1 and are subject to a fee of $5 plus a writing fee of $1.25.
2 Pursuant to current law, a safety certificate is required
3 for operation of a snowmobile on regulated land or ice by a
4 person under 18 years of age, and in addition, a person 12
5 to 15 years of age must be under the direct supervision of a
6 parent, guardian, or another adult authorized by the parent or
7 guardian. The bill makes a terminology change by replacing the
8 existing "safety certificate" with an "education certificate"
9 throughout Code chapter 321G. In addition, the bill defines
10 "direct supervision" to mean providing supervision of another
11 person while maintaining visual and verbal contact at all
12 times. Currently, a person under 16 years of age must have
13 a safety certificate to operate a snowmobile on or across a
14 public highway. The bill extends the requirement to persons
15 under 18 years of age.
16 The bill authorizes the department to develop requirements
17 and standards for the provision of online education resulting
18 in the issuance of education certificates. A vendor must
19 enter into a memorandum of understanding with the department
20 to conduct such a course. Pursuant to the memorandum of
21 understanding, a vendor may charge a fee for the online course
22 and collect the education certificate fee on behalf of the
23 department.
24 The bill provides that when a serial number on a snowmobile
25 is destroyed or obliterated and the department assigns a
26 distinguishing number to the snowmobile, the department may
27 issue a special decal, rather than a plate, to be affixed to
28 the snowmobile and bearing the distinguishing number.
29 ALL-TERRAIN VEHICLE REGULATION. The bill makes numerous
30 revisions to Code chapter 321I, which provides for the
31 regulation of all-terrain vehicles by the department.
32 The bill amends the definition of "off-road utility vehicle"
33 to include rubber-tracked vehicles. In addition, the bill
34 provides that off-road utility vehicles are subject to dealer
35 registration and titling requirements applicable to other

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all-terrain vehicles. Currently, registration and titling by dealers is not required. The bill specifies that the operation of off-road utility vehicles is subject to provisions governing the operation of all-terrain vehicles both in statute and in administrative rules.

The bill revises the definition of "designated riding trail" to include any public land, private land, or public ice that has been designated by the department, a political subdivision, or a controlling entity for all-terrain vehicle use. Various Code sections are amended to include designated riding trails within the scope of department regulations.

The bill defines "public ice" as any frozen, navigable waters within the state and the marginal river areas adjacent to the state, other than farm ponds, under the jurisdiction of the natural resource commission. Various sections of Code chapter 321I are amended to specify the defined term.

The bill defines "resident", for purposes of all-terrain vehicle regulation, to mean the same as defined for purposes of hunting and fishing licenses.

The bill specifies that the original application for registration of an all-terrain vehicle must be filed with the county recorder of the county of residence or if the owner is a nonresident, in the county of primary use. If a transfer of ownership occurs by operation of law, the application must be filed in the transferee's county of residence. Duplicate registrations and registration renewals may be accomplished through a county recorder or a license agent. An all-terrain vehicle owned by a nonresident and registered in another state must be issued a user permit in this state, which is valid for use on only one all-terrain vehicle.

The bill provides that an all-terrain vehicle owned by the United States, this state, or another state, or by a governmental subdivision, is exempt from registration requirements in this state if the all-terrain vehicle is used for enforcement, search and rescue, or official

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1 research and studies, but not for recreational or commercial
2 purposes. Current provisions for the issuance of registration
3 certificates and registration decals for all-terrain vehicles
4 owned by the state of Iowa or its political subdivisions are
5 stricken.
6 The bill makes a technical change requiring that every
7 all-terrain vehicle be equipped with a headlight and a
8 taillight, rather than a headlamp and a tail lamp.
9 The bill provides for the inclusion of motorcycles and
10 off-road utility vehicles in special events. Also, the
11 requirement that the department furnish a copy of the rules for
12 a special event to an applicant for the event is stricken.
13 The bill makes technical changes to clarify language
14 relating to a person who violates a stop signal from a peace
15 officer.
16 The bill increases the fee for a special registration
17 certificate from $15 to $45 for all-terrain vehicle
18 manufacturers, distributors, and dealers and extends the
19 registration period from one year to three years. Special
20 registration certificate renewals may be issued electronically.
21 The bill provides for the issuance of a special registration
22 decal along with the special registration certificate.
23 The decal is to be displayed on an all-terrain vehicle
24 when it is being operated for purposes of transporting,
25 testing, demonstrating, or selling the vehicle. Duplicate
26 special registration certificates and decals may be issued
27 electronically by a county recorder and are subject to a fee of
28 $5 plus a writing fee of $1.25.
29 Pursuant to current law, a safety certificate is required
30 for operation of an all-terrain vehicle on public land or ice
31 by a person between 12 and 18 years of age. The bill replaces
32 the "safety certificate" with an "education certificate"
33 throughout Code chapter 321I. The bill authorizes the
34 department to develop requirements and standards for the
35 provision of online education resulting in the issuance of

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education certificates. A vendor must enter into a memorandum of understanding with the department to conduct such a course. Pursuant to the memorandum of understanding, a vendor may charge a fee for the online course and collect the education certificate fee on behalf of the department.

The bill provides that when a serial number on an all-terrain vehicle is destroyed or obliterated and the department assigns a distinguishing number to the all-terrain vehicle, the department may issue a special decal, rather than a plate, to be affixed to the all-terrain vehicle and bearing the distinguishing number.

Code section 461C.2(5) is amended to include all-terrain vehicle riding among the public recreational purposes to be encouraged on private land in the state.

WATERCRAFT EDUCATION COURSES AND CERTIFICATES. Code section 462A.2 is amended to include a definition of "watercraft education certificate" that is issued to a qualified applicant 12 years of age or older. Code section 462A.12(6) is amended to change the nomenclature for the requirements that must be met by a person between 12 and 18 years of age to operate certain watercraft without an adult in the watercraft. Such a person is required to complete a department-approved watercraft education, instead of safety, course and obtain a watercraft education, instead of safety, certificate.

New Code section 462A.12A requires the department to develop requirements and standards for vendors to offer online watercraft education courses. Approved vendors may charge a fee for the course and may also collect the watercraft education certificate fee on behalf of the department as provided in a memorandum of understanding with the department.

SPECIAL CERTIFICATES FOR WATERCRAFT DEALERS AND MANUFACTURERS. Code section 462A.36 is amended to allow the natural resource commission to adopt rules establishing minimum requirements for special certificates to be issued, suspended, or revoked for vessel dealers or manufacturers. In adopting

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the rules, the commission shall consider the need to protect persons, property, and the environment, and promote uniform practices relating to the sale and use of vessels.

Code section 462A.40, requiring manufacturers or dealers to keep written records of the vessels upon which special certificates are used, and Code section 462A.42, requiring dealers to furnish a list to the commission each year of all used vessels held by them and for which registration has not been paid, are repealed.

Code section 462A.46 is amended to delete a requirement that when a dealer purchases or acquires a registered vessel, the dealer must mail or deliver a copy of the original receipt issued to the county recorder of the county where the vessel is registered and to the natural resource commission within 48 hours.

Code section 462A.53 is amended to delete a limitation on the writing fee collected by a county treasurer for two or more functions transacted for the same vessel at one time. The bill provides that the county treasurer shall collect a writing fee of $1.25 for each privilege relating to watercraft.

**House File 2417 - Introduced**

HOUSE FILE 2417
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 592)

## A BILL FOR

1 An Act regulating the sale of portable electronics insurance,
2 including by requiring licensure, and providing for fees and
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6008HV (3) 84
av/nh

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1 Section 1. NEW SECTION. **522D.1 Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Commissioner"* means the commissioner of insurance.
5 2. *"Customer"* means a person who purchases portable
6 electronics.
7 3. *"Enrolled customer"* means a customer who elects coverage
8 under a portable electronics insurance policy issued to a
9 vendor of portable electronics.
10 4. *"Free trial offer"* means an offer to a customer under
11 which portable electronics insurance is provided free of charge
12 for a limited time period subsequent to which a charge is
13 made to the customer for the insurance without notice to the
14 customer of such charge prior to the expiration of the free
15 trial period.
16 5. *"Location"* means any physical location in this state, or
17 any website, call center site, or similar location directed to
18 residents of this state.
19 6. *"Portable electronics"* means electronic devices that
20 are personal, self-contained, easily carried by an individual,
21 battery operated, and used for communication, viewing,
22 listening, recording, gaming, computing, or global positioning,
23 including cell or satellite phones, pagers, personal global
24 positioning satellite units, portable computers, portable
25 audio listening, video viewing, or recording devices, digital
26 cameras, video camcorders, portable gaming systems, docking
27 stations, automatic answering devices, and other similar
28 devices, and the accessories and services related to the use of
29 such devices.
30 7. *a. "Portable electronics insurance"* means insurance
31 providing coverage for the repair or replacement of portable
32 electronics which may include coverage against any one or more
33 of the following causes of loss:
34 (1) Property loss.
35 (2) Theft.

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(3) Inoperability due to mechanical failure.
(4) Malfunction.
(5) Damage.
(6) Other similar causes of loss.
*b.* *"Portable electronics insurance"* does not include any of the following:
(1) A service contract or extended warranty providing coverage limited to the repair, replacement, or maintenance of property for the operational or structural failure of the property due to a defect in materials, workmanship, accidental damage from handling power surges, or normal wear and tear.
(2) A policy of insurance coverage of a seller's or manufacturer's obligations under a warranty.
(3) A homeowner's, renter's, private passenger automobile, commercial multiperil, or similar insurance policy.
8. *"Portable electronics transaction"* means any of the following:
*a.* The sale or lease of portable electronics by a vendor to a customer.
*b.* The sale of a service related to the use of portable electronics by a vendor to a customer.
9. *"Supervising entity"* means a business entity that is a licensed insurer or an insurance producer licensed under chapter 522B, that is appointed by an insurer to supervise the administration of a portable electronics insurance program.
10. *"Vendor"* means a person in the business of engaging in portable electronics transactions, directly or indirectly.
Sec. 2. NEW SECTION. **522D.2 Licensure of vendors.**
1. A vendor shall obtain a portable electronics limited lines insurance license as required under this chapter to sell or offer for sale coverage under a policy of portable electronics insurance.
2. A portable electronics limited lines insurance license issued to a vendor pursuant to this chapter authorizes any employee or authorized representative of the vendor to sell or

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1 offer coverage under a policy of portable electronics insurance
2 to a customer at each location at which the vendor engages in
3 portable electronics transactions.
4 3. A supervising entity shall maintain a registry of vendor
5 locations that are authorized to sell or solicit portable
6 electronics insurance in this state. Upon request by the
7 commissioner and with ten days' notice to the supervising
8 entity, the registry shall be open to inspection and
9 examination by the commissioner during regular business hours
10 of the supervising entity.
11 4. Notwithstanding any other provision of law to the
12 contrary, a portable electronics limited lines insurance
13 license issued pursuant to this chapter authorizes the licensee
14 and its employees or authorized representatives to engage in
15 those activities that are permitted in this chapter.
16 Sec. 3. NEW SECTION. **522D.3 Requirements for sale of**
17 **portable electronics insurance.**
18 1. At every location where portable electronics insurance
19 is offered to customers, brochures or other written materials
20 that do all of the following shall be made available to
21 prospective customers:
22 *a.* Disclose that portable electronics insurance may provide
23 a duplication of coverage already provided by the customer's
24 homeowner's insurance policy, renter's insurance policy, or
25 other source of insurance coverage.
26 *b.* State that enrollment by the customer in a portable
27 electronics insurance program is not required in order to
28 purchase or lease portable electronics.
29 *c.* Summarize the material terms of the portable electronics
30 insurance coverage including all of the following:
31 (1) The identity of the insurer.
32 (2) The identity of the supervising entity.
33 (3) The amount of any applicable deductible and how it is
34 to be paid.
35 (4) Benefits of the coverage.

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1 (5) Key terms and conditions of coverage such as whether
2 portable electronics may be repaired or replaced with similar
3 make and model reconditioned or nonoriginal manufacturer parts
4 or equipment.
5 *d.* Summarize the process for filing a claim, including
6 a description of how to return portable electronics and the
7 maximum fee applicable in the event the customer fails to
8 comply with any equipment return requirements.
9 *e.* State that an enrolled customer may cancel enrollment for
10 coverage under a portable electronics insurance policy at any
11 time and the person paying the premium shall receive a refund
12 or credit of any applicable unearned premium.
13 2. The disclosures required pursuant to subsection 1 or the
14 full terms and conditions of portable electronics insurance
15 coverage shall be provided to customers enrolling in such
16 coverage by hand delivery, ordinary mail, or electronic mail,
17 or by directing the customer to an internet site containing
18 such information.
19 3. Portable electronics insurance may be offered on a
20 month-to-month or other periodic basis as a group or master
21 commercial inland marine policy issued to a vendor for its
22 enrolled customers.
23 4. Portable electronics insurance shall not be sold through
24 a free trial offer.
25 5. The commissioner of insurance shall establish
26 eligibility and underwriting standards for customers electing
27 to enroll in coverage for each portable electronics insurance
28 program.
29 Sec. 4. NEW SECTION. **522D.4 Authority of vendors.**
30 1. The employees and authorized representatives of a vendor
31 may sell or offer portable electronics insurance to customers
32 and shall not be subject to licensure under this chapter or as
33 an insurance producer under chapter 522B provided that all of
34 the following requirements are met:
35 *a.* The vendor obtains a portable electronics limited lines

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1 insurance license that authorizes the vendor's employees
2 or authorized representatives to sell or offer portable
3 electronics insurance pursuant to this chapter.
4 *b.* The insurer issuing the portable electronics insurance
5 either directly supervises the administration of the portable
6 electronics insurance program or appoints a supervising entity
7 to supervise the administration of the program, including
8 development of a training program for employees and authorized
9 representatives of the vendor. The training required by this
10 paragraph shall comply with all of the following requirements:
11 (1) The training shall be delivered to employees and
12 authorized representatives of a vendor who are directly engaged
13 in the activity of selling or offering for sale portable
14 electronics insurance.
15 (2) The training may be offered in electronic form.
16 However, if the training is conducted in electronic form, the
17 supervising entity shall implement a supplemental education
18 program for employees and authorized representatives of
19 the vendor regarding the portable electronics insurance
20 product that is conducted and overseen by an employee of the
21 supervising entity who is an insurance producer licensed under
22 chapter 522B.
23 (3) Each employee and authorized representative of a vendor
24 shall receive basic instruction about the portable electronics
25 insurance offered to customers and the disclosures required
26 under section 522D.3.
27 *c.* A vendor or an authorized representative shall maintain
28 a list of all employees or authorized representatives of each
29 vendor who are authorized to sell or offer portable electronics
30 insurance to customers under this section. Upon request by
31 the commissioner, and with ten days' notice to the vendor
32 or supervising entity, the list maintained shall be open to
33 inspection and examination by the commissioner during normal
34 business hours of the vendor or supervising entity.
35 *d.* An employee or authorized representative of a vendor

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1 shall not advertise, represent, or otherwise hold the employee
2 or authorized representative out as being a licensed insurance
3 producer under chapter 522B.
4 2. *a.* Charges for portable electronics insurance coverage
5 may be billed and collected by the vendor. Any charge to an
6 enrolled customer for coverage that is not included in the cost
7 associated with the purchase or lease of portable electronics
8 shall be separately itemized on the enrolled customer's bill.
9 If the portable electronics insurance is included with the
10 purchase or lease of portable electronics, the vendor shall
11 clearly and conspicuously disclose to the enrolled customer
12 that the portable electronics insurance is included with the
13 portable electronics.
14 *b.* A vendor that bills and collects charges for portable
15 electronics insurance shall not be required to maintain such
16 funds in a segregated account provided that the vendor is
17 authorized by the insurer to hold such funds in an alternative
18 manner and remits such amounts to the supervising entity within
19 sixty days of receipt.
20 *c.* All funds received by a vendor from an enrolled customer
21 for the purchase of portable electronics insurance shall be
22 considered funds held in trust by the vendor in a fiduciary
23 capacity for the benefit of the insurer. A vendor may receive
24 compensation for billing and collection services.
25 Sec. 5. NEW SECTION. **522D.5 Penalties — suspension or**
26 **revocation of license.**
27 If a vendor or the vendor's employee or authorized
28 representative violates any provision of this chapter, the
29 commissioner may do any of the following:
30 1. After notice and hearing, impose penalties not to exceed
31 five hundred dollars per violation or five thousand dollars in
32 the aggregate for such violations.
33 2. After notice and hearing, take other affirmative action
34 that the commissioner deems necessary and reasonable to carry
35 out the purposes of this chapter, including the following:

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1 *a.* Suspend the privilege of selling or offering for sale
2 portable electronics insurance pursuant to this chapter at
3 specific business locations where violations of this chapter
4 have occurred.
5 *b.* Suspend or revoke the ability of an individual employee
6 or authorized representative to sell or offer for sale portable
7 electronics insurance pursuant to the portable electronics
8 limited lines insurance license of a vendor.
9 Sec. 6. NEW SECTION. **522D.6 Termination of portable**
10 **electronics insurance.**
11 Notwithstanding any other provision of law to the contrary:
12 1. An insurer may terminate or otherwise change the terms
13 and conditions of a policy of portable electronics insurance
14 only upon providing the vendor and enrolled customers with at
15 least thirty days' notice of such termination or change.
16 2. If the insurer changes the terms and conditions of a
17 policy of portable electronics insurance, the insurer shall
18 provide the vendor with a revised policy or endorsement and
19 each enrolled customer with a revised certificate, endorsement,
20 updated brochure, or other evidence indicating that a change in
21 the terms and conditions of the policy has occurred along with
22 a summary of material changes.
23 3. Notwithstanding subsection 1, an insurer may terminate
24 an enrolled customer's enrollment under a portable electronics
25 insurance policy with fifteen days' notice upon discovery of
26 fraud or material misrepresentation in obtaining coverage or in
27 the presentation of a claim under that coverage.
28 4. Notwithstanding subsection 1, an insurer may immediately
29 terminate an enrolled customer's enrollment under a portable
30 electronics insurance policy for any of the following reasons:
31 *a.* Nonpayment of premium.
32 *b.* If the enrolled customer ceases to have active service
33 with the vendor.
34 *c.* If the enrolled customer exhausts the aggregate limit of
35 liability, if any, under the terms of the portable electronics

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1 insurance policy and the insurer sends notice of termination to
2 the enrolled customer within thirty days after exhaustion of
3 the limit. However, if notice is not timely sent, enrollment
4 shall continue notwithstanding the aggregate limit of liability
5 until the insurer sends notice of termination to the enrolled
6 customer.
7 5. If a portable electronics insurance policy is terminated
8 by a vendor, the vendor shall mail or deliver written notice
9 to each enrolled customer advising the enrolled customer
10 of the termination of the policy and the effective date of
11 termination. The written notice shall be mailed or delivered
12 to the enrolled customer at least thirty days prior to the
13 termination.
14 6. *a.* Whenever notice or correspondence with respect to a
15 policy of portable electronics insurance is required pursuant
16 to this section or is otherwise required by law, the notice
17 or correspondence shall be in writing and sent within the
18 notice period, if any, specified in the statute or regulation
19 requiring the notice or correspondence.
20 *b.* Notwithstanding any other provision of law to the
21 contrary, notices and correspondence may be sent by mail or by
22 electronic means as set forth in this paragraph *"b"*.
23 (1) If the notice or correspondence is sent by mail, it
24 shall be sent to the vendor at the vendor's mailing address
25 specified for such purpose and to the affected enrolled
26 customers at their last known mailing addresses on file with
27 the insurer. The insurer or vendor, as the case may be, shall
28 maintain proof of mailing in a form authorized or accepted
29 by the United States postal service or other commercial mail
30 delivery service.
31 (2) If the notice or correspondence is sent by electronic
32 means, it shall be sent to the vendor at the vendor's
33 electronic mail address specified for such purpose and to the
34 affected enrolled customers at their last known electronic mail
35 address as provided by each enrolled customer to the insurer or

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1 vendor, as the case may be. For purposes of this subparagraph,
2 an enrolled customer's provision of an electronic mail address
3 to an insurer or vendor shall be deemed consent to receive
4 notices and correspondence by electronic means. The insurer or
5 vendor, as the case may be, shall maintain proof that a notice
6 or correspondence was sent by electronic means to an enrolled
7 customer.
8 7. Notice or correspondence required by this section or
9 otherwise required by law may be sent on behalf of an insurer
10 or vendor, as the case may be, by the supervising entity
11 appointed by the insurer.
12 Sec. 7. NEW SECTION. **522D.7 Application for license —**
13 **fees.**
14 1. If a vendor is selling or offering to sell or will
15 sell or offer to sell portable electronics insurance in this
16 state, the vendor shall submit a sworn application for a
17 portable electronics limited lines insurance license to the
18 commissioner on an application form prescribed and furnished by
19 the commissioner.
20 2. The application form shall include the following
21 information:
22 *a.* The name, residence address, and other information
23 required by the commissioner for an employee or officer of
24 the vendor that is designated by the vendor as the person
25 responsible for or who will be responsible for the vendor's
26 compliance with the requirements of this chapter. However, if
27 the vendor derives more than fifty percent of its revenue from
28 the sale of portable electronics insurance, the information
29 required in this paragraph shall be provided for all officers,
30 directors, and shareholders of record of the vendor that have
31 beneficial ownership in the vendor of ten percent or more of
32 any class of securities registered under federal securities
33 law.
34 *b.* Provide the location of the vendor's home office.
35 3. Any vendor engaging in the sale of or offering for sale

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1 portable electronics insurance on or before July 1, 2012,
2 shall apply for licensure under this chapter within ninety
3 days of the application form being made available by the
4 commissioner. Any vendor commencing operations in this state
5 after July 1, 2012, shall obtain a portable electronics limited
6 lines insurance license prior to selling or offering for sale
7 portable electronics insurance.
8 4. Initial portable electronics limited lines insurance
9 licenses issued pursuant to this chapter shall be valid for a
10 period of twenty-four months and shall expire on March of the
11 renewal year assigned by the commissioner.
12 5. Each vendor licensed under this chapter shall pay to the
13 commissioner a fee as prescribed by the commissioner by rule,
14 but in no event shall the fee exceed one thousand dollars for
15 an initial portable electronics limited lines insurance license
16 or five hundred dollars for each renewal of the license.
17 However, for a vendor that engages in portable electronics
18 transactions at ten or fewer locations in the state, the fee
19 shall not exceed one hundred dollars for an initial license and
20 one hundred dollars for each renewal of the license.
21 Sec. 8. NEW SECTION. **522D.8 Rules.**
22 The commissioner shall adopt rules pursuant to chapter 17A
23 as necessary to implement and administer the provisions of this
24 chapter.
25 EXPLANATION
26 This bill regulates the sale of portable electronics
27 insurance by requiring licensure, and providing for fees and
28 penalties. "Portable electronics" are electronic devices that
29 are personal, self-contained, easily carried by an individual,
30 battery operated, and used for communication, viewing,
31 listening, recording, gaming, computing, or global positioning,
32 including cell or satellite phones, pagers, personal global
33 positioning satellite units, portable computers, portable
34 audio listening, video viewing, or recording devices, digital
35 cameras, video camcorders, portable gaming systems, docking

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1 stations, automatic answering devices, and other similar
2 devices, and the accessories and services related to the use of
3 such devices.
4 "Portable electronics insurance" is insurance that provides
5 coverage for the repair or replacement of portable electronics
6 including various causes of loss. "Portable electronics
7 insurance" does not include a service contract or extended
8 warranty, a seller's or manufacturer's warranty obligations,
9 or other insurance such as homeowner's, renter's, automobile,
10 or commercial multiperil insurance. Vendors of portable
11 electronics sell or offer for sale such insurance pursuant
12 to a policy issued to the vendor by an insurer that offers
13 such coverage. The bill applies to vendors that have physical
14 locations in the state, as well as any website, call center
15 site, or similar location directed to residents of this state.
16 Vendors are required to obtain a portable electronics
17 limited lines insurance license as required under new Code
18 chapter 522D to sell or offer for sale coverage under a
19 portable electronics insurance policy. Such a license
20 issued to a vendor authorizes any employee or authorized
21 representative of the vendor to sell or offer the insurance
22 coverage at each location in the state where the vendor
23 sells portable electronics. A "supervising entity" that is
24 a licensed insurer or licensed insurance producer under Code
25 chapter 522B must maintain a registry of vendor locations at
26 which portable electronics insurance is sold or solicited that
27 is available for inspection by the commissioner of insurance.
28 Vendors that sell portable electronics insurance are
29 required to offer written materials to customers that disclose
30 certain specified information about the insurance that is being
31 offered. Such insurance may be offered on a month-to-month
32 or other periodic basis. The disclosures contained in the
33 written materials must be offered to persons enrolling in
34 portable electronics coverage by hand delivery, ordinary
35 mail, or electronic mail, or by directing the customer to an

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1 internet site containing the information. Portable electronics
2 insurance cannot be sold through a free trial offer. A
3 "free trial offer" is an offer to provide such insurance to a
4 customer free of charge for a limited time period subsequent
5 to which a charge is made to the customer without notice prior
6 to expiration of the free trial period. Eligibility and
7 underwriting standards must be established for each portable
8 electronics insurance program by the commissioner of insurance.
9 Employees and authorized representatives of a vendor may
10 sell or offer portable electronics insurance to customers
11 and are not subject to licensure under new Code chapter
12 522D or Code chapter 522B if certain training and oversight
13 requirements are met by the insurer and the supervising
14 entity appointed by the insurer. A vendor or an authorized
15 representative is required to maintain a list of all employees
16 or authorized representatives of the vendor who are authorized
17 to sell or offer portable electronics insurance to customers.
18 The list must be available for inspection and examination
19 during the vendor's normal business hours by the commissioner
20 of insurance upon 10 days' notice.
21 A vendor may bill and collect charges for portable
22 electronics insurance and be paid for doing so but is
23 considered to hold any funds collected in trust for the
24 insurer.
25 The commissioner of insurance may subject a vendor or the
26 vendor's employees or authorized representatives to penalties
27 for violations of the Code chapter not to exceed $500 per
28 violation or $5,000 in the aggregate. The commissioner may
29 also suspend the vendor's privilege of selling the insurance
30 at specific locations of the vendor or suspend or revoke
31 the selling privileges of a specific employee or authorized
32 representative of a vendor.
33 An insurer cannot terminate or otherwise change the terms of
34 a portable electronics insurance policy without giving notice
35 to the vendor and enrolled customers as provided in the bill.

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1 Notice may be sent in writing by mail or by electronic means.
2 A vendor who is selling or offering to sell or will sell
3 or offer to sell portable electronics insurance in this state
4 must submit a sworn application for a portable electronics
5 limited lines insurance license to the commissioner. A vendor
6 who is engaging in the sale of such insurance on or before the
7 effective date of the bill must apply for a license within
8 90 days of the date the application form is made available
9 by the commissioner of insurance. Any vendor that commences
10 operations in the state after the effective date of the bill
11 must obtain a license prior to selling or offering for sale
12 portable electronics insurance.
13 Portable electronics limited lines insurance licenses shall
14 be valid for 24 months and shall not exceed $1,000 for an
15 initial license or $500 for a renewal of the license, except
16 that if a vendor has 10 or fewer locations in the state, the
17 license cost shall not exceed $100 for an initial license and
18 for each renewal of the license.
19 The commissioner of insurance is required to adopt rules
20 pursuant to Code chapter 17A to implement and administer the
21 provisions of the bill.

**House File 2418 - Introduced**

HOUSE FILE 2418
BY COMMITTEE ON ECONOMIC
GROWTH/REBUILD IOWA

(SUCCESSOR TO HSB 591)

## A BILL FOR

1 An Act relating to economic development and the use of
2 funds by affecting programs, tax incentives, and project
3 completion and other assistance administered by the economic
4 development authority, by diverting withholding tax payments
5 for such programs, incentives, and assistance, by abolishing
6 the film tax credit program, by replacing references to the
7 economic development fund and financial assistance program,
8 and by providing spending authority, by providing for
9 properly related matters, and including effective date and
10 retroactive and other applicability provisions.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5347HV (2) 84
ad/sc

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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.

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1 13. *"Retained job"* ~~has the same meaning as defined in~~
2 ~~section 15G.101~~ means a full-time equivalent position, in
3 existence at the time an employer applies for financial
4 assistance which remains continuously filled and which is at
5 risk of elimination if the project for which the employer is
6 seeking assistance does not proceed.
7 Sec. 2. Section 15.327, Code Supplement 2011, is amended by
8 adding the following new subsections:
9 NEW SUBSECTION. 1A. *"Base employment level"* means the
10 number of full-time equivalent positions at a business,
11 as established by the authority and a business using the
12 business's payroll records, as of the date a business applies
13 for incentives or project completion assistance under the
14 program.
15 NEW SUBSECTION. 2A. *"Business engaged in disaster recovery"*
16 means a business located in an area declared a disaster area
17 by a federal official, that has sustained substantial physical
18 damage, that has closed as the result of a natural disaster,
19 and that has a plan for reopening that includes employing a
20 substantial number of the employees the business employed
21 before the natural disaster occurred.
22 NEW SUBSECTION. 6A. *"Financial assistance"* means assistance
23 provided only from the funds, rights, and assets legally
24 available to the authority pursuant to this chapter and
25 includes but is not limited to assistance in the form of
26 grants, loans, forgivable loans, and royalty payments.
27 NEW SUBSECTION. 7A. *"Full-time equivalent position"* means
28 a non-part-time position for the number of hours or days per
29 week considered to be full-time work for the kind of service
30 or work performed for an employer. Typically, a full-time
31 equivalent position requires two thousand eighty hours of work
32 in a calendar year, including all paid holidays, vacations,
33 sick time, and other paid leave.
34 NEW SUBSECTION. 7B. *"Fund"* means a fund created pursuant
35 to section 15.335B.

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1 NEW SUBSECTION. 7C. *"Laborshed wage"* means the wage level
2 represented by those wages within two standard deviations
3 from the mean wage within the laborshed area in which the
4 eligible business is located, as calculated by the authority,
5 by rule, using the most current covered wage and employment
6 data available from the department of workforce development for
7 the laborshed area.
8 NEW SUBSECTION. 7D. *"Maintenance period"* means the period
9 of time between the project completion date and the maintenance
10 period completion date.
11 NEW SUBSECTION. 8A. *"Necessary physical infrastructure*
12 *project"* means a project that creates necessary infrastructure
13 for economic success throughout Iowa, provides the foundation
14 for the creation of jobs, and involves the investment of
15 a substantial amount of capital. Physical infrastructure
16 projects include but are not limited to projects involving
17 any mode of transportation; public works and utilities such
18 as sewer, water, power, or telecommunications; physical
19 improvements that mitigate, prevent, or eliminate environmental
20 contamination; and other similar projects deemed to be physical
21 infrastructure by the authority.
22 NEW SUBSECTION. 9A. *"Program support"* means the services
23 necessary for the efficient administration of this part,
24 including the delivery of program services to eligible
25 businesses. *"Program support"* may include the administrative
26 costs of providing project assistance, conducting a statewide
27 laborshed study in coordination with the department of
28 workforce development, outreach to business and marketing of
29 programs, the procurement of technical assistance, and the
30 implementation of information technology.
31 NEW SUBSECTION. 9B. *"Project completion assistance"* means
32 financial assistance or technical assistance provided to
33 an eligible business in order to facilitate the start-up,
34 location, or expansion of the business in this state and
35 provided in an expedient manner to ensure the successful

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1 completion of the start-up, location, or expansion project.
2 NEW SUBSECTION. 10A. *"Project completion period"* means the
3 period of time between the date financial assistance is awarded
4 and the project completion date.
5 Sec. 3. Section 15.329, subsection 1, unnumbered paragraph
6 1, Code Supplement 2011, is amended to read as follows:
7 To be eligible to receive incentives or assistance
8 under this part, a business shall meet all of the following
9 requirements:
10 Sec. 4. Section 15.329, subsection 1, paragraph b, Code
11 Supplement 2011, is amended to read as follows:
12 *b.* (1) The business ~~has not closed or substantially~~
13 ~~reduced operations in one area of this state and relocated~~
14 ~~substantially the same operations in a community in another~~
15 ~~area of this state~~ shall not be solely relocating operations
16 from one area of the state while seeking state or local
17 incentives. A project that does not create new jobs or
18 involve a substantial amount of new capital investment shall
19 be presumed to be a relocation. In determining whether a
20 business is solely relocating operations for purposes of this
21 subparagraph, the authority shall consider a letter of support
22 for the move from the affected local community.
23 (2) The business shall not be in the process of reducing
24 operations in one community while simultaneously applying
25 for assistance under the program. For purposes of this
26 subparagraph, a reduction in operations within twelve months
27 before or after an application for assistance is submitted to
28 the authority shall be presumed to be a reduction in operations
29 while simultaneously applying for assistance under the program.
30 (3) This paragraph shall not be construed to prohibit
31 a business from expanding its operation in a community if
32 existing operations of a similar nature in this state are not
33 closed or substantially reduced.
34 Sec. 5. Section 15.329, subsection 1, paragraph c,
35 subparagraphs (1) and (2), Code Supplement 2011, are amended

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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.

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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 have 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. However, 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.

8. The proposed project shall not negatively impact other businesses in competition with the business being considered

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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

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1 under this part shall meet all terms and obligations in an
2 agreement by the project completion date, but the board may
3 for good cause extend the project completion date or otherwise
4 amend an agreement.
5 2. During the maintenance period an eligible business
6 receiving incentives or assistance under this part shall
7 continue to comply with the terms and obligations of an
8 agreement entered into pursuant to section 15.330.
9 3. The authority may enforce the terms of an agreement as
10 necessary and appropriate.
11 Sec. 9. NEW SECTION. **15.331 Withholding tax payment**
12 **diversion.**
13 1. If the authority enters into an agreement pursuant to
14 this part, or pursuant to chapter 15E, division XVIII, for
15 any of the incentives or assistance provided under this part,
16 the authority and the eligible business may agree to credit a
17 portion of the payments required under section 422.16 to the
18 authority as provided in this section.
19 2. *a.* An eligible business entering into a withholding
20 agreement with the authority pursuant to this section shall
21 remit the total amount of withholding payments due pursuant to
22 section 422.16 to the department of revenue.
23 *b.* The department of revenue shall, beginning July 1 of each
24 fiscal year, quarterly deposit in a fund created pursuant to
25 section 15.106A an amount equal to two and one-half percent of
26 the gross wages paid by the eligible business to each employee
27 holding a created or retained job covered by an agreement
28 entered into pursuant to this part or chapter 15E, division
29 XVIII, until such deposits reach ten million dollars or until
30 June 30 of the fiscal year, whichever comes first. Moneys to
31 be deposited pursuant to this paragraph shall not be paid to
32 the authority until the correct amounts have been verified by
33 the department of revenue.
34 3. Withholding payments shall be deposited pursuant to this
35 section by the department of revenue for each employee holding

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a created or retained job for the duration of the agreement between the eligible business and the authority.

4. The authority and the eligible business shall provide to the department of revenue any information necessary to correctly process the diversion of withholding tax payments pursuant to this section.

5. An employee holding a created or retained job shall receive full credit for the amount withheld as provided in section 422.16.

6. If a portion of the employee's gross wages are subject to a withholding credit diversion under chapter 260E, chapter 260G, or section 403.19A, or a supplemental withholding credit diversion under sections 15A.7 and 15E.197, when a withholding credit diversion under this section is agreed to, then the withholding payments shall be credited in the following order of priority:

*a.* First, the withholding payments to be credited pursuant to chapters 260E and 260G and sections 15A.7 and 15E.197.

*b.* Second, the withholding payments to be credited pursuant to this section until the deposits reach the amount specified in subsection 2.

*c.* Third, the withholding payments to be credited pursuant to section 403.19A.

7. The authority, in conjunction with the department of revenue, shall adopt rules for the implementation of this section.

Sec. 10. 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~~ twenty 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

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following schedule:

Sec. 11. Section 15.335A, subsection 2, paragraphs b, c, f, and g, Code Supplement 2011, are amended by striking the paragraphs.

Sec. 12. Section 15.335A, subsections 3 and 4, Code Supplement 2011, are amended by striking the subsections.

Sec. 13. 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. 14. 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 the moneys deposited by the department of revenue pursuant to section 15.331.

*c.* Interest or earnings on moneys deposited in a fund to be 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.* Moneys deposited pursuant to 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

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1 6.
2 (3) For providing financial assistance for business
3 accelerators pursuant to section 15E.351.
4 (4) For deposit in the innovation and commercialization
5 fund created pursuant to section 15.412.
6 (5) For providing financial assistance to businesses
7 engaged in disaster recovery.
8 (6) For providing financial assistance to Iowa's councils
9 of governments.
10 *b.* Each fiscal year, the authority shall estimate the
11 amount of revenues available for purposes of this section and
12 shall develop a budget appropriate for the expenditure of the
13 revenues available.
14 3. In providing assistance under this section, the
15 authority shall make a determination as to the amount and
16 type of assistance that is most appropriate for facilitating
17 the successful completion of an eligible business's project.
18 Before making such a determination, the authority shall do all
19 of the following:
20 *a.* Consider a business's eligibility for the tax incentives
21 available under section 15.335A and ensure that the amount of
22 assistance to be provided appropriately complements the amount
23 and type of tax incentives to be provided.
24 *b.* Consider the amount of private sector investment to be
25 leveraged by the project, including the eligible business's
26 equity investment, debt financing, and any venture capital or
27 foreign investment available, and make a good-faith effort to
28 provide only the amount of incentives and assistance necessary
29 to facilitate the project's successful completion.
30 *c.* Consider the amount and type of the local community
31 match. The authority may provide assistance to an early-stage
32 business in a high-growth industry regardless of the amount of
33 local match involved.
34 *d.* Calculate the fiscal impact ratio of the project and use
35 it to guide the provision of incentives and assistance under

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1 this part.
2 *e.* Evaluate the quality of the project based on the factors
3 described in section 15.329, subsection 5, and any other
4 relevant factors.
5 *f.* Ensure that the combined amount of incentives and
6 assistance are appropriate to the size of the project, to
7 the value of the project, to the fiscal impact ratio of the
8 project, and to any other relevant factors.
9 4. Each eligible business receiving assistance under this
10 section shall enter into an agreement with the authority and
11 the agreement shall meet the requirements of sections 15.330
12 and 15.330A.
13 Sec. 15. NEW SECTION. **15.335C Economically distressed**
14 **areas.**
15 1. *a.* Notwithstanding section 15.329, subsection 1,
16 paragraph *"c"*, the authority may provide tax incentives or
17 project completion assistance under this part to an eligible
18 business paying less than one hundred twenty percent of the
19 qualifying wage threshold if that business is located in an
20 economically distressed area.
21 *b.* A business in an economically distressed area receiving
22 incentives or assistance pursuant to this section shall be
23 required to pay at least one hundred percent of the qualifying
24 wage threshold.
25 2. For purposes of this section, *"economically distressed*
26 *area"* means a county that ranks among the bottom twenty-five of
27 all Iowa counties, as measured by one of the following:
28 *a.* Average monthly unemployment level for the most recent
29 twelve-month period.
30 *b.* Average annualized unemployment level for the most recent
31 five-year period.
32 Sec. 16. Section 15A.7, subsection 3, Code Supplement 2011,
33 is amended to read as follows:
34 3. That the employer shall agree to pay wages for the jobs
35 for which the credit is taken of at least the ~~county wage or~~

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1 ~~the regional~~ laborshed wage, as calculated by the authority
2 pursuant to section ~~15G.112~~ 15.327, subsection ~~3, whichever~~
3 ~~is lower~~ 7C. Eligibility for the supplemental credit shall
4 be based on a one-time determination of starting wages by the
5 community college.
6 Sec. 17. Section 15E.193, subsection 1, paragraph b,
7 subparagraph (1), Code Supplement 2011, is amended to read as
8 follows:
9 (1) The business shall provide a sufficient package of
10 benefits to each employee holding a created or retained job.
11 For purposes of this paragraph, *"created job"* and *"retained job"*
12 have the same meaning as defined in section ~~15G.101~~ 15.327.
13 Sec. 18. Section 15E.193, subsection 1, paragraphs c and d,
14 Code Supplement 2011, are amended to read as follows:
15 *c.* The business shall pay a wage that is at least ninety
16 percent of the qualifying wage threshold. For purposes of this
17 paragraph, *"qualifying wage threshold"* has the same meaning as
18 defined in section ~~15G.101~~ 15.327.
19 *d.* Creates or retains at least ten full-time equivalent
20 positions and maintains them until the maintenance period
21 completion date. For purposes of this paragraph, *"maintenance*
22 *period completion date"* and *"full-time equivalent position"* have
23 the same meanings as defined in section ~~15G.101~~ 15.327.
24 Sec. 19. Section 15E.231, unnumbered paragraph 1, Code
25 Supplement 2011, is amended to read as follows:
26 In order for an economic development region to receive
27 ~~moneys under the economic development financial assistance~~
28 ~~program established in section 15G.112~~ assistance pursuant to
29 section 15.335B, an economic development region's regional
30 development plan must be approved by the authority. An
31 economic development region shall consist of not less than
32 three counties, unless two contiguous counties have a combined
33 population of at least three hundred thousand based on the
34 most recent federal decennial census. An economic development
35 region shall establish a focused economic development effort

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that shall include a regional development plan relating to one or more of the following areas:

Sec. 20. 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

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1 dollar contribution of local moneys for every three dollars
2 received from the economic development fund.
3 4. An economic development region may apply for financial
4 assistance from ~~the economic development~~ a fund established
5 pursuant to section 15.335B to establish and operate an
6 entrepreneurial initiative. In order to receive financial
7 assistance under this subsection, an economic development
8 region must demonstrate the ability to provide local matching
9 moneys on a basis of a one dollar contribution of local moneys
10 for every two dollars received from the economic development
11 fund.
12 5. *a.* An economic development region may apply for
13 financial assistance from ~~the economic development~~ a fund
14 established pursuant to section 15.335B to establish and
15 operate a business succession assistance program for the
16 region.
17 *b.* In order to receive financial assistance under this
18 subsection, an economic development region must demonstrate
19 the ability to provide local matching moneys on a basis of a
20 one dollar contribution of local moneys for every two dollars
21 received from the economic development fund.
22 6. An economic development region may apply for financial
23 assistance from ~~the economic development~~ a fund established
24 pursuant to section 15.335B to implement economic development
25 initiatives that are either unique to the region or innovative
26 in design and implementation. In order to receive financial
27 assistance under this subsection, an economic development
28 region must demonstrate the ability to provide local matching
29 moneys on a one-to-one basis.
30 Sec. 21. Section 15E.351, subsection 1, Code Supplement
31 2011, is amended to read as follows:
32 1. The economic development authority shall establish and
33 administer a business accelerator program to provide financial
34 assistance for the establishment and operation of a business
35 accelerator for technology-based, value-added agricultural,

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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~~ section 15.335B, subsection ~~9~~ 2.

Sec. 22. 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. 23. 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

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15.335B.

Sec. 24. 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. 25. Section 455B.433, Code Supplement 2011, is amended to read as follows:

**455B.433 Physical infrastructure assistance — funding — liability.**

1. The department of natural resources shall work in conjunction with the economic development authority to identify environmentally contaminated sites which qualify for ~~the infrastructure component of the economic development financial assistance program established in section 15G.112~~ assistance under section 15.335B as necessary physical infrastructure projects. The department shall provide an assessment of the site and shall provide any emergency response activities which the department deems necessary. The department may take any further action, including remediation of the site, that the department deems to be appropriate and which promotes the purposes of the necessary physical infrastructure ~~component~~ project.

2. The department shall be reimbursed ~~from the economic development fund created in section 15G.111~~ by the economic development authority for any costs incurred pursuant to this section.

3. A person shall not have standing pursuant to section 455B.111 to commence a citizen suit which is based upon property that is ~~part of the infrastructure component of the economic development financial assistance program established in section 15G.112~~ receiving assistance pursuant to section 15.335B as a necessary physical infrastructure project.

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Sec. 26. RULES. The economic development authority shall adopt rules for the implementation of this division of this Act.

Sec. 27. 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 15.331.

Sec. 28. APPLICABILITY. The following provision or provisions of this division of this Act apply to awards of incentives or assistance made pursuant to the high quality jobs program or the enterprise zones program on or after the date of enactment:

1. The section of this Act amending section 15.331.

DIVISION II

TARGETED INDUSTRIES PROGRAM

Sec. 29. 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. 30. Section 15.106B, subsection 2, paragraph d, subparagraph (1), Code Supplement 2011, is amended by adding the following new subparagraph division:

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.

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

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1 section 15E.52.
2 ~~*a.*~~ *b.* *"Internship"* means temporary employment of a student
3 that focuses on providing the student with work experience in
4 the student's field of study.
5 ~~*b. "Targeted industries"* means the industries of advanced~~
6 ~~manufacturing, biosciences, and information technology.~~
7 2. The authority ~~shall, upon board approval,~~ may contract
8 with service providers on a case-by-case basis for services
9 related to statewide commercialization development ~~in the~~
10 ~~targeted industries~~ of innovative businesses. Services
11 provided shall include all of the following:
12 *a.* Assistance provided directly to businesses by experienced
13 serial entrepreneurs for all of the following activities:
14 (1) Business plan development.
15 (2) Due diligence.
16 (3) Market assessments.
17 (4) Technology assessments.
18 (5) Other planning activities.
19 *b.* Operation and coordination of various available
20 competitive seed and prototype development funds.
21 *c.* Connecting businesses to private angel investors and the
22 venture capital community.
23 *d.* Assistance in obtaining access to an experienced pool
24 of managers and operations talent that can staff, mentor, or
25 advise start-up enterprises.
26 *e.* Support and advice for accessing sources of early stage
27 financing.
28 3. The authority shall establish and administer a program
29 to provide financial and technical assistance to encourage
30 prototype and concept development activities by innovative
31 businesses that have a clear potential to lead to commercially
32 viable products or services within a reasonable period of time
33 ~~in the targeted industries~~. Financial assistance shall be
34 awarded on a per project basis upon board approval. ~~The amount~~
35 ~~of financial assistance available for a single project shall~~

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~~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

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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~~

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1 ~~from federal economic stimulus funds to the innovation~~
2 ~~and commercialization development fund created in section~~
3 ~~15.412, provided the authority spends those moneys for the~~
4 ~~implementation of the recommendations included in the separate~~
5 ~~consultant reports on bioscience, advanced manufacturing,~~
6 ~~information technology, and entrepreneurship submitted to the~~
7 ~~department in calendar years 2004, 2005, and 2006.~~
8 5. *a.* (1) The authority shall establish and administer
9 an outreach program for purposes of assisting businesses with
10 applications to the federal small business innovation research
11 and small business technology transfer programs.
12 (2) The goals of this assistance are to increase the number
13 of successful phase II small business innovation research grant
14 proposals in the state, increase the amount of such grant
15 funds awarded in the state, stimulate subsequent investment by
16 industry, venture capital, and other sources, and encourage
17 businesses to commercialize promising technologies.
18 *b.* (1) In administering the program, the authority may
19 provide technical and financial assistance to businesses.
20 Financial assistance provided pursuant to this subsection shall
21 not exceed twenty-five thousand dollars to any single business.
22 (2) The authority may require successful applicants to
23 repay the amount of financial assistance received, but shall
24 not require unsuccessful applicants to repay such assistance.
25 Any moneys repaid pursuant to this subsection may be used to
26 provide financial assistance to other applicants.
27 *c.* The authority may also provide financial assistance
28 for purposes of helping businesses meet the matching funds
29 requirements of the federal small business innovation research
30 and small business technology transfer programs.
31 *d.* The authority may contract with outside service providers
32 for assistance with the programs described in this subsection
33 or may delegate the functions to be performed under this
34 subsection to the corporation pursuant to section 15.106B.
35 ~~10.~~ 6. The board shall adopt rules pursuant to chapter 17A

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1 necessary for the administration of this section.
2 Sec. 32. Section 15.412, subsections 2 and 3, Code
3 Supplement 2011, are amended to read as follows:
4 2. Moneys in the fund are appropriated to the authority and,
5 with the approval of the board, shall be used to facilitate
6 agreements, enhance commercialization ~~in the targeted~~
7 ~~industries~~, and increase the availability of skilled workers
8 ~~within the targeted industries~~ in innovative businesses. Such
9 moneys shall not be used for the support of retail businesses,
10 health care businesses, or other businesses requiring a
11 professional license.
12 3. Moneys in the fund~~, with the approval of the board,~~ may
13 also be used for the following purposes:
14 *a.* For assistance to entities providing student internship
15 opportunities.
16 ~~*b.* For increasing career awareness training.~~
17 ~~*c.* For recruiting management talent.~~
18 ~~*d.*~~ *b.* For assistance to entities engaged in prototype and
19 concept development activities.
20 ~~*e.*~~ *c.* For developing a statewide commercialization network.
21 ~~*f.* For deploying and maintaining an Iowa entrepreneur~~
22 ~~website.~~
23 ~~*g.* For funding asset mapping and supply chain initiatives,~~
24 ~~including for identifying methods of supporting lean~~
25 ~~manufacturing practices or processes.~~
26 ~~*h.* For information technology training.~~
27 ~~*i.* For networking events to facilitate the transfer of~~
28 ~~technology among researchers and industries.~~
29 ~~*j.* For funding student competition programs.~~
30 ~~*k.* For the purchase of advanced equipment and software~~
31 ~~at Iowa community colleges in order to support training and~~
32 ~~coursework related to the targeted industries.~~
33 Sec. 33. Section 15E.52, subsection 1, paragraph c, Code
34 Supplement 2011, is amended to read as follows:
35 *c.* *"Innovative business"* means a business applying novel

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1 or original methods to the manufacture of a product or the
2 delivery of a service. *"Innovative business"* includes but
3 is not limited to a business engaged in ~~a targeted industry~~
4 ~~as defined in section 15.411~~ the industries of advanced
5 manufacturing, biosciences, and information technology.
6 DIVISION III
7 OTHER ECONOMIC DEVELOPMENT CHANGES
8 Sec. 34. Section 15.106A, subsection 1, paragraph o, Code
9 Supplement 2011, is amended to read as follows:
10 *o.* Establish one or more funds within the state treasury
11 under the control of the authority. Moneys deposited in or
12 accruing to such a fund are appropriated to the authority for
13 purposes of administering the economic development programs in
14 this chapter, chapter 15E, or such other programs as directed
15 by law. Notwithstanding section 8.33 or 12C.7, or any other
16 provision to the contrary, moneys invested by the treasurer
17 of state pursuant to this subsection shall not revert to the
18 general fund of the state and interest accrued on the moneys
19 shall be moneys of the authority and shall not be credited to
20 the general fund. The nonreversion of moneys allowed under
21 this paragraph does not apply to moneys appropriated to the
22 authority by the general assembly.
23 Sec. 35. REPEAL. Sections 15.103 and 15.104, Code
24 Supplement 2011, are repealed.
25 DIVISION IV
26 FILM TAX CREDIT PROGRAM
27 Sec. 36. Section 2.48, subsection 3, paragraph c,
28 subparagraph (5), Code 2011, is amended by striking the
29 subparagraph.
30 Sec. 37. Section 15.119, subsection 2, paragraph b, Code
31 Supplement 2011, is amended by striking the paragraph.
32 Sec. 38. Section 422.7, subsection 52, Code Supplement
33 2011, is amended by striking the subsection.
34 Sec. 39. Section 422.33, subsections 23 and 24, Code
35 Supplement 2011, are amended by striking the subsections.

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1 Sec. 40. Section 422.35, subsection 23, Code Supplement
2 2011, is amended by striking the subsection.
3 Sec. 41. Section 422.60, subsections 10 and 11, Code
4 Supplement 2011, are amended by striking the subsections.
5 Sec. 42. Section 533.329, subsection 2, paragraphs f and g,
6 Code Supplement 2011, are amended by striking the paragraphs.
7 Sec. 43. REPEAL. Sections 15.391, 15.392, 422.11T,
8 422.11U, 432.12J, and 432.12K, Code 2011, are repealed.
9 Sec. 44. REPEAL. Section 15.393, Code Supplement 2011, is
10 repealed.
11 Sec. 45. EFFECTIVE UPON ENACTMENT. This division of this
12 Act, being deemed of immediate importance, takes effect upon
13 enactment.
14 Sec. 46. RETROACTIVE APPLICABILITY. This division of this
15 Act applies retroactively to January 1, 2012, for tax years
16 beginning on or after that date.
17 Sec. 47. APPLICABILITY. This division of this Act does not
18 apply to contracts or agreements entered into on or before the
19 effective date of this division of this Act.
20 EXPLANATION
21 This bill relates to economic development and the use of
22 funds by affecting programs, tax incentives, and project
23 completion and other assistance administered by the economic
24 development authority. The bill diverts withholding tax
25 payments for such programs, incentives, and assistance. The
26 bill provides general spending authority to the economic
27 development authority for funds established pursuant to Code
28 section 15.106A. The bill abolishes the film tax credit
29 program.
30 HIGH QUALITY JOBS PROGRAM. Division I relates to assistance
31 in the high quality jobs program and related assistance and
32 programs.
33 The bill amends Code chapter 15, part 13, to provide for
34 assistance when providing for incentives. The bill includes
35 amendments to definitions, which incorporate the language of

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1 the definitions in Code chapter 15G, the economic development
2 fund and financial assistance program (formerly, the grow Iowa
3 values fund and program), which is repealed June 30, 2012, with
4 some modifications. The bill transfers the definitions of
5 "created job", "maintenance period completion date", "retained
6 job", "financial assistance", "full-time equivalent position",
7 "maintenance period", and "project completion period" from Code
8 section 15G.101 to Code section 15.327.
9 The bill transfers the definitions of "benefit", "fiscal
10 impact ratio", "project completion date", "qualifying wage
11 threshold", and "base employment level" from Code section
12 15G.101 to Code section 15.327, with modifications. The bill
13 changes the definition of "benefit" by providing that the
14 economic development board, rather than the authority, shall
15 determine any other nonwage compensation that is considered a
16 benefit. The bill changes the calculation of a "fiscal impact
17 ratio". The estimated taxes to be received by the state from a
18 business would be divided by the estimated cost to the state of
19 providing certain project completion assistance and incentives
20 to the business rather than dividing the estimated taxes by
21 the cost of providing financial incentives to the business.
22 The bill amends the definition of "project completion date"
23 to provide that the person may be a recipient of project
24 completion assistance rather than financial assistance. The
25 bill amends the definition of "qualifying wage threshold".
26 The bill provides that the qualifying wage threshold means
27 the "laborshed wage" as defined in the bill rather than the
28 county or regional wage. The bill provides that the "base
29 employment level" is calculated as of the date the business
30 applies for incentives or project completion assistance rather
31 than financial assistance.
32 The bill also adds definitions for "business engaged in
33 disaster recovery", "fund", "laborshed wage", "necessary
34 physical infrastructure project", "program support", and
35 "project completion assistance" in Code section 15.327. The

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1 bill provides that a "business engaged in disaster recovery"
2 means a business located in a federally declared disaster
3 area that sustained substantial physical damage and closed
4 as a result of the disaster, but has a plan for reopening
5 that includes employing a substantial number of the employees
6 the business employed before the natural disaster. The bill
7 provides that "fund" means a fund created pursuant to new Code
8 section 15.335B. The bill provides that "laborshed wage" means
9 the wage level represented by those wages within two standard
10 deviations from the mean wage within the laborshed area, as
11 calculated by the authority. The bill defines "necessary
12 physical infrastructure project" as a project creating
13 necessary infrastructure for economic success by providing
14 the foundation for job creation, and involving investment of
15 capital. The bill defines "program support" as the services
16 necessary for the efficient administration of the high quality
17 jobs program. The bill defines "project completion assistance"
18 as financial or technical assistance provided to an eligible
19 business to facilitate the start-up, location, or expansion of
20 the business.
21 The bill strikes the definitions for "benefits", "county
22 wage", "qualifying wage threshold", and "regional wage" as used
23 in Code section 15.335A, as those definitions placed by the
24 bill in Code section 15.327 also apply to Code section 15.335A.
25 The bill amends Code section 15.329 regarding qualifying
26 wage thresholds for eligible businesses. The current law
27 requires that any jobs created or retained pay at least
28 130 percent of the qualifying wage threshold at the project
29 completion date until the maintenance period completion
30 date. The bill provides that a business eligible to receive
31 incentives or assistance for creating or retaining jobs must
32 pay at least 120 percent of the qualifying wage threshold
33 at the project completion date until the maintenance period
34 completion date. The bill also eliminates a credit against
35 the qualifying wage threshold for businesses that create or

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1 retain jobs with sufficient benefits packages. However, the
2 bill allows the authority to provide assistance to a business
3 paying less than 120 percent but at least 100 percent of the
4 qualifying wage threshold if the business is located in an
5 economically distressed area. An economically distressed
6 area is defined in the bill as a county that ranks among the
7 bottom 25 counties in Iowa based on either the average monthly
8 unemployment level for the most recent 12-month period, or
9 the average annualized unemployment level for the most recent
10 five-year period.
11 The bill amends Code section 15.330 to include financial
12 assistance where the statutory language provides for
13 incentives. The bill also amends Code section 15.330 to
14 eliminate references to Code chapter 15G, the economic
15 development fund and financial assistance program, which is
16 repealed on June 30, 2012.
17 The bill provides that an agreement between the business
18 and the authority that specifies the requirements to be met to
19 confirm eligibility must include the amount and type of project
20 completion assistance to be provided, the amount of matching
21 funds from a city or county, a provision that the business
22 shall not close or substantially reduce operations as those
23 terms are modified in the bill, a provision that the proposed
24 project shall not negatively impact other businesses in
25 competition with the business being considered for assistance,
26 a report submitted to the authority describing violations of
27 environmental law or worker safety law, a provision that the
28 business shall only employ individuals legally authorized to
29 work in the state, and any terms necessary to effect compliance
30 with the eligibility requirements of Code section 15.329.
31 The bill adds a new Code section 15.330A regarding the
32 maintenance of agreements. The new Code section provides that
33 an eligible business that is receiving incentives or assistance
34 must meet the terms and obligations in the agreement by the
35 project completion date and the business must comply with the

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1 agreement throughout the maintenance period. If the recipient
2 business experiences a layoff or closure within the state, the
3 authority is authorized to reduce or eliminate part or all of
4 the incentives or assistance. The business may also be subject
5 to repayment of the incentives and assistance. The bill allows
6 the authority to enforce the terms of an agreement as necessary
7 and appropriate.
8 The bill eliminates the county wage or regional wage
9 calculations as a tool for determining whether to grant a
10 project-specific waiver. The bill also eliminates a provision
11 that prohibits the authority from approving more than $3.6
12 million worth of investment tax credits for projects with
13 qualifying investments of less than $1 million.
14 The bill provides that one or more funds shall be established
15 within the state treasury to be used for assistance under newly
16 created Code section 15.335B. One of the funds shall consist
17 of moneys deposited by the department of revenue pursuant to
18 a withholding tax diversion through new Code section 15.331.
19 Moneys deposited into the fund shall be used for project
20 completion assistance, economic development region financial
21 assistance, financial assistance for business accelerators, the
22 innovation and commercialization fund, financial assistance
23 to businesses engaged in disaster recovery, and financial
24 assistance to Iowa's councils of governments.
25 The bill provides that the authority shall estimate the
26 revenues available for project completion and shall develop
27 a budget for the expenditure of funds each fiscal year. In
28 providing assistance, the authority shall make determinations
29 as to the amount and type of assistance that is most
30 appropriate. Each eligible business that receives assistance
31 under Code section 15.335B must enter into an agreement with
32 the authority that meets the requirements of agreements under
33 the high quality jobs program pursuant to Code sections 15.330
34 and 15.330A.
35 The bill provides that the authority may enter into

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1 agreements with recipients of financial assistance under the
2 high quality jobs program and the enterprise zones program that
3 allow for the diversion of withholding tax payments pursuant
4 to Code section 422.16 from the department of revenue to the
5 authority. The diversion amount will be 2.5 percent of gross
6 wages paid by eligible businesses to each employee considered
7 to be holding a created or retained job. The bill provides
8 that the authority may only deposit $10 million from this
9 diversion each fiscal year. The bill establishes a priority
10 withholding order if the employee's wages are subject to
11 another withholding diversion. The bill provides that the
12 withholding diversion takes effect upon enactment and applies
13 to awards of incentives and assistance made under those
14 programs on or after the date of the bill's enactment.
15 The bill removes references to the economic development
16 fund and financial assistance program and replaces it with the
17 assistance created by new Code section 15.335B.
18 TARGETED INDUSTRIES PROGRAM. Division II relates to the
19 targeted industries program. The term "targeted industries"
20 in Code section 15.411 is replaced with "innovative business".
21 The bill no longer requires board approval for the authority
22 to contract with service providers for services related to
23 commercialization development. The bill removes the $150,000
24 limitation on financial assistance for a single project of
25 an innovative business. The bill removes the requirement
26 that the authority administer a program to provide financial
27 assistance for projects designed to encourage collaboration
28 between commercial users and developers of information
29 technology. The bill also removes the requirement the
30 authority establish and administer a program to provide
31 financial assistance to business or business departments
32 engaged in the delivery of information technology services
33 in the state. The bill eliminates the requirement that the
34 authority and department of workforce development create a
35 statewide supplier capacity and product database. The bill

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1 provides that applications for financial assistance under the
2 innovative businesses program no longer require a review by
3 the technology commercialization committee. The bill removes
4 the transfer provisions relating to money received by the
5 authority as loan repayments or recaptures of federal economic
6 stimulus funds. The bill requires the authority to establish
7 and administer an outreach program to assist businesses with
8 applications to the federal small business innovation research
9 and small business technology transfer programs. However,
10 the authority may contract with outside service providers for
11 assistance with the program or may delegate the administration
12 of the program to the Iowa innovation corporation pursuant to
13 Code section 15.106B. The authority may provide technical
14 or financial assistance and may require that successful
15 applicants repay any financial assistance received. The
16 bill specifies that moneys appropriated to the innovation
17 and commercialization development fund shall not be used for
18 retail businesses, health care businesses, or other businesses
19 requiring a professional license. The bill also reduces the
20 number of purposes for which money in the innovation and
21 commercialization development fund may be used.
22 OTHER ECONOMIC DEVELOPMENT CHANGES. Division III of the
23 bill repeals Code sections 15.103 and 15.104, relating to the
24 economic development board, which was replaced by the economic
25 development authority board in Code section 15.105.
26 The bill provides spending authority for moneys deposited
27 in or accruing to funds established pursuant to Code section
28 15.106A for the purposes of administering economic development
29 programs in Code chapters 15 and 15E, or other programs as
30 directed by law.
31 FILM TAX CREDIT PROGRAM. Division IV repeals the film tax
32 credit program and the tax credits provided under that program.
33 The bill makes changes corresponding to the repeal of the
34 program and the related tax credits.

**House File 2419 - Introduced**

HOUSE FILE 2419
BY COMMITTEE ON ECONOMIC
GROWTH/REBUILD IOWA

(SUCCESSOR TO HF 2237)

## A BILL FOR

1 An Act relating to the rebate of state sales tax to the owner or
2 operator of a baseball and softball tournament facility and
3 movie site.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5471HV (3) 84
mm/sc

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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

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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 423F.2. 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

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1 tourist destination, which facility is located on a maximum of
2 two hundred seventy-nine acres, located inside or within three
3 miles of the city limits of a city with a population of at least
4 four thousand but not more than five thousand five hundred
5 residents, which city is located in a county with a population
6 of at least ninety-three thousand but not more than one hundred
7 thousand residents and where the construction on the baseball
8 and softball tournament facility commenced not later than one
9 year following the enactment of this Act, and the cost of the
10 construction upon completion was at least thirty-eight million
11 dollars.
12 (2) *"Change of control"* means any of the following:
13 (a) Any change in the ownership of the original or any
14 subsequent legal entity that is the owner or operator of the
15 baseball and softball tournament facility and movie site such
16 that more than fifty percent of the equity interests in the
17 legal entity cease to be owned by individuals who are residents
18 of Iowa, an Iowa corporation, or combination of both.
19 (b) The original owners of the legal entity that is the
20 owner or operator of the baseball and softball tournament
21 facility and movie site shall collectively cease to own more
22 than fifty percent of the voting equity interests of such legal
23 entity or shall otherwise cease to have effective control of
24 such legal entity.
25 (3) *"Iowa corporation"* means a corporation incorporated
26 under the laws of Iowa where at least fifty percent of the
27 corporation's equity interests are owned by individuals who are
28 residents of Iowa.
29 (4) *"Owner or operator"* means a for-profit legal entity
30 where at least fifty percent of its equity interests are owned
31 by individuals who are residents of Iowa, an Iowa corporation,
32 or combination of both and that is the owner or operator of a
33 baseball and softball tournament facility and movie site and is
34 primarily a promoter of baseball and softball tournaments.
35 (5) *"Population"* means the population based upon the 2010

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1 certified federal census.
2 *b.* The owner or operator of a baseball and softball
3 tournament facility and movie site may apply to the department
4 for a rebate of sales tax imposed and collected by retailers
5 upon sales of any goods, wares, merchandise, admission tickets,
6 or services furnished to purchasers at the baseball and
7 softball tournament facility and movie site.
8 *c.* The rebate may be obtained only in the following amounts
9 and manner and only under the following conditions:
10 (1) On forms furnished by the department within the time
11 period provided by the department by rule, which time period
12 shall not be longer than quarterly.
13 (2) The owner or operator shall provide information as
14 deemed necessary by the department.
15 (3) The transactions for which sales tax was collected and
16 the rebate is sought occurred on or after January 1, 2014,
17 but before January 1, 2024. However, not more than sixteen
18 million five hundred thousand dollars in total rebates shall be
19 provided pursuant to this subsection.
20 (4) Notwithstanding subparagraph (3), the rebate of sales
21 tax shall cease for transactions occurring on or after the
22 date of the change of control of the baseball and softball
23 tournament facility and movie site.
24 *d.* To assist the department in determining the amount
25 of the rebate, the owner or operator shall identify to the
26 department retailers located at the baseball and softball
27 tournament facility and movie site who will be collecting sales
28 tax. The department shall verify such identity and ensure
29 that all proper permits have been issued. For purposes of
30 this subsection, advance ticket and admissions sales shall be
31 considered occurring at the baseball and softball tournament
32 facility and movie site regardless of where the transactions
33 actually occur.
34 *e.* There is established within the state treasury under the
35 control of the department a baseball and softball tournament

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1 facility and movie site sales tax rebate fund consisting of
2 the amount of state sales tax revenues transferred pursuant
3 to section 423.2, subsection 11, paragraph *"b"*, subparagraph
4 (4). An account is created within the fund for each baseball
5 and softball tournament facility and movie site meeting the
6 qualifications of this subsection. Moneys in the fund shall
7 only be used to provide rebates of state sales tax pursuant
8 to this subsection, and only the state sales tax revenues in
9 the baseball and softball tournament facility and movie site
10 rebate fund are subject to rebate under this subsection. Not
11 more than sixteen million five hundred thousand dollars in
12 total rebates shall be paid from the fund. Any moneys in the
13 fund which represent state sales tax revenue for which the time
14 period in paragraph *"c"* for receiving a rebate has expired,
15 or which otherwise represent state sales tax revenue that has
16 become ineligible for rebate pursuant to this subsection, shall
17 immediately revert to the general fund of this state.
18 *f.* Upon determining that the conditions and requirements
19 of this subsection and the department are met, the department
20 shall issue a warrant from the applicable account within the
21 baseball and softball tournament facility and movie site rebate
22 fund to the owner or operator in the amount equal to the amount
23 claimed and verified by the department.
24 *g.* This subsection is repealed June 30, 2024, or thirty
25 days following the date on which sixteen million five hundred
26 thousand dollars in total rebates have been provided, or thirty
27 days following the date on which rebates cease as provided in
28 paragraph *"c"*, subparagraph (4), whichever is the earliest.
29 EXPLANATION
30 This bill authorizes the department of revenue to rebate
31 sales tax collected by retailers on purchases made at a
32 baseball and softball tournament facility and movie site. To
33 be eligible for the rebate the baseball and softball tournament
34 facility and movie site must be located on a maximum of 279
35 acres and located inside or within three miles of the city

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limits of a city with a population between 4,000 and 5,500, which is located in a county with a population between 93,000 and 100,000. In addition, construction on the facility must commence not later than one year following the enactment of the bill, and the cost of the construction must be at least $38 million.

The person eligible to receive the rebate is the owner or operator of the baseball and softball tournament facility and movie site. The rebate of sales tax only applies to the sales tax collected on transactions occurring on or after January 1, 2014, and before January 1, 2024, and shall only be paid from the baseball and softball tournament facility and movie site sales tax rebate fund created in the bill.

The bill creates the baseball and softball tournament facility and movie site sales tax rebate fund consisting of the remaining amount of state sales tax revenue collected upon tangible personal property or services furnished to purchasers at the baseball and softball tournament facility and movie site after subtracting the local option sales tax under Code chapter 423B, the natural resources and outdoor recreation trust fund transfer pursuant to Article VII, section 10, of the Constitution of the State of Iowa if applicable, and the secure an advanced vision for education fund transfer pursuant to Code section 423F.2. Rebates are paid only from this rebate fund and are limited to the amounts in the fund. The total amount that may be rebated from the fund and under the bill is $16.5 million.

The rebate ceases if control of the facility changes. The rebate provision is repealed June 30, 2024, or 30 days after a total of $16.5 million has been rebated, whichever occurs earlier.

**House File 2420 - Introduced**

HOUSE FILE 2420
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 622)

## A BILL FOR

1 An Act relating to department of public health programs and
2 activities, providing for a penalty, and including effective
3 and applicability date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6030HV (2) 84
ad/nh

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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~~

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~~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,~~

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~~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,~~

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~~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:

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**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

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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~~

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~~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.~~

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~~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.

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1 Sec. 20. EFFECTIVE UPON ENACTMENT. The following provision
2 or provisions of this division of this Act, being deemed of
3 immediate importance, take effect upon enactment:
4 1. The section of this Act amending section 137.112.
5 Sec. 21. RETROACTIVE APPLICABILITY. The following
6 provision or provisions of this division of this Act apply
7 retroactively to July 1, 2010:
8 1. The section of this Act amending section 137.112.
9 DIVISION IV
10 FEDERAL GRANTS REPORTING
11 Sec. 22. Section 135.11, Code Supplement 2011, is amended by
12 adding the following new subsection:
13 NEW SUBSECTION. 31. Report to the chairpersons and ranking
14 members of the joint appropriations subcommittee on health
15 and human services, the legislative services agency, the
16 legislative caucus staffs, and the department of management
17 within sixty calendar days of applying for or renewing a
18 federal grant which requires a state match or maintenance of
19 effort and has a value of over one hundred thousand dollars.
20 The report shall list the federal funding source and address
21 the potential need for the commitment of state funding in order
22 to match or continue the funding provided by the federal grant
23 in the present or future.
24 DIVISION V
25 HIV CONFIDENTIALITY
26 Sec. 23. Section 141A.9, Code Supplement 2011, is amended by
27 adding the following new subsection:
28 NEW SUBSECTION. 8. Medical information secured pursuant
29 to subsection 1 may be shared with other state or federal
30 agencies, with employees or agents of the department, or with
31 local units of government that have a need for the information
32 in the performance of their duties related to HIV prevention,
33 disease surveillance, or care of persons with HIV, only as
34 necessary to administer the program for which the information
35 is collected or to administer a program within the other

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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.

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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

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1 certificate issued pursuant to this chapter, or who commits
2 a violation for which a registration certificate may be
3 revoked under rules issued pursuant to this chapter. Each
4 day of continuing violation constitutes a separate offense
5 in computing the civil penalty. However, the maximum civil
6 penalty for a continuing violation shall not exceed five
7 thousand dollars.
8 2. The department shall notify a person of the intent to
9 impose a civil penalty against the person. The department
10 shall establish the notification process to include an
11 opportunity for the person to respond in writing, within a
12 reasonable time as the department shall establish by rule,
13 regarding reasons why the civil penalty should not be imposed.
14 3. The department may compromise, mitigate, or refund a
15 civil penalty imposed under this section. A person upon whom
16 a civil penalty is imposed may appeal the action pursuant to
17 chapter 17A. The department shall remit moneys collected from
18 civil penalties to the treasurer of the state who shall deposit
19 the moneys in the general fund of the state.
20 EXPLANATION
21 This bill relates to programs and activities under the
22 purview of the department of public health.
23 Division I relates to nursing home administrators. The bill
24 eliminates certain provisions in the Code chapter that are
25 duplicative or inconsistent with the provisions in Code chapter
26 147, relating to health-related professions generally. The
27 bill eliminates the requirement that an applicant for a nursing
28 home administrator license satisfactorily complete a course of
29 instruction and training that was designed and administered
30 to present sufficient knowledge of the needs properly to be
31 served by nursing homes, knowledge of the laws governing the
32 operation of nursing homes and the protection of the interests
33 of patients, and knowledge of the elements of good nursing home
34 administration. The bill amends Code section 155.3 to state
35 that the board of nursing home administrators prescribes the

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1 examination pursuant to Code section 147.34, which governs
2 the examinations required for licensure for health care
3 professions, rather than administering the exam that tests
4 for competence in the needs properly to be served by nursing
5 homes, laws governing the operation of nursing homes and the
6 protection of the interests of patients, and the elements of
7 good nursing home administration.
8 The bill adds that the board shall license nursing home
9 administrators in accordance with the rules as well as Code
10 chapters 147 and 155. The bill makes technical changes
11 regarding the terminology of a licensee's voluntary or
12 involuntary loss of license and refers to Code section 147.55
13 for revocation of a nursing home administrator's license while
14 eliminating language in Code section 155.4 subjecting any
15 denial of issuance or renewal, suspension, or revocation under
16 Code chapter 155 to the judicial review procedure under Code
17 chapter 17A.
18 The bill makes technical changes to the licensing fees
19 provision. The bill allows the board to determine the
20 multiyear interval in which a license shall expire and allows
21 for the license to be renewed upon payment of a renewal fee
22 rather than a license fee.
23 The bill provides that the board has the general duties
24 and responsibilities for health-related boards listed in Code
25 chapters 147 and 272C and strikes the board's specific duties
26 relating to standards to be met by individuals in order to
27 receive licenses as nursing home administrators; techniques for
28 determining whether an individual meets the required standards;
29 the issuance of and disciplinary actions relating to licenses;
30 and complaints against nursing home administrators. The bill
31 removes language allowing the board to conduct a continuing
32 study and investigation of nursing homes and administrators in
33 the state to improve the standards. The bill strikes language
34 allowing the board to conduct or cause to be conducted courses
35 of instruction and training sufficient to meet the requirements

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1 of Code chapter 155.
2 The bill retains language in Code section 155.9 that allows
3 the board to establish rules to grant a provisional license to
4 an administrator, but makes technical changes. The bill allows
5 the board to grant a provisional license to an administrator
6 appointed on a temporary basis by a nursing home's owner
7 if the regular administrator is unable to perform the
8 administrator's duties or the nursing home is otherwise without
9 an administrator for some other reason. The bill strikes a
10 provision which states that an administrator appointed on a
11 temporary basis could not perform the duties for a period which
12 exceeds one year. The bill provides that a provisional license
13 can be held for no more than 12 combined months and the board
14 may revoke or otherwise discipline a person with a provisional
15 license for cause after due notice and a hearing.
16 The bill strikes the language in Code section 155.10
17 regarding renewal of licenses. Under the bill, Code chapter
18 272C would control the renewal of licenses. The bill provides
19 that a licensed nursing home administrator must complete
20 continuing education as a condition precedent for a license
21 renewal. The bill states the board will determine the
22 continuing education requirements.
23 The bill provides that applications for license renewal
24 shall be prescribed by the board. Under the amended language
25 of Code section 155.14, the bill states the board is not
26 required to furnish forms for licensure or license renewal.
27 The bill strikes the language regarding the characteristics the
28 board may consider when receiving an applicant's application.
29 Under the bill the characteristics to consider for eligibility
30 would be controlled by Code section 147.3.
31 The bill also adds a section to Code chapter 155 regarding a
32 licensee's voluntary surrender of a license. The bill states
33 the board may accept a voluntary surrender if it is accompanied
34 by a written statement of intention. The voluntary surrender
35 will have the same force and effect as revocation after the

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1 surrender is accepted.
2 The bill repeals the language regarding the composition
3 of the board of nursing home administrators. The board's
4 composition is governed by Code sections 147.12 through 147.20
5 and 147.82. The bill repeals the language in section 155.15
6 regarding the fees for examination, licensure, and renewal of
7 licensure. The language in Code section 147.80 would control.
8 The bill also repeals language in Code section 155.16 regarding
9 the public members of the board, making the language in Code
10 section 147.21 applicable.
11 Division II relates to hearing aid dispensers. The bill
12 eliminates certain provisions within Code chapter 154A as Code
13 chapter 147 regarding health-related professions now governs
14 the board of hearing aid dispensers in its provisions.
15 The bill eliminates language in Code section 154A.7
16 regarding board members' expenses for discharging duties and
17 members' eligibility to receive compensation provided in Code
18 section 7E.6. The bill also eliminates language in Code
19 section 154A.7 regarding a quorum. The language on board
20 members' expenses and compensation is provided in Code section
21 147.24 and the language on a board quorum is provided by Code
22 section 147.14(2).
23 The bill eliminates language regarding the date on which an
24 applicant may obtain a license and deletes the reference to the
25 fee provision in Code section 154A.17.
26 The bill amends Code section 154A.12 regarding the scope of
27 examination to require evidence, rather than a written test, of
28 the applicant's knowledge in areas such as physics of sound,
29 anatomy and physiology of hearing, and function of hearing
30 aids.
31 The bill amends Code section 154A.13 regarding temporary
32 permits and states that only an individual who has not been
33 licensed as a hearing aid dispenser, rather than a person who
34 has not been employed as a hearing aid dispenser, may obtain
35 a temporary permit. The bill also states that a fee for a

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1 temporary permit will be set by the board pursuant to Code
2 section 147.80 rather than Code section 154A.17, which is
3 repealed under the bill.
4 The bill removes language from Code chapter 154A regarding
5 the process for filing a complaint against a licensee or holder
6 of a temporary permit, the hearing process, the required
7 elements of a board's order, the notice of the order, and the
8 right to appeal the board's final order. Under the bill,
9 complaints would be governed by Code chapters 17A, 147, and
10 272C. The bill amends Code section 154A.23 to allow the board
11 to forward a copy of final disciplinary orders along with
12 the complaint to the attorney general for consideration for
13 prosecution or enforcement when warranted.
14 The bill repeals Code section 154A.2 regarding the
15 establishment of the board; Code section 154A.3 regarding
16 terms of board members; Code section 154A.4 regarding duties
17 of the board; Code section 154A.5 regarding public members
18 of the board; Code section 154A.6, regarding disclosure of
19 confidential information (the governing provision in Code
20 section 147.21(2) does not contain a provision which prohibits
21 the disclosure of an applicant's criminal history); Code
22 section 154A.8 regarding duties of the board; Code section
23 154A.9 regarding applications for licensure; Code section
24 154A.11 regarding examinations (however, the governing
25 provision in Code section 147.34 does not require examinations
26 to occur at least once a year and does not require the identity
27 of the applicant to be concealed until after the grading
28 of the exam); Code section 154A.14 concerning reciprocity;
29 Code section 154A.15 concerning license renewal (however,
30 Code section 147.10 does not require the department to mail
31 notice of the expiration date of a license at least a month
32 in advance); and Code section 154A.17 regarding fees. Code
33 section 154A.18, regarding the display of the license is
34 also repealed, however, Code sections 147.6 and 147.7 do not
35 prohibit a person from engaging in business as a hearing aid

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1 dispenser or displaying a sign or advertising to be a hearing
2 aid dispenser without a valid license nor do the Code sections
3 require the license to be conspicuously posted in the person's
4 primary location of practice. The Code sections instead state
5 that a license is presumptive evidence of the right to practice
6 and a board may require every person licensed by the board to
7 publicly display the license and evidence of current renewal.
8 Division III relates to local boards of health. The bill
9 strikes the definition of "sanitation officer". The bill
10 states that the district public health fund budget provisions
11 do not apply to a district board of health or district health
12 department in existence prior to July 1, 2010. The bill
13 repeals the department's duty to publish and distribute
14 its rules to the counties. The bill provides an immediate
15 effective date and retroactive date for the application of
16 the provisions of the health fund budget only to the district
17 boards of health or district health departments in existence
18 prior to July 1, 2010.
19 Division IV relates to reporting on federal grants. The
20 bill requires the department of public health to report to
21 chairpersons and ranking members of the joint appropriations
22 subcommittee on health and human services, the legislative
23 services agency, the legislative caucus staffs, and the
24 department of management within 60 days of applying for or
25 renewing a federal grant valued at over $100,000, if the grant
26 requires a state match or maintenance of effort. The report
27 must list the federal funding source and address the need
28 for the commitment of state funding to match or continue the
29 funding provided by the federal grant.
30 Division V relates to HIV confidentiality. The bill adds a
31 new provision allowing medical information secured pursuant to
32 Code section 141A.9 to be shared with other state or federal
33 agencies, employees or agents of the department, or with local
34 units of government. The information may be shared when
35 the persons or entities have a need for the information in

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1 the performance of their duties related to HIV prevention,
2 disease surveillance, or care of persons with HIV and only as
3 necessary to administer the program for which the information
4 is collected or to administer a program within the other
5 agency. The confidential information transferred maintains its
6 confidential status and the receiving entity may not rerelease
7 the information.
8 Division VI relates to reporting requirements for hospitals
9 and nursing facilities. The bill repeals Code section
10 135.165, which requires hospitals and nursing facilities that
11 are recognized by the Internal Revenue Code as a nonprofit
12 organization or entity to annually submit a copy of the
13 internal revenue service form 990 to the department of public
14 health and the legislative services agency.
15 Division VII relates to radiological health.
16 The bill allows the department to regulate the operators of
17 radiation machines and users of radioactive material. The bill
18 makes the department's inspection of all radiation machines
19 and radioactive materials in the state permissive rather than
20 mandatory. The bill provides the department is no longer
21 required to evaluate the radiation machine or radioactive
22 material, the electrical hazards, or the adequacy of mechanical
23 supporting and restraining devices.
24 The bill amends Code section 136C.14 to state that a person
25 other than a licensed professional who operates a radiation
26 machine or uses radioactive materials for medical treatment
27 or diagnostic purposes does not need to display his or her
28 credentials, but the person must provide credentials upon
29 request. The bill also provides that a person who owns or
30 controls the machine is no longer responsible for the proper
31 display of such credentials.
32 The bill amends the definitions for "tanning device" and
33 "tanning facility". The bill eliminates language stating that
34 "tanning device" includes accompanying equipment. The bill
35 eliminates the current definition for a tanning facility and

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1 provides that a "tanning facility" is not only a place for
2 providing access to tanning devices for compensation, but
3 also includes a place, area, structure, or business, or any
4 part thereof, that provides access to tanning devices for
5 compensation. The bill specifies that a tanning facility may
6 include but is not limited to a tanning salon, health club,
7 apartment, or condominium.
8 The bill inserts a penalty section into Code chapter 136 and
9 provides for the imposition of a civil penalty not to exceed
10 $1,000 on persons who violate a provision of the Code chapter,
11 a rule or order issued pursuant to the Code chapter, or a term,
12 condition, or limitation of a registration certificate issued
13 under the Code chapter. A civil penalty could also be imposed
14 on a person who commits a violation for which a registration
15 certificate may be revoked under the rules issued pursuant
16 to the Code chapter. Each day of a continuing violation
17 constitutes a separate offense for purposes of computing the
18 civil penalty; however, there is a maximum penalty of $5,000
19 for a continuing violation. The department must establish a
20 notification process which includes an opportunity for the
21 person facing the civil penalty to respond in writing within a
22 reasonable time as set by the department. A person upon whom a
23 civil penalty is imposed may appeal pursuant to Code chapter
24 17A. The bill also allows the department to compromise,
25 mitigate, or refund a civil penalty. The department must remit
26 the penalty to the treasurer of state who shall deposit the
27 money into the general fund of the state.

**House File 2421 - Introduced**

HOUSE FILE 2421
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 623)

## A BILL FOR

1 An Act relating to persons with mental health illnesses and
2 substance-related disorders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5422HV (3) 84
rh/rj

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1 Section 1. Section 80B.11, subsection 1, paragraph c, Code
2 2011, is amended by adding the following new subparagraph:
3 NEW SUBPARAGRAPH. (3) In-service training under this
4 paragraph "c" shall include the requirement that all law
5 enforcement officers complete a course on mental health at
6 least once every four years. In developing the requirements
7 for this training, the director shall seek input from mental
8 health care providers and mental health care consumers.
9 Sec. 2. Section 125.91, subsection 1, Code Supplement 2011,
10 is amended to read as follows:
11 1. The procedure prescribed by this section shall only be
12 used for an intoxicated person who has threatened, attempted,
13 or inflicted physical self-harm or harm on another, and is
14 likely to inflict physical self-harm or harm on another unless
15 immediately detained, or who is incapacitated by a chemical
16 substance, if ~~that person cannot be taken into immediate~~
17 ~~custody under sections 125.75 and 125.81 because immediate~~
18 ~~access to the court is not possible~~ an application has not been
19 filed naming the person as the respondent pursuant to section
20 125.75 and the person cannot be ordered into immediate custody
21 and detained pursuant to section 125.81.
22 Sec. 3. Section 135C.4, Code 2011, is amended to read as
23 follows:
24 **135C.4 Residential care facilities.**
25 1. Each facility licensed as a residential care facility
26 shall provide an organized continuous twenty-four-hour program
27 of care commensurate with the needs of the residents of the
28 home and under the immediate direction of a person approved
29 and certified by the department whose combined training
30 and supervised experience is such as to ensure adequate and
31 competent care.
32 2. All admissions to residential care facilities shall be
33 based on an order written by a physician certifying that the
34 individual being admitted does not require nursing services or
35 that the individual's need for nursing services can be avoided

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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. 4. 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.

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1 *b.* The individual holds a current Iowa license if
2 practicing in a field covered by an Iowa licensure law and is
3 a psychiatrist, an advanced registered nurse practitioner who
4 holds a national certification in psychiatric mental health
5 care registered by the board of nursing, a physician assistant
6 practicing under the supervision of a psychiatrist, or an
7 individual who holds a doctorate degree in psychology and is
8 licensed by the board of psychology.
9 Sec. 5. Section 229.1, Code Supplement 2011, is amended by
10 adding the following new subsection:
11 NEW SUBSECTION. 8A. *"Mental health professional"* means the
12 same as defined in section 228.1.
13 Sec. 6. Section 229.1, subsection 14, Code Supplement 2011,
14 is amended by striking the subsection.
15 Sec. 7. Section 229.1, subsection 16, Code Supplement 2011,
16 is amended to read as follows:
17 16. *"Serious emotional injury"* is an injury which does not
18 necessarily exhibit any physical characteristics, but which can
19 be recognized and diagnosed by a licensed physician or other
20 ~~qualified~~ mental health professional and which can be causally
21 connected with the act or omission of a person who is, or is
22 alleged to be, mentally ill.
23 Sec. 8. NEW SECTION. **229.5A Preapplication screening**
24 **assessment — program.**
25 Prior to filing an application for involuntary
26 hospitalization pursuant to section 229.6, the clerk of
27 the district court or the clerk's designee shall inform
28 the interested person referred to in section 229.6,
29 subsection 1, about the option of requesting a preapplication
30 screening assessment through a preapplication screening
31 assessment program. The state court administrator shall
32 prescribe practices and procedures for implementation of the
33 preapplication screening assessment program.
34 Sec. 9. Section 229.6, Code 2011, is amended to read as
35 follows:

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**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~~.

~~*c.*~~ (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. 10. 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

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1 participated in the examination.
2 Sec. 11. Section 229.12, subsection 3, paragraph b, Code
3 2011, is amended to read as follows:
4 *b.* The licensed physician or ~~qualified~~ mental health
5 professional who examined the respondent shall be present at
6 the hearing unless the court for good cause finds that the
7 licensed physician's or ~~qualified~~ mental health professional's
8 presence or testimony is not necessary. The applicant,
9 respondent, and the respondent's attorney may waive the
10 presence or the telephonic appearance of the licensed physician
11 or ~~qualified~~ mental health professional who examined the
12 respondent and agree to submit as evidence the written
13 report of the licensed physician or ~~qualified~~ mental health
14 professional. The respondent's attorney shall inform the
15 court if the respondent's attorney reasonably believes that
16 the respondent, due to diminished capacity, cannot make an
17 adequately considered waiver decision. *"Good cause"* for finding
18 that the testimony of the licensed physician or ~~qualified~~
19 mental health professional who examined the respondent is not
20 necessary may include but is not limited to such a waiver.
21 If the court determines that the testimony of the licensed
22 physician or ~~qualified~~ mental health professional is necessary,
23 the court may allow the licensed physician or the ~~qualified~~
24 mental health professional to testify by telephone.
25 Sec. 12. Section 229.19, subsection 1, paragraph d, Code
26 2011, is amended by adding the following new subparagraph:
27 NEW SUBPARAGRAPH. (7) To utilize the related best practices
28 for the duties identified in this paragraph *"d"* developed and
29 promulgated by the judicial council.
30 Sec. 13. Section 229.19, subsection 1, Code 2011, is amended
31 by adding the following new paragraph:
32 NEW PARAGRAPH. *e.* An advocate may also be appointed
33 pursuant to this section for an individual who has
34 been diagnosed with a co-occurring mental illness and
35 substance-related disorder.

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1 Sec. 14. Section 229.22, subsection 1, Code Supplement
2 2011, is amended to read as follows:
3 1. The procedure prescribed by this section shall ~~not~~ be
4 used ~~unless~~ when it appears that a person should be immediately
5 detained due to serious mental impairment, but ~~that person~~
6 ~~cannot be immediately detained by the procedure prescribed~~
7 ~~in sections 229.6 and 229.11 because there is no means of~~
8 ~~immediate access to the district court~~ an application has not
9 been filed naming the person as the respondent pursuant to
10 section 229.6, and the person cannot be ordered into immediate
11 custody and detained pursuant to section 229.11.
12 Sec. 15. Section 602.1209, Code 2011, is amended by adding
13 the following new subsection:
14 NEW SUBSECTION. 15A. Prescribe practices and procedures
15 for the implementation of the preapplication screening
16 assessment program referred to in section 229.5A.
17 Sec. 16. CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND
18 DEPARTMENT OF HUMAN SERVICES — CONSOLIDATION OF SERVICES —
19 PATIENT ADVOCATE. The judicial branch and department of human
20 services shall continue the workgroup implemented pursuant to
21 2010 Iowa Acts, chapter 1192, section 24, subsection 2, and
22 extended pursuant to 2011 Iowa Acts, chapter 121, section 2, to
23 study and make recommendations relating to the consolidation
24 of the processes for involuntary commitment for persons with
25 substance-related disorders under chapter 125, for intellectual
26 disability under chapter 222, and for serious mental
27 illness under chapter 229. The workgroup shall also include
28 representatives from the department of public health. The
29 workgroup shall also study and make recommendations concerning
30 the feasibility of establishing an independent statewide
31 patient advocate program for qualified persons representing
32 the interests of patients suffering from mental illness,
33 intellectual disability, or a substance-related disorder and
34 involuntarily committed by the court, in any matter relating
35 to the patients' hospitalization or treatment under chapters

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1 125, 222, and 229. The workgroup shall also consider the
2 implementation of consistent reimbursement standards for
3 patient advocates supported by a state-funded system and
4 shall also consider the role of the advocate for a person
5 who has been diagnosed with a co-occurring mental illness
6 and substance-related disorder. The workgroup shall solicit
7 input from current mental health advocates and mental health
8 and substance-related disorder care providers and individuals
9 receiving services whose interests would be represented by
10 an independent statewide advocate program and shall submit a
11 report on the study and make recommendations to the governor
12 and the general assembly by December 1, 2012.
13 Sec. 17. COMPREHENSIVE JAIL DIVERSION PROGRAM —— MENTAL
14 HEALTH COURTS —— STUDY. The division of criminal and juvenile
15 justice planning of the department of human rights shall
16 conduct a study regarding the possible establishment of a
17 comprehensive statewide jail diversion program, including the
18 establishment of mental health courts, for nonviolent criminal
19 offenders who suffer from mental illness. The division
20 shall solicit input from the department of human services,
21 the department of corrections, and other members of the
22 criminal justice system including but not limited to judges,
23 prosecutors, and defense counsel, and mental health treatment
24 providers and consumers. The division shall establish the
25 duties, scope, and membership of the study commission and shall
26 also consider the feasibility of establishing a demonstration
27 mental health court. The division shall submit a report on the
28 study and make recommendations to the governor and the general
29 assembly by December 1, 2012.
30 Sec. 18. PRIOR LAW ENFORCEMENT MENTAL HEALTH TRAINING. A
31 law enforcement officer who has completed academy-approved
32 mental health training within the twelve-month period prior to
33 the effective date of this Act, either through in-service or
34 academy-approved basic training, shall be considered to have
35 met the first four-year mental health training requirement of

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1 section 80B.11, subsection 1, paragraph "c", subparagraph (3),
2 as enacted in this Act.
3 EXPLANATION
4 This bill relates to persons with mental health illnesses
5 and substance-related disorders.
6 MENTAL HEALTH TRAINING — LAW ENFORCEMENT. The bill
7 requires all law enforcement officers to complete a course
8 on mental health at least once every four years and requires
9 the director of the law enforcement academy, subject to
10 the approval of the Iowa law enforcement council, to adopt
11 rules relating to mental health training for law enforcement
12 officers, with input from mental health care providers and
13 mental health care consumers. A law enforcement officer who
14 has completed academy-approved mental health training within
15 the 12-month period prior to the effective date of the bill
16 will be considered to have met the first four-year mental
17 health training requirement prescribed in the bill.
18 RESIDENTIAL CARE FACILITIES — ADMITTANCE. The bill
19 provides that a residential care facility is not required to
20 admit an individual through court order, referral, or other
21 means without the express prior approval of the administrator
22 director of the residential care facility.
23 EMERGENCY DETENTION AND HOSPITALIZATION — PERSONS WITH
24 SUBSTANCE-RELATED DISORDERS AND MENTAL HEALTH ILLNESSES.
25 The bill amends Code sections 125.91 and 229.22 relating to
26 after-hours access to emergency detention and hospitalization
27 procedures for an intoxicated person who has threatened,
28 attempted, or inflicted physical self-harm or harm on another,
29 and is likely to inflict physical self-harm or harm on another
30 unless immediately detained, or who is incapacitated by a
31 chemical substance, or for a seriously mentally impaired
32 person. Current law provides for the immediate custody of such
33 persons in an emergency situation only after an application
34 for involuntary commitment or hospitalization has been filed,
35 which is an option only during regular court hours. The bill

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1 amends the current emergency detention and hospitalization
2 procedures available for such persons to apply only when there
3 is no immediate access to the district court to allow access to
4 emergency detention and treatment services, at all times, even
5 if an application for involuntary commitment or hospitalization
6 has not been filed.
7 QUALIFIED MENTAL HEALTH PROFESSIONAL. The bill amends
8 the definition of "mental health professional" in Code
9 chapter 228 (relating to the disclosure of mental health and
10 psychological information). The bill eliminates the definition
11 of "qualified mental health professional" in Code chapter 229
12 (hospitalization of persons with mental illness) and adopts the
13 new definition of "mental health professional" in the bill for
14 purposes of Code chapter 229.
15 PREAPPLICATION SCREENING ASSESSMENT. The bill provides that
16 prior to filing an application for involuntary hospitalization
17 pursuant to Code section 229.6, the clerk of the district court
18 or the clerk's designee is required to inform the interested
19 person referred to in Code section 229.6, subsection 1,
20 about the option of requesting a preapplication screening
21 assessment through a preapplication screening assessment
22 program. The bill requires the state court administrator to
23 prescribe practices and procedures for implementation of the
24 preapplication screening assessment program.
25 A conforming change is made to Code section 229.6 requiring
26 the district court clerk or the clerk's designee to inform
27 the interested person about the option of requesting a
28 preapplication screening assessment of the proposed respondent
29 prior to the filing of an application for involuntary
30 commitment. A conforming change is also made to Code
31 section 602.1209 relating to the duties of the state court
32 administrator.
33 MENTAL HEALTH ADVOCATE. The bill provides that a mental
34 health advocate shall utilize the related best practices for
35 the mental health advocate's duties identified in Code section

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1 229.19 developed and promulgated by the judicial council.
2 The bill allows a mental health advocate to be appointed by
3 the appropriate appointing authority for an individual who
4 has been diagnosed with a co-occurring mental illness and
5 substance-related disorder.
6 CONTINUATION OF WORKGROUP BY JUDICIAL BRANCH AND
7 DEPARTMENT OF HUMAN SERVICES —— CONSOLIDATION OF SERVICES
8 —— PATIENT ADVOCATE. The bill requires the judicial branch
9 and department of human services to continue the workgroup
10 implemented pursuant to 2010 Iowa Acts, chapter 1192, section
11 24, subsection 2, and extended pursuant to 2011 Iowa Acts,
12 chapter 121, section 2, to study and make recommendations
13 relating to the consolidation of the processes for involuntary
14 commitment for persons with substance-related disorders under
15 Code chapter 125, for intellectual disability under Code
16 chapter 222, and for serious mental illness under Code chapter
17 229. The workgroup shall also include representatives from
18 the department of public health. The workgroup shall also
19 study and make recommendations concerning the feasibility of
20 establishing an independent statewide patient advocate program
21 for qualified persons representing the interests of patients
22 suffering from mental illness, intellectual disability, or a
23 substance-related disorder and involuntarily committed by the
24 court. The workgroup shall also consider the implementation of
25 consistent reimbursement standards for patient advocates and
26 the role of the advocate for a person who has been diagnosed
27 with a co-occurring mental illness and substance-related
28 disorder. The workgroup shall submit a report on the study and
29 make recommendations to the governor and the general assembly
30 by December 1, 2012.
31 COMPREHENSIVE JAIL DIVERSION PROGRAM —— MENTAL HEALTH
32 COURTS —— STUDY. The bill directs the division of criminal and
33 juvenile justice planning of the department of human rights
34 to conduct a study regarding the possible establishment of a
35 comprehensive statewide jail diversion program, including the

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1 establishment of mental health courts, for nonviolent criminal
2 offenders who suffer from mental illness. The division
3 shall solicit input from the department of human services,
4 the department of corrections, and other members of the
5 criminal justice system including but not limited to judges,
6 prosecutors, and defense counsel, and mental health treatment
7 providers and consumers. The division shall establish the
8 duties, scope, and membership of the study commission and shall
9 also consider the feasibility of establishing a demonstration
10 mental health court. The division shall submit a report on the
11 study and make recommendations to the governor and the general
12 assembly by December 1, 2012.

**House File 2422 - Introduced**

HOUSE FILE 2422
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 551)

## A BILL FOR

1 An Act relating to sex offender notification, providing
2 penalties, and including effective date provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5519HV (3) 84
ad/rj

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1 Section 1. Section 135C.3, subsection 1, Code 2011, is
2 amended to read as follows:
3 1. *a.* A licensed nursing facility shall provide an
4 organized twenty-four-hour program of services commensurate
5 with the needs of its residents and under the immediate
6 direction of a licensed nurse. Medical and nursing services
7 must be provided under the direction of either a house
8 physician or an individually selected physician. Surgery or
9 obstetrical care shall not be provided within the facility.
10 An admission to the nursing facility must be based on a
11 physician's written order certifying that the individual being
12 admitted requires no greater degree of nursing care than the
13 facility to which the admission is made is licensed to provide
14 and is capable of providing.
15 *b.* A nursing facility is not required to admit an individual
16 through court order, referral, or other means without the
17 express prior approval of the administrator or owner of the
18 nursing facility.
19 Sec. 2. Section 135C.4, Code 2011, is amended to read as
20 follows:
21 **135C.4 Residential care facilities.**
22 1. Each facility licensed as a residential care facility
23 shall provide an organized continuous twenty-four-hour program
24 of care commensurate with the needs of the residents of the
25 home and under the immediate direction of a person approved
26 and certified by the department whose combined training
27 and supervised experience is such as to ensure adequate and
28 competent care.
29 2. All admissions to residential care facilities shall be
30 based on an order written by a physician certifying that the
31 individual being admitted does not require nursing services or
32 that the individual's need for nursing services can be avoided
33 if home and community-based services, other than nursing care,
34 as defined by this chapter and departmental rule, are provided.
35 3. For the purposes of this section, the home and

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1 community-based services to be provided shall be limited to the
2 type included under the medical assistance program provided
3 pursuant to chapter 249A, shall be subject to cost limitations
4 established by the department of human services under the
5 medical assistance program, and except as otherwise provided by
6 the department of inspections and appeals with the concurrence
7 of the department of human services, shall be limited in
8 capacity to the number of licensed residential care facilities
9 and the number of licensed residential care facility beds in
10 the state as of December 1, 2003.
11 4. A residential care facility is not required to admit
12 an individual through court order, referral, or other means
13 without the express prior approval of the administrator of the
14 residential care facility.
15 Sec. 3. NEW SECTION. **135C.23A Sex offender notification.**
16 1. Upon commitment of a person required to register as
17 a sex offender as provided in section 692A.103 to a nursing
18 facility, residential care facility, or assisted living program
19 as defined in section 231C.2, the clerk of the committing court
20 shall notify the department of inspections and appeals and the
21 admitting facility or program.
22 2. Prior to or immediately upon admission of a resident or
23 tenant to a nursing facility, residential care facility, or
24 assisted living program, the facility or program shall access
25 and search the sex offender registry established in chapter
26 692A to determine whether the resident or tenant is a person
27 required to register as a sex offender, as provided in section
28 692A.103.
29 3. Upon the admission of a person required to register as a
30 sex offender, a nursing facility, residential care facility, or
31 assisted living program shall provide notice of the admission,
32 in accordance with rules adopted by the department, to all of
33 the following persons:
34 *a.* Residents or tenants of the facility or program.
35 *b.* The emergency contact person or next of kin for residents

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1 or tenants of the facility or program.
2 *c.* Operators, owners, managers, or employees of the facility
3 or program.
4 *d.* Visitors to the facility or program.
5 *e.* The sheriff for the county in which the facility or
6 program is located. The sheriff shall notify local law
7 enforcement agencies.
8 4. Upon the admission of a person required to register as a
9 sex offender, a nursing facility, residential care facility, or
10 assisted living program shall develop and implement a written
11 safety plan for each such person in accordance with rules
12 adopted by the department.
13 5. The department shall establish by rule, all of the
14 following:
15 *a.* The requirements of the notice required under this
16 section. The rules shall include but are not limited to
17 provisions for the method of notice and time of notice to each
18 of the persons enumerated in subsection 3.
19 *b.* The requirements of a safety plan for persons required
20 to register as a sex offender who are admitted by a nursing
21 facility, residential care facility, or assisted living
22 program. The rules shall include but are not limited to all of
23 the following:
24 (1) A plan for the safety of residents or tenants.
25 (2) A plan for the safety of others when community functions
26 are held at a facility or program and when a person required to
27 register as a sex offender is not on the premises of a facility
28 or program but the person remains within the care, custody, and
29 control of the facility or program.
30 (3) A provision to establish the responsibilities of a
31 nursing facility, residential care facility, and assisted
32 living program and the operators, owners, managers, and
33 employees of facilities and programs in implementing a safety
34 plan.
35 (4) A provision for the timely development and

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1 implementation of a safety plan.
2 6. A violation of this section is subject to the imposition
3 of a civil penalty in accordance with rules adopted by the
4 department pursuant to this section.
5 Sec. 4. Section 231C.3, subsection 9, Code 2011, is amended
6 to read as follows:
7 9. An assisted living program shall comply with ~~section~~
8 sections 135C.23A and 135C.33.
9 Sec. 5. Section 231C.5A, Code 2011, is amended to read as
10 follows:
11 **231C.5A Assessment of tenants — program eligibility.**
12 1. An assisted living program receiving reimbursement
13 through the medical assistance program under chapter 249A shall
14 assist the department of veterans affairs in identifying, upon
15 admission of a tenant, the tenant's eligibility for benefits
16 through the United States department of veterans affairs. The
17 assisted living program shall also assist the commission of
18 veterans affairs in determining such eligibility for tenants
19 residing in the program on July 1, 2009. The department of
20 inspections and appeals, in cooperation with the department of
21 human services, shall adopt rules to administer this section,
22 including a provision that ensures that if a tenant is eligible
23 for benefits through the United States department of veterans
24 affairs or other third-party payor, the payor of last resort
25 for reimbursement to the assisted living program is the medical
26 assistance program. The rules shall also require the assisted
27 living program to request information from a tenant or tenant's
28 personal representative regarding the tenant's veteran status
29 and to report to the department of veterans affairs only the
30 names of tenants identified as potential veterans along with
31 the names of their spouses and any dependents. Information
32 reported by the assisted living program shall be verified by
33 the department of veterans affairs.
34 2. An assisted living program is not required to admit
35 an individual through court order, referral, or other means

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1 without the express prior approval of the administrator of the
2 assisted living program.
3 Sec. 6. Section 231C.14, subsection 1, Code 2011, is amended
4 by adding the following new paragraph:
5 NEW PARAGRAPH. *d.* Noncompliance with section 135C.23A.
6 Sec. 7. Section 602.8102, Code 2011, is amended by adding
7 the following new subsection:
8 NEW SUBSECTION. 152. Notify the department of inspections
9 and appeals and the admitting entity upon commitment of a
10 person required to register as a sex offender as provided in
11 section 692A.103 to a nursing facility or residential care
12 facility as defined in section 135C.1, or assisted living
13 program as defined in section 231C.2.
14 Sec. 8. WORKFORCE DEVELOPMENT WORKGROUP.
15 1. If a workgroup to address issues connected with workforce
16 development related to mental health and disability services
17 is established by or as a result of legislation enacted by the
18 2012 regular session of the Eighty-fourth General Assembly, the
19 workgroup shall also address issues connected with ensuring
20 that an adequate workforce is available in the state to provide
21 services to persons who have a history of committing sexual
22 offenses and have been determined to be likely to reoffend.
23 2. a. If a workgroup to address issues connected with
24 workforce development for mental health and disability services
25 is not established by or as a result of legislation enacted by
26 the 2012 regular session of the Eighty-fourth General Assembly,
27 the department of human services shall convene and provide
28 support to a health and mental health services for sexual
29 offender workforce development workgroup to address issues
30 connected with ensuring that an adequate workforce is available
31 in the state to provide health and mental health services to
32 persons who have a history of committing sexual offenses and
33 have been determined to be likely to reoffend. The workgroup
34 shall report at least annually to the governor and general
35 assembly providing findings, recommendations, and financing

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1 information concerning the findings and recommendations.
2 b. The membership of the workgroup shall include all of the
3 following:
4 (1) The director of the department of aging or the
5 director's designee.
6 (2) The director of the department of corrections or the
7 director's designee.
8 (3) The director of the department of education or the
9 director's designee.
10 (4) The director of human services or the director's
11 designee.
12 (5) The director of the department of public health or the
13 director's designee.
14 (6) The director of the department of workforce development
15 or the director's designee.
16 (7) At least three individuals who have a history of
17 committing sexual offenses and have been determined likely to
18 reoffend who are receiving mental health or health services or
19 involved relatives of such individuals.
20 (8) At least three providers of mental health or health
21 services for individuals who have a history of committing
22 sexual offenses and have been determined likely to reoffend.
23 (9) Other persons identified by the workgroup.
24 c. In addition to the members identified in paragraph
25 "b", the membership of the workgroup shall include four
26 members of the general assembly serving in a ex officio,
27 nonvoting capacity. One member shall be designated by each
28 of the following: the majority leader of the senate, the
29 minority leader of the senate, the speaker of the house of
30 representatives, and the minority leader of the house of
31 representatives. A legislative member serves for a term as
32 provided in section 69.16B.
33 d. Except as provided in paragraph "c" for legislative
34 appointments, the workgroup shall determine its own rules of
35 procedure, membership terms, and operating provisions.

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1 Sec. 9. FACILITY FOR SEXUAL OFFENDERS COMMITTEE AND REPORT.
2 1. The department of inspections and appeals shall
3 establish and facilitate the activities of a committee of
4 stakeholders to examine options for designating a facility
5 to provide care for persons in this state who have a history
6 of committing sexual offenses and have been determined to be
7 likely to reoffend.
8 2. The membership of the committee shall include but is not
9 limited to the following:
10 a. Representatives of the departments of inspections and
11 appeals, human services, public health, corrections, and aging,
12 the office of the state public defender, the office of the
13 citizens' aide, and the judicial branch.
14 b. Consumers of services provided by health care facilities
15 and family members of consumers.
16 c. Health care facility administrators or owners.
17 d. Direct care workers employed by health care facilities.
18 e. Representatives from the Iowa legal aid.
19 f. Representatives from AARP Iowa.
20 g. Representatives from the Iowa civil liberties union.
21 h. Four ex officio, nonvoting members from the general
22 assembly with not more than one member from each chamber being
23 from the same political party. The two senators shall be
24 appointed, one each, by the majority leader of the senate and
25 the minority leader of the senate. The two representatives
26 shall be appointed, one each, by the speaker of the house
27 of representatives and the minority leader of the house of
28 representatives.
29 3. The committee shall discuss and make recommendations on
30 all of the following:
31 a. Options to create a new facility or assist an existing
32 facility to expand services to provide care for elderly persons
33 who are no longer under judicial control, but have a history
34 of committing sexual offenses and have been determined to
35 be likely to reoffend. The committee shall identify the

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1 characteristics of a client for such a facility, the need for
2 such a facility, options for creating a new facility to house
3 such persons, options for the expansion of an existing facility
4 to house such persons, options for using any alternative
5 facilities for such purposes, options for a public-private
6 partnership for such a facility, options for using part of
7 a mental health institute to house such persons, options to
8 qualify a facility for Medicaid reimbursement, cost projections
9 for any recommendations, and other information deemed relevant
10 by the department of inspections and appeals.
11 b. The responsibility of the court, the clerk of the
12 district court, the department of corrections, or any other
13 entity, department, or person to inform a nursing facility,
14 residential care facility, or an assisted living program of the
15 admission of a person who has a history of committing sexual
16 offenses.
17 c. The responsibility of the court, clerk of the district
18 court, department of corrections, a facility, or any other
19 entity, department, or person to notify persons of the
20 discharge of a person who has a history of committing sexual
21 offenses from a nursing facility, residential care facility, or
22 assisted living program.
23 d. The requirements of a treatment safety plan for a person
24 admitted to a nursing facility, residential care facility, or
25 assisted living program who has a history of committing sexual
26 offenses.
27 e. The establishment of a formal process for the department
28 of inspections and appeals to follow when completing facility
29 or assisted living program inspections or surveys.
30 f. The establishment of a system for the judicial branch to
31 identify facilities with the capacity to provide an appropriate
32 placement for an individual who has been arrested, charged, or
33 convicted of an offense that requires registration as a sex
34 offender under chapter 692A.
35 4. The committee shall provide a report detailing its

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1 findings and recommendations to the governor and the general
2 assembly by December 14, 2012.
3 Sec. 10. RULES. The department of inspections and appeals
4 shall adopt rules to administer the provisions of this Act.
5 Sec. 11. CURRENT RESIDENTS AND TENANTS — ACCESS AND SEARCH
6 OF SEX OFFENDER REGISTRY AND NOTIFICATION. A nursing facility,
7 residential care facility, or assisted living program, within
8 three months of the adoption of the rules by the department of
9 inspections and appeals regarding notification of the admission
10 of persons required to register as a sex offender to a facility
11 or program and development and implementation of safety plans
12 relating to such admitted persons, shall access and search the
13 sex offender registry established in chapter 692A for persons
14 who were residents or tenants of a facility or program prior to
15 the adoption of the rules and who remain residents or tenants
16 of the facility or program after the adoption of the rules.
17 Upon determining that a resident or tenant is a person required
18 to register as a sex offender, the facility or program shall,
19 within three months of the adoption of the rules, work with
20 the department of inspections and appeals and the department
21 of human services to transfer a sex offender living in the
22 facility or program to a state facility, based on the sex
23 offender status as an endangerment to the safety of individuals
24 in the facility or program, or notify persons as required by
25 section 135C.23A and the rules adopted pursuant to that section
26 and develop and implement a safety plan as required by section
27 135C.23A and the rules adopted pursuant to that section. The
28 rules shall provide that, for purposes of this section, a
29 nursing facility, residential care facility, or assisted living
30 program has the right to discharge a current resident or tenant
31 based solely on the person's status as a sex offender as an
32 endangerment to the safety of individuals in the facility or
33 program.
34 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed
35 of immediate importance, takes effect upon enactment.

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EXPLANATION

This bill relates to notifying residents and tenants of certain facilities and programs and others about the status of other residents or tenants included on the state's sex offender registry.

The bill provides that nursing facilities, residential care facilities, and assisted living programs are not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator or owner of the facility or program.

The bill requires the clerk of a court that is committing a person required to register as a sex offender to a nursing facility, residential care facility, or assisted living program to notify the department of inspections and appeals (DIA) and the facility or program to which the person is being committed.

The bill requires a nursing facility, residential care facility, and assisted living program prior to or immediately upon the admission of a resident or tenant to access and search the sex offender registry to determine whether the resident or tenant is included on the registry.

Upon the admission of a person required to register as a sex offender, a nursing facility, residential care facility, or assisted living program must provide notice as provided in the DIA's rules to residents or tenants, the emergency contact or next of kin for residents or tenants, operators, owners, managers, or employees of the facility or program, visitors to the facility or program, and the county sheriff. The sheriff must notify local law enforcement agencies.

The bill also requires nursing facilities, residential care facilities, and assisted living programs to develop and implement a written safety plan complying with the DIA's rules relating to each person required to register as a sex offender admitted to the facility or program.

The bill requires the DIA to establish rules for the requirements of the notice including the method of notice and

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1 time of notice, the requirements of the safety plans including
2 the safety plan for other residents and the community,
3 a provision for the responsibilities of the facility or
4 program, and the operators, owners, managers, or employees in
5 implementing the safety plans, and a provision for the timely
6 development and implementation of safety plans. A person who
7 violates the requirements of the bill is subject to a civil
8 penalty.
9 The bill requires any workgroup established by or as a
10 result of legislation enacted by the 2012 regular session of
11 the general assembly to address issues related to workforce
12 development for mental health and disability services to also
13 address issues connected with ensuring an adequate workforce to
14 provide services to persons who have a history of committing
15 sexual offenses and who have been determined to be likely to
16 reoffend.
17 If a workgroup is not established by legislation in the 2012
18 regular session of the general assembly to address workforce
19 development for mental health and disability services, the
20 department of human services shall convene a workgroup to
21 address issues connected with ensuring an adequate workforce to
22 provide health and mental health services to persons who have a
23 history of committing sexual offenses who have been determined
24 to be likely to reoffend. The workgroup shall consist of
25 the director or the director's designee from the department
26 on aging, the department of corrections, the department of
27 education, the department of human services, the department of
28 public health, and the department of workforce development.
29 The workgroup shall also consist of at least three individuals
30 with a history of committing sexual offenses who have been
31 determined to be likely to reoffend and who are receiving
32 health or mental health services or involved relatives of
33 such individuals, three providers of mental health or health
34 services for individuals who have a history of committing
35 sexual offenses and have been determined likely to reoffend,

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1 other persons identified by the workgroup, and members of the
2 general assembly serving in an ex officio, nonvoting capacity.
3 The bill establishes a committee of stakeholders to address
4 issues related to the housing of elderly sexual offenders
5 who have been determined to be likely to reoffend. The
6 bill requires the department of inspections and appeals to
7 facilitate the activities of the committee. The membership of
8 the committee includes but is not limited to the following:
9 representatives of the departments of inspections and appeals,
10 human services, public health, corrections, and aging,
11 the office of the state public defender, the office of the
12 citizens' aide, and the judicial branch; consumers of services
13 provided by health care facilities and family members of
14 consumers; health care facility administrators and owners;
15 direct care workers employed by health care facilities;
16 representatives from Iowa legal aid, AARP Iowa, and the Iowa
17 civil liberties union; and four ex officio, nonvoting members
18 from the general assembly.
19 The bill requires the committee to meet and make
20 recommendations regarding options to create a new facility or
21 assist an existing facility to expand services to provide care
22 for elderly persons who are no longer under judicial control,
23 but have a history of committing sexual offenses and have been
24 determined to be likely to reoffend; the responsibility of
25 the court, the clerk of the district court, the department of
26 corrections, or any other entity, department, or person to
27 inform a nursing facility, residential care facility, or an
28 assisted living program of the admission of a person who has
29 a history of committing sexual offenses; the responsibility
30 of the court, clerk of the district court, department of
31 corrections, a facility, or any other entity, department, or
32 person to notify persons of the discharge of a person who has a
33 history of committing sexual offenses from a nursing facility,
34 residential care facility, or an assisted living program;
35 the requirements of a treatment safety plan for persons

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1 admitted to a nursing facility, residential care facility,
2 or assisted living program who have a history of committing
3 sexual offenses; the establishment of a formal process for
4 the department of inspections and appeals to follow when
5 completing inspections or surveys of facilities or assisted
6 living programs; the establishment of a system for the judicial
7 branch to identify facilities with the capacity to provide an
8 appropriate placement for an individual who has been arrested,
9 charged, or convicted of an offense that requires registration
10 as a sex offender under Code chapter 692A.
11 The bill requires the committee to report its findings
12 and recommendations to the governor and general assembly by
13 December 14, 2012.
14 The bill requires the DIA to adopt rules.
15 The bill provides that a nursing facility, residential care
16 facility, or assisted living program, within three months
17 of the adoption of the DIA's rules regarding sex offender
18 notification, is required to access and search the sex offender
19 registry to determine whether current residents or tenants are
20 on the registry. If a current resident or tenant is on the
21 sex offender registry, the nursing facility, residential care
22 facility, or assisted living program, within three months of
23 the adoption of the DIA's rules, shall work with the department
24 of inspections and appeals and the department of human services
25 to transfer a sex offender living in the facility or program
26 to a state facility, based on the sex offender status as an
27 endangerment to the safety of individuals in the facility or
28 program, or notify persons and develop and implement a safety
29 plan as required under the bill. The rules shall provide that,
30 for purposes of the section related to current residents or
31 tenants, a nursing facility, residential care facility, or
32 assisted living program has the right to discharge a current
33 resident or tenant based solely on the person's status as a sex
34 offender as an endangerment to the safety of individuals in the
35 facility or program.

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1 The bill takes effect upon enactment.

**House File 2423 - Introduced**

HOUSE FILE 2423
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 539)
(SUCCESSOR TO HSB 150)

## A BILL FOR

1 An Act related to claims of railroad corporations involving
2 mineral rights underlying land owned by another person.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1596HZ (4) 84
da/nh

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Section 1. NEW SECTION. **614.24A Reservation or granting of interests in minerals in or on land — preservation — railroad corporations.**

1. When a railroad corporation as defined in section 321.1, its trustee, or its successor in interest holds an interest in minerals, then no action based upon any claim arising or existing by reason of the provisions of any instrument creating any interest in minerals shall be maintained in any court in this state to recover or establish any interest in or claim to real estate, legal or equitable, against the holder of record title to such real estate after twenty-one years from the execution of such instrument unless the claimant shall, personally, or by the claimant's attorney or agent, file a verified claim for such interest with the recorder of the county where the real estate is located within the twenty-one-year period. In the event that such instrument was executed more than twenty years prior to July 1, 2012, then such claim may be filed on or before June 30, 2015.

2. The following definitions apply for purposes of this section:

*a. "Claimant"* means a railroad corporation as defined in section 321.1, its trustee, or its successor in interest.

*b. "Interest in minerals"* means a perpetual interest in real estate which grants ownership of one or more minerals underlying the real estate of a railroad corporation as defined in section 321.1, its trustee, or its successor in interest to a person other than the person who owns the surface rights in and to the real estate. *"Interest in minerals"* does not include a lease of real estate which allows the tenant to remove minerals from the real estate.

*c. "Mineral"* means the same as defined in section 556.1, and also includes any other substance defined as a mineral by a law of this state, except coal.

*d. "Surface rights"* means the right of one or more persons to occupy the surface of the real estate.

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3. A claim to preserve an interest in minerals shall do all of the following:

*a.* Set forth the legal description of the real estate from which such interest was severed, the nature of the interest, the time and manner in which the interest was created, the name and address of the person making the claim, and each present owner of the interest.

*b.* Verify that the claim has been delivered by certified mail or personal delivery to the record owner of the surface rights to the real estate from which such interest was severed, as set forth in the records maintained by the assessor of the county in which the real estate is located.

4. For the purposes of this section, a claimant must be a railroad corporation as defined in section 321.1, its trustee, or its successor in interest claiming an interest in minerals, whether the interest is a present interest or an interest which would come into existence if the happening or contingency provided in the instrument creating the interest were to happen at once.

5. Nothing in this section shall do any of the following:

*a.* Revive or extinguish an interest in coal, including but not limited to an interest provided in chapter 557C.

*b.* Impair the validity of an environmental covenant established pursuant to chapter 455I.

*c.* Revive an interest which has expired or been terminated under the terms of the instrument creating the interest.

6. The limitations of this section shall not run in respect of any period in which the interest in minerals is separately assessed for taxation as against the person who has paid the taxes so assessed.

Sec. 2. Section 614.25, Code 2011, is amended to read as follows:

**614.25 Effect of filing claim.**

The filing of ~~such~~ a claim pursuant to section 614.24 or 614.24A shall extend for a further period of twenty-one years

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the time within which such action may be brought by any person entitled thereto, and successive claims for further like extensions may be filed.

Sec. 3. Section 614.28, Code 2011, is amended to read as follows:

**614.28 Barred claims.**

The provisions of sections 614.24 to 614.27, inclusive, or the filing of a claim or claims, hereunder, shall not revive or permit an action to be brought or maintained upon any claim or cause of action which is barred by any other statute. Provided further, that nothing contained in ~~these sections~~ section 614.24, 614.25, 614.26, or 614.27 shall affect litigation pending on July 4, 1965, and nothing contained in section 614.24A shall affect litigation pending on July 1, 2011.

EXPLANATION

This bill applies when a railroad corporation holds an interest in minerals and an instrument creates an interest in minerals. In that case, no action based upon any claim arising from such instrument can be maintained in court against the holder of record title to the real estate after 21 years from the instrument's execution unless the railroad corporation files a verified claim with the recorder of the county where the real estate is located within the 21-year period. If the instrument was executed more than 20 years prior to July 1, 2012, then such claim may be filed on or before June 30, 2015. The bill does not affect interests in coal or the validity of environmental covenants, or revive an interest which has expired or been terminated.

**House File 2424 - Introduced**

HOUSE FILE 2424
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 608)
(SUCCESSOR TO HSB 88)

## A BILL FOR

1 An Act relating to county attorney duties when representing the
2 department of human services in juvenile court.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 1599HZ (2) 84
jm/sc

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Section 1. Section 232.37, subsection 1, Code 2011, is amended to read as follows:

1. After a petition has been filed the court shall set a time for an adjudicatory hearing and unless the ~~parties~~ persons named in subsection 2 voluntarily appear, shall issue a summons requiring the child to appear before the court at a time and place stated and requiring the person who has custody or control of the child to appear before the court and to bring the child with the person at that time. The summons shall attach a copy of the petition and shall give notification of the right to counsel provided for in section 232.11.

Sec. 2. Section 232.71C, subsection 1, Code 2011, is amended to read as follows:

1. If, upon completion of an assessment performed under section 232.71B, the department determines that the best interests of the child require juvenile court action, the department shall act appropriately to initiate the action. If at any time during the assessment process the department believes court action is necessary to safeguard a child, the department shall act appropriately to initiate the action. The county attorney shall assist the department ~~as provided under section 232.90, subsection 2~~.

Sec. 3. Section 232.87, subsection 2, Code 2011, is amended to read as follows:

2. A petition may be filed by the department of human services, juvenile court officer, or county attorney. In determining whether a petition is to be filed, the department or a juvenile court officer may consult with the county attorney. If the county attorney declines to file a petition requested by the department or juvenile court officer, the department or juvenile court officer may file the petition pursuant to this section, and may request that the attorney general represent the state in place of the county attorney.

Sec. 4. Section 232.88, Code 2011, is amended to read as follows:

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**232.88 Summons, notice, subpoenas, and service.**

After a petition has been filed, the court shall issue and serve summons, subpoenas, and other process in the same manner as for adjudicatory hearings in cases of juvenile delinquency as provided in section 232.37. Reasonable notice shall be provided to the persons required to be provided notice under section 232.37, except that notice shall be waived regarding a person who was notified of the adjudicatory hearing and who failed to appear. In addition, reasonable notice for any hearing under this division shall be provided to the department of human services, and the agency, facility, institution, or person, including a foster parent, relative, or other individual providing preadoptive care, with whom a child has been placed.

Sec. 5. Section 232.90, Code 2011, is amended to read as follows:

**232.90 Duties of county attorney.**

1. As used in this section, *"state"* means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

~~1.~~ 2. The county attorney shall represent the state in proceedings arising from a petition filed under this division ~~and shall present evidence in support of the petition~~. The county attorney shall be present at proceedings initiated by petition under this division filed by an intake officer or the county attorney, or if a party to the proceedings contests the proceedings, or if the court determines there is a conflict of interest between the child and the child's parent, guardian, or custodian or if there are contested issues before the court.

~~2. The county attorney shall represent the department in proceedings arising under this division. However, if there is disagreement between the department and the county attorney regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.~~

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1 3. At the dispositional hearing or any subsequent
2 modification hearing held pursuant to this division, the county
3 attorney shall present to the court evidence regarding the
4 availability, fiscal impact, or fiscal limitations of any
5 placement for the child that is under consideration by the
6 court, if such evidence is provided by the department to the
7 county attorney.
8 4. In any proceeding under this division, the county
9 attorney shall consult with the department to ensure
10 compliance with all applicable state and federal laws regarding
11 permanency.
12 Sec. 6. Section 232.102, subsection 1, paragraph a,
13 unnumbered paragraph 1, Code 2011, is amended to read as
14 follows:
15 After a dispositional hearing and consideration of
16 all information provided by the department regarding the
17 availability, fiscal impact, or fiscal limitations to placement
18 for the child, the court may enter an order transferring the
19 legal custody of the child to one of the following for purposes
20 of placement:
21 Sec. 7. Section 232.104, subsection 1, Code 2011, is amended
22 by adding the following new paragraph:
23 NEW PARAGRAPH. *d.* If an initial permanency hearing is
24 not timely scheduled by the court, the department may seek
25 assistance of the county attorney in requesting that the court
26 set a timely permanency hearing.
27 Sec. 8. Section 232.111, subsection 1, Code 2011, is amended
28 to read as follows:
29 1. A child's guardian, guardian ad litem, or custodian,
30 the department of human services, a juvenile court officer, or
31 the county attorney may file a petition for termination of the
32 parent-child relationship and parental rights with respect to a
33 child. In determining whether a petition is to be filed, the
34 department or a juvenile court officer may consult with the
35 county attorney. If the county attorney declines to file a

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1 petition requested by the department or juvenile court officer,
2 the department or juvenile court officer may file the petition
3 pursuant to this section, and may request that the attorney
4 general represent the state in place of the county attorney.
5 Sec. 9. Section 232.111, subsection 4, paragraph b,
6 subparagraph (3), Code 2011, is amended to read as follows:
7 (3) ~~Custodian~~ Legal custodian of the child.
8 Sec. 10. Section 232.112, subsection 1, Code 2011, is
9 amended to read as follows:
10 1. Persons listed in section 232.111, subsection 4, other
11 than the department of human services, shall be necessary
12 parties to a termination of parent-child relationship
13 proceeding and are entitled to receive notice and an
14 opportunity to be heard, except that notice may be dispensed
15 with in the case of any such person whose name or whereabouts
16 the court determines is unknown and cannot be ascertained by
17 reasonably diligent search. In addition to the persons who are
18 necessary parties who may be parties under section 232.111,
19 notice for any hearing under this division shall be provided to
20 the department of human services, the child's foster parent,
21 an individual providing preadoptive care for the child, or a
22 relative providing care for the child.
23 Sec. 11. Section 232.114, Code 2011, is amended to read as
24 follows:
25 **232.114 Duties of county attorney.**
26 1. As used in this section, *"state"* means the general
27 interest held by the people in the health, safety, welfare, and
28 protection of all children living in this state.
29 ~~1.~~ 2. Upon the filing of a petition the county attorney
30 shall represent the state in all adversary proceedings arising
31 under this division ~~and shall present evidence in support of~~
32 ~~the petition~~.
33 ~~2. The county attorney shall represent the department in~~
34 ~~proceedings arising under this division. However, if there is~~
35 ~~disagreement between the department and the county attorney~~

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~~regarding the appropriate action to be taken, the department may request to be represented by the attorney general in place of the county attorney.~~

Sec. 12. Section 232.180, Code 2011, is amended to read as follows:

**232.180 Duties of county attorney.**

1. As used in this section, *"state"* means the general interest held by the people in the health, safety, welfare, and protection of all children living in this state.

2. Upon the filing of a petition and the request of the department, the county attorney shall represent the state in all adversary proceedings arising under this division and shall present evidence in support of the petition ~~as provided under section 232.90~~.

EXPLANATION

This bill relates to county attorney duties when representing the department of human services in juvenile court.

Code section 232.37 is amended to provide that unless the known parents, guardians or legal custodians of a child, the child, and the child's guardian ad litem voluntarily appear for an adjudicatory hearing to determine if the child has committed a delinquent act, the court shall issue a summons requiring the child to appear before the court at a time and place stated and requiring the person who has custody or control of the child to appear before the court and to bring the child with the person at the time of the hearing. Code section 232.37(5) provides that if a person personally served with a summons fails without reasonable cause to appear or to bring the child, the person may be held in contempt of court or the court may issue an order for the arrest of the person or take the child into custody.

The amendment to Code section 232.37 affects a notice for waiver hearings in Code section 232.45(3), a notice and summons issued for hearings to change dispositional orders in Code section 232.54(2), and a notice and summons issued for child in

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need of assistance proceedings in Code section 232.88.

Code section 232.71C is amended to provide that the county attorney shall assist the department of human services in a child in need of assistance proceeding, but strikes a reference requiring the county attorney to represent the department in such proceedings.

Code section 232.87 is amended by adding a provision providing that the department of human services or a juvenile court officer may consult with the county attorney to determine whether a child in need of assistance petition should be filed. Under the bill, if the county attorney declines to file such a petition, the department of human services or juvenile court officer may file the petition, and request the attorney general represent the state in place of the county attorney.

Code section 232.88 is amended to add the department of human services to the list of parties required to be provided notice of a child in need of assistance proceeding.

Code section 232.90 is amended to require the county attorney to represent the state in a child in need of assistance proceeding and strikes a provision requiring the county attorney to represent the department of human services in such a proceeding. The amendment to Code section 232.90 defines "state" to mean the general interest held by the people in the health, safety, welfare, and protection of all children living in the state. Code section 232.90 is amended to strike a provision allowing the attorney general to represent the department of human services if a dispute arises between the county attorney and the department of human services in a child in need of assistance proceeding.

Code section 232.90 is also amended to provide that at a dispositional hearing of a child in need of assistance proceeding or any subsequent modification, the county attorney shall present evidence to the court regarding the availability, fiscal impact, or fiscal limitations of any placement being considered for the child, if such evidence is provided by the

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department of human services to the county attorney. Code section 232.90 is also amended to require the county attorney to consult with the department to ensure compliance with all applicable state and federal laws regarding permanency for a child adjudicated a child in need of assistance.

Code section 232.104 is amended to permit the department of human services to seek assistance of the county attorney in setting a timely permanency hearing for a child adjudicated a child in need of assistance.

Code section 232.111 is amended to require a petition for termination of parental rights to contain the name and residence of the "legal custodian" of the child. Current law requires the petition for termination of parental rights to contain the name and residence of the "custodian" of the child.

Code section 232.111 is also amended by adding a provision providing that the department of human services or a juvenile court officer may consult with the county attorney to determine whether a termination of parental rights petition should be filed. Under the bill, if the county attorney declines to file such a petition, the department of human services or juvenile court officer may file the petition and request the attorney general represent the state in place of the county attorney.

Code section 232.112 is amended to strike a provision requiring the participation of the department of human services in a termination of parental rights proceeding.

Code section 232.114 is amended to require a county attorney to represent the state in a termination of parental rights proceeding and strikes a provision requiring a county attorney to represent the department of human services in such a proceeding. The amendment to Code section 232.114 defines "state" to mean the general interest held by the people in the health, safety, welfare, and protection of all children living in the state. The amendment to Code section 232.114 also strikes a provision allowing the attorney general to represent the department of human services if a dispute arises between

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1 the county attorney and the department of human services in a
2 termination of parental rights proceeding.
3 Code section 232.180 is amended to require the county
4 attorney to represent the state in a voluntary foster care
5 placement proceeding and strikes a provision requiring the
6 county attorney to represent the department of human services.
7 The amendment to Code section 232.180 defines "state" to mean
8 the general interest held by the people in the health, safety,
9 welfare, and protection of all children living in the state.

**House File 2425 - Introduced**

HOUSE FILE 2425
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 612)

## A BILL FOR

1 An Act relating to civil actions, procedures, and remedies and
2 including applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5413HV (3) 84
rh/rj

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1 Section 1. NEW SECTION. **611.24 Costs — attorney fees.**
2 1. On the court's granting or denial, in whole or in part,
3 of a motion to dismiss a cause of action that has no basis
4 in law or fact, the court shall award costs and reasonable
5 attorney fees to the prevailing party in the civil action.
6 2. This section does not apply to actions by or against the
7 state, other governmental entities, or public officials acting
8 in their official capacity or under color of law.
9 Sec. 2. NEW SECTION. **613.3 Designation of third parties —**
10 **timely disclosure.**
11 A defendant is prohibited from designating a person as a
12 responsible third party with respect to a plaintiff's cause of
13 action after the applicable limitations period on the cause
14 of action has expired if the defendant has failed to timely
15 disclose that the person may be designated as a responsible
16 third party pursuant to rules of civil procedure 1.231 through
17 1.237.
18 Sec. 3. NEW SECTION. **624.12A Interlocutory appeal of order**
19 **involving controlling question of law.**
20 1. On a party's motion or on its own initiative, the
21 district court in a civil action, by written order, may permit
22 an appeal from an order that is not otherwise subject to appeal
23 if all of the following are met:
24 *a.* The order to be appealed involves a controlling question
25 of law upon which there is a substantial ground for difference
26 of opinion.
27 *b.* An immediate appeal from the order will materially
28 advance the ultimate termination of the litigation.
29 2. An appeal under this section does not stay proceedings in
30 the district court unless either of the following is met:
31 *a.* The parties agree to a stay.
32 *b.* The district court or appellate court orders a stay
33 of the proceedings pending appeal, regardless of whether the
34 parties agree to the stay.
35 3. The supreme court may accept an appeal permitted by

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this section if the appealing party files an application for interlocutory appeal, explaining why an appeal is warranted pursuant to subsection 1, within fifteen days after the date the district court signs the order permitting the appeal. The time period applicable to the filing of the notice of appeal commences when the supreme court enters the order accepting the appeal.

4. The supreme court shall prescribe rules providing for the expediting of appeals pursuant to this section.

5. This section does not apply to an interlocutory appeal in termination of parental rights or child in need of assistance proceedings pursuant to chapter 232.

Sec. 4. NEW SECTION. **677.15 Offer requirements.**

1. An offer to confess judgment made pursuant to this chapter shall meet all of the following requirements:

*a.* Be in writing.

*b.* State that the offer is made pursuant to this chapter.

*c.* State the terms by which the claims may be settled.

*d.* State a deadline by which the offer must be accepted.

*e.* Be served on all parties to whom the settlement offer is made.

2. A party is not required to file with the court an offer to confess made pursuant to this chapter.

3. A party that makes an offer to confess that does not comply with the requirements of this section shall not be entitled to recover any costs pursuant to section 677.16.

Sec. 5. NEW SECTION. **677.16 Costs — limitation.**

1. For purposes of this chapter, *"costs"* means moneys actually spent and obligations actually incurred that are directly related to an action in which an offer is made, and includes all of the following:

*a.* Court costs.

*b.* Reasonable deposition costs.

*c.* Reasonable fees for not more than two testifying expert witnesses.

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1 *d.* Reasonable attorney fees.
2 2. Costs that may be awarded under this chapter shall not
3 be greater than the total amount that the plaintiff recovers
4 or would recover before adding an award of costs in favor of
5 the plaintiff or subtracting as an offset an award of costs in
6 favor of the defendant.
7 Sec. 6. REPEAL. Sections 677.2, 677.5, 677.10, and 677.13,
8 Code 2011, are repealed.
9 Sec. 7. MOTION TO DISMISS — FAILURE TO STATE CLAIM —
10 RULES. The supreme court shall prescribe rules to provide for
11 the dismissal of a civil action that has no basis in law or
12 fact on motion and without evidence. The rules shall provide
13 that the motion to dismiss shall be granted or denied within
14 forty-five days of the filing of the motion to dismiss. Such
15 rules shall not apply to termination of parental rights or
16 child in need of assistance proceedings pursuant to chapter
17 232.
18 Sec. 8. CIVIL JUSTICE REFORM TASK FORCE — SUPREME COURT
19 REPORT. The supreme court, which established the civil justice
20 reform task force on December 18, 2009, to develop a plan for a
21 multi-option civil justice system, and to include proposals for
22 new court processes and improvements in current processes in
23 order to foster prompt, affordable, and high-quality resolution
24 of non-domestic civil cases, shall cause the task force to
25 submit a final report detailing its findings, conclusions, and
26 recommendations to the general assembly no later than July 1,
27 2012.
28 Sec. 9. APPLICABILITY. This Act applies to causes of
29 actions accrued on or after the effective date of this Act.
30 EXPLANATION
31 This bill relates to civil procedures, actions, and remedies
32 and includes an applicability provision.
33 MOTION TO DISMISS — FAILURE TO STATE A CLAIM.
34 RULES. The bill provides that the supreme court shall
35 prescribe rules to provide for the dismissal of a civil

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1 action that has no basis in law or fact on motion and without
2 evidence. The rules shall provide that the motion to dismiss
3 shall be granted or denied within 45 days of the filing of the
4 motion to dismiss. Such rules shall not apply to termination
5 of parental rights or child in need of assistance proceedings
6 pursuant to Code chapter 232.
7 COSTS AND ATTORNEY FEES. The bill provides that upon the
8 court's granting or denial, in whole or in part, of a motion to
9 dismiss a cause of action that has no basis in law or in fact,
10 the court shall award costs and reasonable attorney fees to the
11 prevailing party in a civil action. The bill does not apply to
12 actions by or against the state, other governmental entities,
13 or public officials acting in their official capacity or under
14 color of law.
15 DESIGNATION OF THIRD PARTIES IN CIVIL ACTION — TIMELY
16 DISCLOSURE. The bill prohibits a defendant from designating
17 a person as a responsible third party with respect to a
18 plaintiff's cause of action after the applicable limitations
19 period on the cause of action has expired if the defendant has
20 failed to timely disclose that the person may be designated as
21 a responsible third party pursuant to rules of civil procedure
22 1.231 through 1.237.
23 INTERLOCUTORY APPEAL OF ORDER INVOLVING CONTROLLING QUESTION
24 OF LAW. The bill provides that, on a party's motion or on
25 its own initiative, the district court in a civil action, by
26 written order, may permit an appeal from an order that is
27 not otherwise subject to appeal if the order to be appealed
28 involves a controlling question of law upon which there is a
29 substantial ground for difference of opinion and an immediate
30 appeal from the order will materially advance the ultimate
31 termination of the litigation. Such an appeal does not stay
32 proceedings in the district court unless either the parties
33 agree to a stay or the district court or appellate court orders
34 a stay of the proceedings, regardless of whether the parties
35 agree to a stay. The appealing party must file an application

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1 for interlocutory appeal explaining why an appeal is warranted
2 within 15 days after the date the district court signs the
3 order permitting the appeal. The time period applicable to
4 the filing of the notice of appeal starts when the supreme
5 court enters the order accepting the appeal. The bill provides
6 that the supreme court shall prescribe rules which provide
7 for the expediting of appeals. The bill does not apply to an
8 interlocutory appeal in termination of parental rights or child
9 in need of assistance proceedings pursuant to Code chapter 232.
10 SETTLEMENT OFFERS.
11 REQUIREMENTS. The bill provides that an offer to confess
12 judgment made pursuant to Code chapter 677 (offer to confess
13 judgment) shall be in writing, state that the offer is made
14 pursuant to Code chapter 677, state the terms by which the
15 claims may be settled, state a deadline by which the offer
16 must be accepted, and be served on all parties to whom the
17 settlement offer is made. A party is not required to file with
18 the court an offer to confess made pursuant to the bill. A
19 party that makes an offer to confess that does not comply with
20 the requirements of the bill is not be entitled to recover any
21 costs.
22 COSTS. The bill defines "costs" to mean money actually spent
23 and obligations actually incurred that are directly related to
24 an action in which an offer is made, and includes court costs,
25 reasonable deposition costs, reasonable fees for not more
26 than two testifying expert witnesses, and reasonable attorney
27 fees. Costs that may be awarded shall not be greater than
28 the total amount that the plaintiff recovers or would recover
29 before adding an award of costs in favor of the plaintiff or
30 subtracting as an offset an award of costs in favor of the
31 defendant. The bill makes conforming repeals to Code sections
32 677.2, 677.5, 677.10, and 677.13 relating to costs awarded for
33 settlements based upon the time the settlement offer is made
34 and accepted in the civil action.
35 CIVIL JUSTICE REFORM TASK FORCE — REPORT. The supreme

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1 court, which established the civil justice reform task force
2 on December 18, 2009, to develop a plan for a multi-option
3 civil justice system, and to include proposals for new court
4 processes and improvements, shall cause the task force to
5 submit a final report detailing its findings, conclusions, and
6 recommendations to the general assembly no later than July 1,
7 2012.
8 APPLICABILITY. The bill applies to causes of actions
9 accrued on or after the effective date of the bill.

**House File 2426 - Introduced**

HOUSE FILE 2426
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 653)

## A BILL FOR

1 An Act relating to business corporations, including by
2 providing for their organization and operation; providing
3 for the relationship between shareholders, directors, and
4 officers; and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5446HV (2) 84
da/nh

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DIVISION I
PRINCIPAL PROVISIONS

Section 1. Section 490.140, subsections 3, 6, 9, and 26, Code Supplement 2011, are amended to read as follows:

3. *"Conspicuous"* means so written, displayed, or presented that a reasonable person against whom the writing is to operate should have noticed it. For example, ~~printing~~ text in italics, ~~or~~ boldface, ~~or~~ contrasting color, ~~or typing in~~ capitals, or underlined~~,~~ is conspicuous.

6. *"Deliver"* or *"delivery"* means any method of delivery used in conventional commercial practice, including delivery ~~in person,~~ by hand, mail, commercial delivery, and, if authorized in accordance with section 490.141, by electronic transmission.

9. *"Electronic transmission"* or *"electronically transmitted"* means any form or process of communication not directly involving the physical transfer of paper ~~that~~ or another tangible medium, which is ~~suitable~~ all of the following:

*a.* Suitable for the retention, retrieval, and reproduction of information by the recipient.

*b.* Retrievable in paper form by the recipient through an automated process used in conventional commercial practice, unless otherwise authorized in accordance with section 490.141, subsection 10.

26. *"Sign"* or *"signature"* means, with present intent to authenticate or adopt a document, doing any of the following:

*a.* Executing or adopting a tangible symbol to a document, and includes any manual, facsimile, or conformed~~, or electronic~~ signature.

*b.* Attaching to or logically associating with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature in an electronic transmission.

Sec. 2. Section 490.140, Code Supplement 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 7A. *"Document"* means any of the following:

*a.* A tangible medium on which information is inscribed, and

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1 includes any writing or written instrument.
2 *b.* An electronic record.
3 NEW SUBSECTION. 7B. *"Domestic unincorporated entity"* means
4 an unincorporated entity whose internal affairs are governed by
5 the laws of this state.
6 NEW SUBSECTION. 8A. *"Electronic"* means relating to
7 technology having electrical, digital, magnetic, wireless,
8 optical, electromagnetic, or similar capabilities.
9 NEW SUBSECTION. 8B. *"Electronic record"* means information
10 that is stored in an electronic or other medium and is
11 retrievable in paper form through an automated process used in
12 conventional commercial practice, unless otherwise authorized
13 in accordance with section 490.141, subsection 10.
14 NEW SUBSECTION. 11A. *"Expenses"* means reasonable expenses
15 of any kind that are incurred in connection with a matter.
16 NEW SUBSECTION. 21B. *"Qualified director"* means the same
17 as defined in section 490.143.
18 NEW SUBSECTION. 32. *"Writing"* or *"written"* means any
19 information in the form of a document.
20 Sec. 3. Section 490.141, Code 2011, is amended to read as
21 follows:
22 **490.141 Notice or other communication.**
23 1. Notice under this chapter must be in writing unless oral
24 notice is reasonable ~~under~~ in the circumstances. ~~Notice by~~
25 ~~electronic transmission is written notice.~~ Unless otherwise
26 agreed between the sender and the recipient, words in a notice
27 or other communication under this chapter must be in English.
28 2. ~~Notice~~ A notice or other communication may be
29 ~~communicated in person; by mail or other~~ given or sent by
30 any method of delivery~~; or by telephone, voice mail, or~~
31 ~~other~~, except that electronic ~~means~~ transmissions must be in
32 accordance with this section. If these ~~forms of personal~~
33 ~~notice~~ methods of delivery are impracticable, a notice or
34 other communication may be communicated by a newspaper of
35 general circulation in the area where published; or by radio,

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1 television, or other form of public broadcast communication.
2 3. ~~Written notice by a domestic or foreign corporation to~~
3 ~~its shareholder, if in a comprehensible form, is effective~~
4 ~~according to one of the following:~~
5 ~~*a.* Upon deposit in the United States mail, if mailed~~
6 ~~postpaid and correctly addressed to the shareholder's address~~
7 ~~shown in the corporation's current record of shareholders.~~
8 ~~*b.* When electronically transmitted to the shareholder in a~~
9 ~~manner authorized by the shareholder.~~
10 ~~4. Written notice~~ Notice or other communication to a
11 domestic or foreign corporation authorized to transact business
12 in this state may be ~~addressed~~ delivered to its registered
13 agent at its registered office or to the secretary of the
14 corporation ~~or its secretary~~ at its principal office shown in
15 its most recent biennial report or, in the case of a foreign
16 corporation that has not yet delivered a biennial report, in
17 its application for a certificate of authority.
18 4. Notice or other communications may be delivered by
19 electronic transmission if consented to by the recipient or if
20 authorized by subsection 10.
21 5. Any consent under subsection 4 may be revoked by the
22 person who consented by written or electronic notice to the
23 person to whom the consent was delivered. Any such consent is
24 deemed revoked if all of the following apply:
25 *a.* The corporation is unable to deliver two consecutive
26 electronic transmissions given by the corporation in accordance
27 with such consent.
28 *b.* Such inability becomes known to the secretary or an
29 assistant secretary of the corporation or to the transfer
30 agent, or other person responsible for the giving of notice
31 or other communications; provided, however, the inadvertent
32 failure to treat such inability as a revocation shall not
33 invalidate any meeting or other action.
34 6. Unless otherwise agreed between the sender and the
35 recipient, an electronic transmission is received when all of

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the following apply:

*a.* The electronic transmission enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission.

*b.* The electronic transmission is in a form capable of being processed by that system.

7. Receipt of an electronic acknowledgment from an information processing system described in subsection 6, paragraph *"a"*, establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

8. An electronic transmission is received under this section even if no individual is aware of its receipt.

~~5.~~ 9. ~~Except as provided in subsection 3, written notice,~~ Notice or other communication if in a comprehensible form or manner, is effective at the earliest of any of the following:

*a.* ~~When received.~~ If in physical form, the earliest of when it is actually received or when it is left at any of the following:

(1) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation under section 490.1601, subsection 3.

(2) A director's residence or usual place of business.

(3) The corporation's principal place of business.

*b.* ~~Five days after its deposit in the United States mail, if~~ If mailed ~~postpaid~~ by United States mail postage prepaid and correctly addressed to a shareholder, upon deposit in the United States mail.

*c.* ~~On the date shown on the~~ If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of when it is actually received or as follows:

(1) If sent by registered or certified mail, return receipt

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requested, ~~if sent by registered or certified mail, return receipt requested, and~~ the date shown on the return receipt ~~is~~ signed by or on behalf of the addressee.

(2) Five days after it is deposited in the United States mail.

*d.* If an electronic transmission, when it is received as provided in subsection 6.

*e.* If oral, when communicated.

~~6. Oral notice is effective when communicated if communicated in a comprehensible manner.~~

10. A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if all of the following apply:

*a.* The electronic transmission is otherwise retrievable in perceivable form.

*b.* The sender and the recipient have consented in writing to the use of such form of electronic transmission.

~~7.~~ 11. If this chapter prescribes ~~notice~~ requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe ~~notice~~ requirements for notices or other communications, not inconsistent with this section or other provisions of this chapter, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

Sec. 4. NEW SECTION. **490.143 Qualified director.**

1. For purposes of this chapter, a *"qualified director"* is a director who takes action under any of the following provisions, if at the time action is to be taken any of the following applies:

*a.* Under section 490.744, the director does not have any of the following:

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1 (1) A material interest in the outcome of the proceeding.
2 (2) A material relationship with a person who has such an
3 interest.
4 *b.* Under section 490.853 or 490.855, all of the following
5 apply:
6 (1) The director is not a party to the proceeding.
7 (2) The director is not a director as to whom a transaction
8 is a director's conflicting interest transaction or who sought
9 a disclaimer of the corporation's interest in a business
10 opportunity under section 490.870, which transaction or
11 disclaimer is challenged in the proceeding.
12 (3) The director does not have a material relationship with
13 a director described in either subparagraph (1) or (2).
14 *c.* Under section 490.862, the director is not any of the
15 following:
16 (1) A director as to whom the transaction is a director's
17 conflicting interest transaction.
18 (2) A director who has a material relationship with another
19 director as to whom the transaction is a director's conflicting
20 interest transaction.
21 *d.* Under section 490.870, the director would be a qualified
22 director under paragraph *"c"*, if the business opportunity was a
23 director's conflicting interest transaction.
24 2. For purposes of this section, all of the following apply:
25 *a.* *"Material interest"* means an actual or potential
26 benefit or detriment, other than one which would devolve on
27 the corporation or the shareholders generally, that would
28 reasonably be expected to impair the objectivity of the
29 director's judgment when participating in the action to be
30 taken.
31 *b.* *"Material relationship"* means a familial, financial,
32 professional, employment, or other relationship that would
33 reasonably be expected to impair the objectivity of the
34 director's judgment when participating in the action to be
35 taken.

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1 3. The presence of one or more of the following
2 circumstances shall not automatically prevent a director from
3 being a qualified director:
4 *a.* Nomination or election of the director to the current
5 board by any director who is not a qualified director with
6 respect to the matter, or by any person that has a material
7 relationship with that director, acting alone or participating
8 with others.
9 *b.* Service as a director of another corporation of which a
10 director who is not a qualified director with respect to the
11 matter, or any individual who has a material relationship with
12 that director, is or was also a director.
13 *c.* With respect to action to be taken under section 490.744,
14 status as a named defendant, as a director against whom action
15 is demanded, or as a director who approved the conduct being
16 challenged.
17 Sec. 5. NEW SECTION. **490.144 Householding.**
18 1. A corporation has delivered written notice or any
19 other report or statement under this chapter, the articles of
20 incorporation, or the bylaws to all shareholders who share a
21 common address if all of the following apply:
22 *a.* The corporation delivers one copy of the notice, report,
23 or statement to the common address.
24 *b.* The corporation addresses the notice, report, or
25 statement to those shareholders either as a group or to each
26 of those shareholders individually or to the shareholders in a
27 form to which each of those shareholders has consented.
28 *c.* Each of those shareholders consents to delivery of
29 a single copy of such notice, report, or statement to the
30 shareholders' common address. Any such consent shall be
31 revocable by any of such shareholders who deliver written
32 notice of revocation to the corporation. If such written
33 notice of revocation is delivered, the corporation shall begin
34 providing individual notices, reports, or other statements
35 to the revoking shareholder no later than thirty days after

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delivery of the written notice of revocation.

2. Any shareholder who fails to object by written notice to the corporation, within sixty days of written notice by the corporation of its intention to send single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection 1, shall be deemed to have consented to receiving such single copy at the common address.

Sec. 6. Section 490.502, subsection 2, Code 2011, is amended to read as follows:

2. If ~~a registered agent changes~~ the street address of ~~the~~ a registered agent's business office changes, the ~~registered~~ agent may change the street address of the registered office of any corporation for which the person is the registered agent by ~~notifying~~ delivering a signed written notice of the change to the corporation ~~in writing of the change and signing, either manually or in facsimile,~~ and delivering to the secretary of state for filing a signed statement that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

Sec. 7. Section 490.620, subsection 4, Code 2011, is amended to read as follows:

4. If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid more than twenty days after the corporation sends a written demand for payment to the subscriber.

Sec. 8. Section 490.624, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The board of directors may authorize one or more officers to do all of the following:

*a.* Designate the recipients of rights, options, warrants, or other equity compensation awards that involve the issuance

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of shares.

*b.* Determine, within an amount and subject to any other limitations established by the board and, if applicable, the stockholders, the number of such rights, options, warrants, or other equity compensation awards and the terms thereof to be received by the recipients, provided that an officer shall not use such authority to designate the officer or any other persons the board of directors may specify as a recipient of such rights, options, warrants, or other equity compensation awards.

Sec. 9. Section 490.701, subsection 1, Code 2011, is amended to read as follows:

1. ~~A~~ Unless directors are elected by written consent in lieu of an annual meeting as permitted by section 490.704, a corporation shall hold annually, at a time stated in or fixed in accordance with the bylaws, a meeting of shareholders; provided, however, that if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to section 490.728, directors shall not be elected by less than unanimous consent.

Sec. 10. Section 490.703, Code 2011, is amended to read as follows:

**490.703 Court-ordered meeting.**

1. The district court of the county where a corporation's principal office, or, if none in this state, its registered office, is located may summarily order a meeting to be held ~~either:~~ pursuant to any of the following:

*a.* On application of any shareholder of the corporation entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting.

*b.* On application of a shareholder who signed a demand for a special meeting valid under section 490.702 if ~~either~~ any of

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1 the following applies:
2 (1) Notice of the special meeting was not given within
3 thirty days after the date the demand was delivered to the
4 corporation's secretary.
5 (2) The special meeting was not held in accordance with the
6 notice.
7 2. The court may fix the time and place of the meeting,
8 ascertain the shares entitled to participate in the meeting,
9 specify a record date or dates for ascertaining shareholders
10 entitled to notice of and to vote at the meeting, prescribe the
11 form and content of the meeting notice, fix the quorum required
12 for specific matters to be considered at the meeting or direct
13 that the votes represented at the meeting constitute a quorum
14 for action on those matters, and enter other orders necessary
15 to accomplish the purpose or purposes of the meeting.
16 Sec. 11. Section 490.704, Code 2011, is amended to read as
17 follows:
18 **490.704 Action without meeting.**
19 1. Unless otherwise provided in the articles of
20 incorporation, any action required or permitted by this chapter
21 to be taken at a shareholders' meeting may be taken without
22 a meeting or vote, and, except as provided in subsection
23 5, without prior notice, if one or more written consents
24 describing the action taken are signed by the holders of
25 outstanding shares having not less than ninety percent of the
26 votes entitled to be cast at a meeting at which all shares
27 entitled to vote on the action were present and voted, and are
28 delivered to the corporation for inclusion in the minutes or
29 filing with the corporate records.
30 2. ~~A written consent shall bear the date of signature of~~
31 ~~each shareholder who signs the consent and no written consent~~
32 ~~is effective to take the corporate action referred to in~~
33 ~~the consent unless, within sixty days of the earliest dated~~
34 ~~consent delivered in the manner required by this section to the~~
35 ~~corporation, written consents signed by a sufficient number~~

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1 ~~of holders to take action are delivered to the corporation.~~
2 ~~A written consent may be revoked by a writing to that effect~~
3 ~~received by the corporation prior to the receipt by the~~
4 ~~corporation of unrevoked written consents sufficient in number~~
5 ~~to take corporate action.~~ The articles of incorporation may
6 provide that any action required or permitted by this chapter
7 to be taken at a shareholders' meeting may be taken without
8 a meeting, and without prior notice, if consents in writing
9 setting forth the action so taken are signed by the holders of
10 outstanding shares having not less than the minimum number of
11 votes that would be required to authorize or take the action
12 at a meeting at which all shares entitled to vote on the action
13 were present and voted. The written consent shall bear the
14 date of signature of the shareholder who signs the consent and
15 be delivered to the corporation for inclusion in the minutes or
16 filing with the corporate records.
17 3. ~~If not otherwise fixed under section 490.703 or 490.707,~~
18 ~~the record date for determining shareholders entitled to take~~
19 ~~action without a meeting is the date the first shareholder~~
20 ~~signs the consent under subsection 1.~~ If not otherwise fixed
21 under section 490.707 and if prior board action is not required
22 respecting the action to be taken without a meeting, the
23 record date for determining the shareholders entitled to take
24 action without a meeting shall be the first date on which a
25 signed written consent is delivered to the corporation. If
26 not otherwise fixed under section 490.707 and if prior board
27 action is required respecting the action to be taken without
28 a meeting, the record date shall be the close of business on
29 the day the resolution of the board taking such prior action
30 is adopted. No written consent shall be effective to take
31 the corporate action referred to therein unless, within sixty
32 days of the earliest date on which a consent delivered to the
33 corporation as required by this section was signed, written
34 consents signed by sufficient shareholders to take the action
35 have been delivered to the corporation. A written consent

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may be revoked by a writing to that effect delivered to the corporation before unrevoked written consents sufficient in number to take the corporate action are delivered to the corporation.

4. A consent signed ~~under~~ pursuant to the provisions of this section has the effect of a meeting vote and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of written consents, the action taken by written consent shall be effective when written consents signed by sufficient shareholders to take the action are delivered to the corporation.

~~5. If this chapter requires that notice of proposed action be given to shareholders not entitled to vote and the action is to be taken by consent of the voting shareholders, the corporation must give all shareholders written notice of the proposed action at least ten days before the action is taken. The notice must contain or be accompanied by the same material that, under this chapter, would have been required to be sent to shareholders not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the shareholders for action.~~

~~6. Prompt notice of the taking of corporate action without a meeting by less than unanimous written consent shall be given to those shareholders who have not consented in writing. If the taking of that corporate action requires the giving of notice under section 490.1320, subsection 2, the notice of the action shall set forth the matters described in section 490.1322.~~

5. *a.* If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by written consent of the voting shareholders, the corporation must give its nonvoting shareholders written notice of the action not more than ten days after any of the following:

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1 (1) Written consents sufficient to take the action have been
2 delivered to the corporation.
3 (2) Such later date that tabulation of consents is completed
4 pursuant to an authorization under subsection 4.
5 *b.* The notice must reasonably describe the action taken and
6 contain or be accompanied by the same material that, under any
7 provision of this chapter, would have been required to be sent
8 to nonvoting shareholders in a notice of a meeting at which the
9 proposed action would have been submitted to the shareholders
10 for action.
11 6. *a.* If action is taken by less than unanimous written
12 consent of the voting shareholders, the corporation must give
13 its nonconsenting voting shareholders written notice of the
14 action not more than ten days after any of the following:
15 (1) Written consents sufficient to take the action have been
16 delivered to the corporation.
17 (2) Such later date that tabulation of consents is completed
18 pursuant to an authorization under subsection 4.
19 *b.* The notice must reasonably describe the action taken
20 and contain or be accompanied by the same material that, under
21 any provision of this chapter, would have been required to be
22 sent to voting shareholders in a notice of a meeting at which
23 the action would have been submitted to the shareholders for
24 action.
25 7. The notice requirements in subsections 5 and 6 shall not
26 delay the effectiveness of actions taken by written consent,
27 and a failure to comply with such notice requirements shall
28 not invalidate actions taken by written consent, provided that
29 this subsection shall not be deemed to limit judicial power
30 to fashion any appropriate remedy in favor of a shareholder
31 adversely affected by a failure to give such notice within the
32 required time period.
33 Sec. 12. Section 490.705, subsections 1 and 5, Code 2011,
34 are amended to read as follows:
35 1. A corporation shall notify shareholders of the date,

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time, and place of each annual and special shareholders' meeting no fewer than ten nor more than sixty days before the meeting date. The notice shall include the record date for determining the shareholders entitled to vote at the meeting, if such date is different than the record date for determining shareholders entitled to notice of the meeting. If the board of directors has authorized participation by means of remote communication pursuant to section 490.709 for any class or series of shareholders, the notice to such class or series of shareholders shall describe the means of remote communication to be used. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

5. Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 490.707, however, notice of the adjourned meeting must be given under this section to ~~persons who are~~ shareholders ~~as of the new record date~~ entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

Sec. 13. Section 490.707, Code 2011, is amended to read as follows:

**490.707 Record date.**

1. The bylaws may fix or provide the manner of fixing the record date or dates for one or more voting groups in order to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

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1 2. A record date fixed under this section shall not be more
2 than seventy days before the meeting or action requiring a
3 determination of shareholders.
4 3. A determination of shareholders entitled to notice of
5 or to vote at a shareholders' meeting is effective for any
6 adjournment of the meeting unless the board of directors fixes
7 a new record date or dates, which it must do if the meeting is
8 adjourned to a date more than one hundred twenty days after the
9 date fixed for the original meeting.
10 4. If a court orders a meeting adjourned to a date more than
11 one hundred twenty days after the date fixed for the original
12 meeting, it may provide that the original record date continues
13 in effect or it may fix a new record date or dates.
14 5. The record date for a shareholders' meeting fixed by
15 or in the manner provided in the bylaws or by the board of
16 directors shall be the record date for determining shareholders
17 entitled both to notice of and to vote at the shareholders'
18 meeting unless, in the case of a record date fixed by the
19 board of directors and to the extent not prohibited by the
20 bylaws, the board, at the time it fixes the record date for
21 shareholders entitled to notice of the meeting, fixes a later
22 record date on or before the date of the meeting to determine
23 the shareholders entitled to vote at the meeting.
24 Sec. 14. NEW SECTION. **490.709 Remote participation in**
25 **annual and special meetings.**
26 1. Shareholders of any class or series may participate in
27 any meeting of shareholders by means of remote communication to
28 the extent the board of directors authorizes such participation
29 for such class or series. Participation by means of remote
30 communication shall be subject to such guidelines and
31 procedures as the board of directors adopts, and shall be in
32 conformity with subsection 2.
33 2. Shareholders participating in a shareholders' meeting
34 by means of remote communication shall be deemed present and
35 may vote at such a meeting if the corporation has implemented

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reasonable measures to do all of the following:

*a.* Verify that each person participating remotely is a shareholder.

*b.* Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

Sec. 15. Section 490.720, Code 2011, is amended to read as follows:

**490.720 Shareholders' list for meeting.**

1. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. ~~The~~ If the board of directors fixes a different record date under section 490.707, subsection 5, to determine the shareholders entitled to vote at the meeting, a corporation also shall prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list must be arranged by voting group and within each voting group by class or series of shares, and show the address of and number of shares held by each shareholder.

2. The shareholders' list for notice must be available for inspection by any shareholder beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholders' list for voting must be similarly available for inspection promptly after the record date for voting. A shareholder, or a shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements of section 490.1602, subsection ~~3~~ 4, to copy ~~the~~ a list, during regular business hours and at the person's expense, during the period it is available for inspection.

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3. The corporation shall make the ~~shareholders'~~ list of shareholders entitled to vote available at the meeting, and any shareholder, or a shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment.

4. If the corporation refuses to allow a shareholder, or a shareholder's agent or attorney, to inspect ~~the~~ a shareholders' list before or at the meeting, or copy ~~the~~ a list as permitted by subsection 2, the district court of the county where a corporation's principal office or, if none in this state, its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

5. Refusal or failure to prepare or make available ~~the~~ a shareholders' list does not affect the validity of action taken at the meeting.

Sec. 16. Section 490.722, subsection 2, Code 2011, is amended by striking the subsection.

Sec. 17. Section 490.724, subsection 4, Code 2011, is amended to read as follows:

4. The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section ~~or section 490.722, subsection 2,~~ are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

Sec. 18. Section 490.728, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Shares otherwise entitled to vote cumulatively shall not be voted cumulatively at a particular meeting unless any of the following applies:

*a.* The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is

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1 authorized.
2 *b.* A shareholder who has the right to cumulate the
3 shareholder's votes gives notice to the corporation not less
4 than forty-eight hours before the time set for the meeting of
5 the shareholder's intent to cumulate votes during the meeting,
6 and if one shareholder gives this notice all other shareholders
7 in the same voting group participating in the election are
8 entitled to cumulate their votes without giving further notice.
9 Sec. 19. Section 490.742, subsection 2, Code 2011, is
10 amended to read as follows:
11 2. Ninety days have expired from the date delivery of
12 the demand was made, unless the shareholder has earlier been
13 notified that the demand has been rejected by the corporation
14 or unless irreparable injury to the corporation would result by
15 waiting for the expiration of the ninety-day period.
16 Sec. 20. Section 490.744, Code 2011, is amended to read as
17 follows:
18 **490.744 Dismissal.**
19 1. A derivative proceeding shall be dismissed by the court
20 on motion by the corporation if one of the groups specified
21 in subsection 2 or ~~6~~ 5 has determined in good faith after
22 conducting a reasonable inquiry upon which its conclusions are
23 based that the maintenance of the derivative proceeding is
24 not in the best interests of the corporation. A corporation
25 moving to dismiss on this basis shall submit in support of the
26 motion a short and concise statement of the reasons for its
27 determination.
28 2. Unless a panel is appointed pursuant to subsection ~~6~~ 5,
29 the determination in subsection 1 shall be made by ~~one~~ any of
30 the following:
31 *a.* A majority vote of ~~independent~~ qualified directors
32 present at a meeting of the board of directors if the
33 ~~independent~~ qualified directors constitute a quorum.
34 *b.* A majority vote of a committee consisting of two or
35 more ~~independent~~ qualified directors appointed by majority

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vote of ~~independent~~ qualified directors present at a meeting of the board of directors, regardless of whether ~~or not~~ such ~~independent~~ qualified directors constitute a quorum.

3. *a.* ~~None of the following shall by itself cause a director to be considered not independent for purposes of this section:~~

~~*a.* The nomination or election of the director by persons who are defendants in the derivative proceeding or against whom action is demanded.~~

~~*b.* The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded.~~

~~*c.* The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.~~

~~4.~~ If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing ~~one~~ any of the following:

~~*a.*~~ (1) That a majority of the board of directors did not consist of ~~independent~~ qualified directors at the time the determination was made.

~~*b.*~~ (2) That the requirements of subsection 1 have not been met.

*b.* All discovery and other proceedings shall be stayed during the pendency of any motion to dismiss unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

~~5.~~ 4. ~~If a majority of the board of directors does not consist of independent directors at the time the determination is made, the corporation~~ If a majority of the board of directors consisted of qualified directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been

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met; if not, the corporation shall have the burden of proving that the requirements of subsection 1 have been met. ~~If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.~~

~~6.~~ 5. ~~The~~ Upon motion by the corporation, the court may appoint a panel of one or more ~~independent persons upon motion by the corporation~~ individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff shall have the burden of proving that the requirements of subsection 1 have not been met.

Sec. 21. Section 490.746, Code 2011, is amended to read as follows:

**490.746 Payment of expenses.**

On termination of the derivative proceeding, the court may do ~~either~~ any of the following:

1. Order the corporation to pay the plaintiff's ~~reasonable~~ expenses~~, including attorney fees~~ incurred in the proceeding, if it finds that the proceeding has resulted in a substantial benefit to the corporation.

2. Order the plaintiff to pay any defendant's ~~reasonable~~ expenses~~, including attorney fees~~ incurred in defending the proceeding, if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose.

Sec. 22. NEW SECTION. **490.748 Shareholder action to appoint custodian or receiver.**

1. The district court may appoint one or more persons to be custodians, or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder where it is established that any of the following applies:

*a.* The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break

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1 the deadlock, and irreparable injury to the corporation is
2 threatened or being suffered.
3 *b.* The directors or those in control of the corporation are
4 acting fraudulently and irreparable injury to the corporation
5 is threatened or being suffered.
6 2. *a.* The district court may issue injunctions, appoint a
7 temporary custodian or temporary receiver with all the powers
8 and duties the court directs, take other action to preserve the
9 corporate assets wherever located, and carry on the business of
10 the corporation until a full hearing is held.
11 *b.* The district court shall hold a full hearing, after
12 notifying all parties to the proceeding and any interested
13 persons designated by the court, before appointing a custodian
14 or receiver.
15 *c.* The district court has jurisdiction over the corporation
16 and all of its property, wherever located.
17 3. The district court may appoint an individual or domestic
18 or foreign corporation, authorized to transact business in this
19 state, as a custodian or receiver and may require the custodian
20 or receiver to post bond, with or without sureties, in an
21 amount the court directs.
22 4. The district court shall describe the powers and duties
23 of the custodian or receiver in its appointing order, which may
24 be amended from time to time. Among other powers, all of the
25 following apply:
26 *a.* A custodian may exercise all of the powers of the
27 corporation, through or in place of its board of directors, to
28 the extent necessary to manage the business and affairs of the
29 corporation.
30 *b.* A receiver may do any of the following:
31 (1) Dispose of all or any part of the assets of the
32 corporation wherever located, at a public or private sale, if
33 authorized by the district court.
34 (2) Sue and defend in the receiver's own name as receiver in
35 all courts of this state.

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5. The district court during a custodianship may redesignate the custodian as a receiver, and during a receivership may redesignate the receiver as a custodian, if doing so is in the best interests of the corporation.

6. The district court from time to time during the custodianship or receivership may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

Sec. 23. Section 490.801, Code 2011, is amended to read as follows:

**490.801 Requirement for and ~~duties~~ functions of board of directors.**

1. Except as provided in section 490.732, each corporation must have a board of directors.

2. All corporate powers shall be exercised by or under the authority of the board of directors of the corporation, and the business and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of~~,~~ its board of directors, subject to any limitation set forth in the articles of incorporation, or in an agreement authorized under section 490.732.

Sec. 24. Section 490.805, subsection 2, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:

2. The terms of all other directors expire at the next, or if their terms are staggered in accordance with section 490.806 or 490.806A, at the applicable second or third, annual shareholders' meeting following their election, except to the extent a shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for the election.

Sec. 25. Section 490.805, subsection 5, Code Supplement 2011, is amended to read as follows:

5. ~~Despite~~ Except to the extent otherwise provided in

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the articles of incorporation, despite the expiration of a director's term, the director continues to serve until ~~a~~ the director's successor ~~for that director~~ is elected and qualifies or ~~until~~ there is a decrease in the number of directors.

Sec. 26. Section 490.807, Code 2011, is amended to read as follows:

**490.807 Resignation of directors.**

1. A director may resign at any time by delivering a written ~~notice~~ resignation to the board of directors~~,~~ or its ~~chairperson~~ chair, or to the secretary of the corporation.

2. A resignation is effective when the ~~notice~~ resignation is delivered unless the ~~notice~~ resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

Sec. 27. Section 490.810, subsection 2, Code Supplement 2011, is amended to read as follows:

2. If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group are entitled to vote to fill the vacancy if it is filled by the shareholders, and only the directors elected by that voting group are entitled to fill the vacancy if it is filled by the directors.

Sec. 28. NEW SECTION. **490.826 Submission of matters for shareholder vote.**

A corporation may agree to submit a matter to a vote of its shareholders even if, after approving the matter, the board of directors determines it no longer recommends the matter.

Sec. 29. Section 490.830, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. In discharging board or committee duties a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the

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discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

Sec. 30. Section 490.831, subsection 1, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) No defense interposed by the director based on any of the following precludes liability:

(a) A provision in the articles of incorporation authorized by section 490.202, subsection 2, paragraph *"d"*~~, or the~~.

(b) The protection afforded by section ~~490.832 if interposed as a bar to the proceeding by the director, does not preclude liability~~ 490.861 for action taken in compliance with section 490.862 or 490.863.

(c) The protection afforded by section 490.870.

Sec. 31. Section 490.831, subsection 3, paragraphs a and b, Code 2011, are amended to read as follows:

*a.* In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under section ~~490.832~~ 490.861, subsection 2, paragraph *"c"*, alter the burden of proving the fact or lack of fairness otherwise applicable.

*b.* Alter the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under section 490.833 or a transactional interest under section ~~490.832~~ 490.861.

Sec. 32. Section 490.841, Code 2011, is amended to read as follows:

**490.841 ~~Duties~~ Functions of officers.**

Each officer has the authority and shall perform the ~~duties~~ functions set forth in the bylaws or, to the extent consistent with the bylaws, the ~~duties~~ functions prescribed by the board of directors or by direction of an officer authorized by the

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1 board of directors to prescribe the ~~duties~~ functions of other
2 officers.
3 Sec. 33. Section 490.842, subsection 1, unnumbered
4 paragraph 1, Code 2011, is amended to read as follows:
5 An officer when performing in such capacity ~~shall~~ has the
6 duty to act in conformity with all of the following:
7 Sec. 34. Section 490.842, Code 2011, is amended by adding
8 the following new subsection:
9 NEW SUBSECTION. 1A. The duty of an officer includes the
10 obligation to do all of the following:
11 *a.* Inform the superior officer to whom, or the board of
12 directors or the committee thereof to which, the officer
13 reports of information about the affairs of the corporation
14 known to the officer, within the scope of the officer's
15 functions, and known to the officer to be material to such
16 superior officer, board, or committee.
17 *b.* Inform a superior officer, or another appropriate
18 person within the corporation, or the board of directors, or a
19 committee thereof, of any actual or probable material violation
20 of law involving the corporation or material breach of duty
21 to the corporation by an officer, employee, or agent of the
22 corporation, that the officer believes has occurred or is
23 likely to occur.
24 Sec. 35. Section 490.850, subsection 2, Code 2011, is
25 amended to read as follows:
26 2. *"Director"* or *"officer"* means an individual who is or
27 was a director or officer, respectively, of a corporation or
28 who, while a director or officer of the corporation, is or was
29 serving at the corporation's request as a director, officer,
30 partner, trustee, employee, or agent of another domestic
31 or foreign corporation, partnership, joint venture, trust,
32 employee benefit plan, or other entity. A director or officer
33 is considered to be serving an employee benefit plan at the
34 corporation's request if the ~~director's~~ individual's duties to
35 the corporation also impose duties on, or otherwise involve

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1 services by, ~~that director~~ the individual to the plan or to
2 participants in or beneficiaries of the plan. *"Director"* or
3 *"officer"* includes, unless the context requires otherwise, the
4 estate or personal representative of a director or officer.
5 Sec. 36. Section 490.850, subsections 3 and 4, Code 2011,
6 are amended by striking the subsections.
7 Sec. 37. Section 490.850, subsection 5, Code 2011, is
8 amended to read as follows:
9 5. *"Liability"* means the obligation to pay a judgment,
10 settlement, penalty, fine, including an excise tax assessed
11 with respect to an employee benefit plan, or ~~reasonable~~
12 expenses incurred with respect to a proceeding.
13 Sec. 38. Section 490.853, Code 2011, is amended to read as
14 follows:
15 **490.853 Advance for expenses.**
16 1. A corporation may, before final disposition of
17 a proceeding, advance funds to pay for or reimburse the
18 reasonable expenses incurred in connection with the proceeding
19 by ~~a director~~ an individual who is a party to ~~a~~ the proceeding
20 because ~~the person is a director if the person~~ that individual
21 is a member of the board of directors if the director delivers
22 all of the following to the corporation:
23 *a.* A signed written affirmation of the director's good
24 faith belief that the ~~director has met the~~ relevant standard
25 of conduct described in section 490.851 has been met by the
26 director or that the proceeding involved conduct for which
27 liability has been eliminated under a provision of the articles
28 of incorporation as authorized by section 490.202, subsection
29 2, paragraph *"d"*.
30 *b.* ~~The director's~~ A signed written undertaking of the
31 director to repay any funds advanced if the director is not
32 entitled to mandatory indemnification under section 490.852 and
33 it is ultimately determined under section 490.854 or ~~section~~
34 490.855 that the director has not met the relevant standard of
35 conduct described in section 490.851.

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2. The undertaking required by subsection 1, paragraph "*b*", must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

3. Authorizations under this section shall be made according to ~~one~~ any of the following:

*a.* By the board of directors as follows:

(1) If there are two or more ~~disinterested~~ qualified directors, by a majority vote of all the ~~disinterested~~ qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of two or more ~~disinterested~~ qualified directors appointed by such a vote.

(2) If there are fewer than two ~~disinterested~~ qualified directors, by the vote necessary for action by the board in accordance with section 490.824, subsection 3, in which authorization directors who ~~do~~ are not ~~qualify as disinterested~~ qualified directors may participate.

*b.* By the shareholders, but shares owned by or voted under the control of a director who at the time ~~does not qualify as~~ is not a ~~disinterested~~ qualified director ~~may~~ shall not be voted on the authorization.

Sec. 39. Section 490.855, Code 2011, is amended to read as follows:

**490.855 Determination and authorization of indemnification.**

1. A corporation shall not indemnify a director under section 490.851 unless authorized for a specific proceeding after a determination has been made that indemnification ~~of the director~~ is permissible because the director has met the relevant standard of conduct set forth in section 490.851.

2. The determination shall be made by any of the following:

*a.* If there are two or more ~~disinterested~~ qualified directors, by the board of directors by a majority vote of all the ~~disinterested~~ qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the

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1 members of a committee of two or more ~~disinterested~~ qualified
2 directors appointed by such a vote.
3 *b.* By special legal counsel selected in one of the following
4 manners:
5 (1) Selected in the manner prescribed in paragraph *"a"*.
6 (2) If there are fewer than two ~~disinterested~~ qualified
7 directors, selected by the board of directors, in which
8 selection directors who ~~do not qualify as disinterested~~ are not
9 qualified directors may participate.
10 *c.* By the shareholders, but shares owned by or voted under
11 the control of a director who at the time ~~does not qualify as a~~
12 ~~disinterested~~ is not a qualified director shall not be voted on
13 the determination.
14 3. Authorization of indemnification shall be made in
15 the same manner as the determination that indemnification
16 is permissible, except that if there are fewer than two
17 ~~disinterested~~ qualified directors or if the determination is
18 made by special legal counsel, authorization of indemnification
19 shall be made by those entitled ~~under subsection 2, paragraph~~
20 ~~*"b"*,~~ to select special legal counsel under subsection 2,
21 paragraph *"b"*, subparagraph (2).
22 Sec. 40. Section 490.858, Code 2011, is amended by adding
23 the following new subsection:
24 NEW SUBSECTION. 1A. A right of indemnification or to
25 advances for expenses created by this division or under
26 subsection 1 and in effect at the time of an act or omission
27 shall not be eliminated or impaired with respect to such act
28 or omission by an amendment of the articles of incorporation
29 or bylaws or a resolution of the directors or shareholders,
30 adopted after the occurrence of such act or omission, unless,
31 in the case of a right created under subsection 1, the
32 provision creating such right and in effect at the time of
33 such act or omission explicitly authorizes such elimination or
34 impairment after such act or omission has occurred.
35 Sec. 41. Section 490.858, subsection 3, Code 2011, is

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1 amended to read as follows:
2 3. ~~A~~ Subject to subsection 1A, a corporation may, by a
3 provision in its articles of incorporation, limit any of the
4 rights to indemnification or advance for expenses created by or
5 pursuant to this part.
6 Sec. 42. NEW SECTION. **490.860 Part definitions.**
7 As used in this part, unless the context otherwise requires:
8 1. *"Control"*, including the term *"controlled by"*, means any
9 of the following:
10 *a.* Having the power, directly or indirectly, to elect or
11 remove a majority of the members of the board of directors
12 or other governing body of an entity, whether through the
13 ownership of voting shares or interests, by contract, or
14 otherwise.
15 *b.* Being subject to a majority of the risk of loss from the
16 entity's activities or entitled to receive a majority of the
17 entity's residual returns.
18 2. *"Director's conflicting interest transaction"* means
19 a transaction effected or proposed to be effected by the
20 corporation, or by an entity controlled by the corporation to
21 which, or respecting which, any of the following applies:
22 *a.* To which, at the relevant time, the director is a party.
23 *b.* Respecting which, at the relevant time, the director
24 had knowledge and a material financial interest known to the
25 director.
26 *c.* Respecting which, at the relevant time, the director knew
27 that a related person was a party or had a material financial
28 interest.
29 3. *"Fair to the corporation"* means, for purposes of section
30 490.861, subsection 2, paragraph *"c"*, that the transaction
31 as a whole was beneficial to the corporation, taking into
32 appropriate account whether it was all of the following:
33 *a.* Fair in terms of the director's dealings with the
34 corporation.
35 *b.* Comparable to what might have been obtainable in an arm's

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1 length transaction, given the consideration paid or received
2 by the corporation.
3 4. *"Material financial interest"* means a financial interest
4 in a transaction that would reasonably be expected to impair
5 the objectivity of the director's judgment when participating
6 in action on the authorization of the transaction.
7 5. *"Related person"* means any of the following:
8 *a.* The director's spouse.
9 *b.* A child, stepchild, grandchild, parent, stepparent,
10 grandparent, sibling, step sibling, half sibling, aunt, uncle,
11 niece, or nephew, or spouse of any thereof, of the director or
12 of the director's spouse.
13 *c.* An individual living in the same home as the director.
14 *d.* An entity, other than the corporation or an entity
15 controlled by the corporation, controlled by the director or
16 any person specified in this subsection.
17 *e.* A domestic or foreign person who is any of the following:
18 (1) A business or nonprofit corporation, other than the
19 corporation or an entity controlled by the corporation, of
20 which the director is a director.
21 (2) An unincorporated entity of which the director is a
22 general partner or a member of the governing body.
23 (3) An individual, trust, or estate for whom or of which the
24 director is a trustee, guardian, personal representative, or
25 like fiduciary.
26 *f.* A person that is, or an entity that is controlled by, an
27 employer of the director.
28 6. *"Relevant time"* means any of the following:
29 *a.* The time at which directors' action respecting the
30 transaction is taken in compliance with section 490.862.
31 *b.* If the transaction is not brought before the board of
32 directors of the corporation, or its committee, for action
33 under section 490.862, at the time the corporation, or an
34 entity controlled by the corporation, becomes legally obligated
35 to consummate the transaction.

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1 7. *"Required disclosure"* means disclosure of all of the
2 following:
3 *a.* The existence and nature of the director's conflicting
4 interest.
5 *b.* All facts known to the director respecting the subject
6 matter of the transaction that a director free of such
7 conflicting interest would reasonably believe to be material in
8 deciding whether to proceed with the transaction.
9 Sec. 43. NEW SECTION. **490.861 Judicial action.**
10 1. A transaction effected or proposed to be effected by the
11 corporation, or by an entity controlled by the corporation,
12 shall not be the subject of equitable relief, or give rise to
13 an award of damages or other sanctions against a director of
14 the corporation, in a proceeding by a shareholder or by or in
15 the right of the corporation, on the ground that the director
16 has an interest respecting the transaction, if it is not a
17 director's conflicting interest transaction.
18 2. A director's conflicting interest transaction may
19 not be the subject of equitable relief, or give rise to an
20 award of damages or other sanctions against a director of the
21 corporation, in a proceeding by a shareholder or by or in the
22 right of the corporation, on the ground that the director has
23 an interest respecting the transaction, if any of the following
24 apply:
25 *a.* Directors' action respecting the transaction was taken in
26 compliance with section 490.862 at any time.
27 *b.* Shareholders' action respecting the transaction was taken
28 in compliance with section 490.863 at any time.
29 *c.* The transaction, judged according to the circumstances
30 at the relevant time, is established to have been fair to the
31 corporation.
32 Sec. 44. NEW SECTION. **490.862 Directors' action.**
33 1. Directors' action respecting a director's conflicting
34 interest transaction is effective for purposes of section
35 490.861, subsection 2, paragraph *"a"*, if the transaction has

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been authorized by the affirmative vote of a majority, but no fewer than two, of the qualified directors who voted on the transaction, after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection 2, provided that all of the following apply:

*a.* The qualified directors have deliberated and voted outside the presence of and without the participation by any other director.

*b.* Where the action has been taken by a committee, all members of the committee were qualified directors, and any of the following apply:

(1) The committee was composed of all the qualified directors on the board of directors.

(2) The members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board.

2. Notwithstanding subsection 1, when a transaction is a director's conflicting interest transaction only because a related person described in section 490.860, subsection 5, paragraph *"e"* or *"f"*, is a party to or has a material financial interest in the transaction, the conflicted director is not obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule, provided that the conflicted director discloses to the qualified directors voting on the transaction all of the following:

*a.* All information required to be disclosed that is not so violative.

*b.* The existence and nature of the director's conflicting interest.

*c.* The nature of the conflicted director's duty not to disclose the confidential information.

3. A majority, but no fewer than two, of all the qualified

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1 directors on the board of directors, or on the committee,
2 constitutes a quorum for purposes of action that complies with
3 this section.
4 4. Where directors' action under this section does not
5 satisfy a quorum or voting requirement applicable to the
6 authorization of the transaction by reason of the articles of
7 incorporation, the bylaws, or a provision of law, independent
8 action to satisfy those authorization requirements must be
9 taken by the board of directors or a committee, in which action
10 directors who are not qualified directors may participate.
11 Sec. 45. NEW SECTION. **490.863 Shareholders' action.**
12 1. *a.* Shareholders' action respecting a director's
13 conflicting interest transaction is effective for purposes of
14 section 490.861, subsection 2, paragraph *"b"*, if a majority of
15 the votes cast by the holders of all qualified shares are in
16 favor of the transaction after all of the following occur:
17 (1) Notice to shareholders describing the action to be taken
18 respecting the transaction.
19 (2) Provision to the corporation of the information
20 referred to in subsection 2.
21 (3) Communication to the shareholders entitled to vote
22 on the transaction of the information that is the subject of
23 required disclosure, to the extent the information is not known
24 by them.
25 *b.* In the case of shareholders' action at a meeting, the
26 shareholders entitled to vote shall be determined as of the
27 record date for notice of the meeting.
28 2. A director who has a conflicting interest respecting
29 the transaction shall, before the shareholders' vote, inform
30 the secretary or other officer or agent of the corporation
31 authorized to tabulate votes, in writing, of the number of
32 shares that the director knows are not qualified shares under
33 subsection 3, and the identity of the holders of those shares.
34 3. For purposes of this section, all of the following apply:
35 *a.* *"Holder"* means and *"held by"* refers to shares held by

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1 both a record shareholder, as defined in section 490.1301,
2 subsection 7, and a beneficial shareholder, as defined in
3 490.1301, subsection 2.
4 *b. "Qualified shares"* means all shares entitled to be
5 voted with respect to the transaction except for shares that
6 the secretary or other officer or agent of the corporation
7 authorized to tabulate votes either knows, or under subsection
8 2 is notified, are held by any of the following:
9 (1) A director who has a conflicting interest respecting the
10 transaction.
11 (2) A related person of the director, excluding a person
12 described in section 490.860, subsection 5, paragraph *"f"*.
13 4. A majority of the votes entitled to be cast by the
14 holders of all qualified shares constitutes a quorum for
15 purposes of compliance with this section. Subject to the
16 provisions of subsection 5, shareholders' action that otherwise
17 complies with this section is not affected by the presence of
18 holders, or by the voting, of shares that are not qualified
19 shares.
20 5. If a shareholders' vote does not comply with subsection
21 1 solely because of a director's failure to comply with
22 subsection 2, and if the director establishes that the failure
23 was not intended to influence and did not in fact determine the
24 outcome of the vote, the court may take such action respecting
25 the transaction and the director, and may give such effect,
26 if any, to the shareholders' vote, as the court considers
27 appropriate in the circumstances.
28 6. Where shareholders' action under this section does
29 not satisfy a quorum or voting requirement applicable to the
30 authorization of the transaction by reason of the articles of
31 incorporation, the bylaws, or a provision of law, independent
32 action to satisfy those authorization requirements must be
33 taken by the shareholders, in which action shares that are not
34 qualified shares may participate.
35 Sec. 46. Section 490.870, subsection 1, paragraphs a and b,

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Code 2011, are amended to read as follows:

*a.* Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in section ~~490.832~~ 490.862, as if the decision being made concerned a director's conflicting interest transaction.

*b.* Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedure set forth in section ~~490.832~~ 490.863, as if the decision being made concerned a director's conflicting interest transaction; except that, rather than making the ~~disclosure~~ *"required disclosure"* as ~~required~~ defined in section ~~490.832~~ 490.860, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

Sec. 47. Section 490.1003, subsection 2, Code 2011, is amended to read as follows:

2. *a.* Except as provided in sections 490.1005, 490.1007, and 490.1008, after adopting the proposed amendment, the board of directors must submit the amendment to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation~~, in which case the~~.

(2) Section 490.826 applies.

*b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the board ~~of directors~~ must transmit to the shareholders the basis for ~~the determination~~ so proceeding.

Sec. 48. Section 490.1104, subsection 2, Code 2011, is amended to read as follows:

2. *a.* Except as provided in subsection 7 and in section 490.1105, after adopting the plan of merger or share exchange

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the board of directors must submit the plan to the shareholders for their approval. The board of directors must also transmit to the shareholders a recommendation that the shareholders approve the plan, unless ~~the~~ any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation~~, in which case~~.

(2) Section 490.826 applies.

*b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the board ~~of directors~~ must transmit to the shareholders the basis for ~~that determination~~ so proceeding.

Sec. 49. Section 490.1106, subsection 1, unnumbered paragraph 1, Code 2011, is amended to read as follows:

After a plan of merger or share exchange has been adopted and approved as required by this chapter, articles of merger or share exchange shall be ~~executed~~ signed on behalf of each party to the merger or share exchange by any officer or other duly authorized representative. The articles shall set forth the following:

Sec. 50. Section 490.1108, subsection 2, Code 2011, is amended to read as follows:

2. If a merger or share exchange is abandoned under subsection 1 after articles of merger or share exchange have been filed with the secretary of state but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, ~~executed~~ signed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, shall be delivered to the secretary of state for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

Sec. 51. Section 490.1202, subsection 2, Code 2011, is amended to read as follows:

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2. *a.* A disposition that requires approval of the shareholders under subsection 1 shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless ~~the~~ any of the following apply:

(1) The board of directors makes a determination that because of conflicts of interest or other special circumstances it should not make such a recommendation~~, in which case~~.

(2) Section 490.826 applies.

*b.* If paragraph *"a"*, subparagraph (1) or (2), applies, the board ~~of directors~~ shall transmit to the shareholders the basis for ~~that determination~~ so proceeding.

Sec. 52. Section 490.1301, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *"Interested transaction"* means a corporate action described in section 490.1302, subsection 1, other than a merger pursuant to section 490.1105, involving an interested person in which any of the shares or assets of the corporation are being acquired or converted. As used in this definition, all of the following apply:

*a. "Beneficial owner"* means any person who, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; except that a member of a national securities exchange is not deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to

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1 be voted. When two or more persons agree to act together for
2 the purpose of voting their shares of the corporation, each
3 member of the group formed thereby is deemed to have acquired
4 beneficial ownership, as of the date of the agreement, of all
5 voting shares of the corporation beneficially owned by any
6 member of the group.
7 *b. "Excluded shares"* means shares acquired pursuant to an
8 offer for all shares having voting power if the offer was made
9 within one year prior to the corporate action for consideration
10 of the same kind and of a value equal to or less than that paid
11 in connection with the corporate action.
12 *c. "Interested person"* means a person, or an affiliate of a
13 person, who at any time during the one-year period immediately
14 preceding approval by the board of directors of the corporate
15 action was or had any of the following:
16 (1) Was the beneficial owner of twenty percent or more of
17 the voting power of the corporation, other than as owner of
18 excluded shares.
19 (2) Had the power, contractually or otherwise, other than as
20 owner of excluded shares, to cause the appointment or election
21 of twenty-five percent or more of the directors to the board of
22 directors of the corporation.
23 (3) Was a senior executive or director of the corporation
24 or a senior executive of any affiliate thereof, and that
25 senior executive or director will receive, as a result of the
26 corporate action, a financial benefit not generally available
27 to other shareholders as such, other than any of the following:
28 (a) Employment, consulting, retirement, or similar benefits
29 established separately and not as part of or in contemplation
30 of the corporate action.
31 (b) Employment, consulting, retirement, or similar benefits
32 established in contemplation of, or as part of, the corporate
33 action that are not more favorable than those existing before
34 the corporate action or, if more favorable, that have been
35 approved on behalf of the corporation in the same manner as is

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1 provided in section 490.862.
2 (c) In the case of a director of the corporation who will,
3 in the corporate action, become a director of the acquiring
4 entity in the corporate action or one of its affiliates, rights
5 and benefits as a director that are provided on the same basis
6 as those afforded by the acquiring entity generally to other
7 directors of such entity or such affiliate.
8 Sec. 53. Section 490.1302, subsection 2, paragraph a, Code
9 2011, is amended by striking the paragraph and inserting in
10 lieu thereof the following:
11 *a.* Appraisal rights shall not be available for the holders
12 of shares of any class or series of shares which is any of the
13 following:
14 (1) A covered security under section 18(b)(1)(A) or (B) of
15 the federal Securities Act of 1933, as amended.
16 (2) Traded in an organized market and has at least two
17 thousand shareholders and a market value of at least twenty
18 million dollars, exclusive of the value of such shares held by
19 the corporation's subsidiaries, senior executives, directors,
20 and beneficial shareholders owning more than ten percent of
21 such shares.
22 (3) Issued by an open-end management investment company
23 registered with the United States securities and exchange
24 commission under the federal Investment Company Act of 1940 and
25 may be redeemed at the option of the holder at net asset value.
26 Sec. 54. Section 490.1302, subsection 2, paragraph b,
27 subparagraph (1), Code 2011, is amended to read as follows:
28 (1) The record date fixed to determine the shareholders
29 entitled to receive notice of~~, and to vote at,~~ the meeting
30 of shareholders to act upon the corporate action requiring
31 appraisal rights.
32 Sec. 55. Section 490.1302, subsection 2, paragraph d, Code
33 2011, is amended by striking the paragraph and inserting in
34 lieu thereof the following:
35 *d.* Paragraph *"a"*, shall not be applicable and appraisal

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1 rights shall be available pursuant to subsection 1 for the
2 holders of any class or series of shares where the corporate
3 action is an interested transaction.
4 Sec. 56. Section 490.1302, subsection 2, paragraph e, Code
5 2011, is amended by striking the paragraph.
6 Sec. 57. Section 490.1302, subsection 4, Code 2011, is
7 amended by striking the subsection.
8 Sec. 58. Section 490.1320, Code 2011, is amended to read as
9 follows:
10 **490.1320 Notice of appraisal rights.**
11 1. ~~If~~ Where any proposed corporate action ~~described~~
12 specified in section 490.1302, subsection 1, is to be submitted
13 to a vote at a shareholders' meeting, the meeting notice must
14 state that the corporation has concluded that the shareholders
15 are, are not, or may be entitled to assert appraisal rights
16 under this part. If the corporation concludes that appraisal
17 rights are or may be available, a copy of this part must
18 accompany the meeting notice sent to those record shareholders
19 entitled to exercise appraisal rights.
20 2. In a merger pursuant to section 490.1105, the parent
21 corporation must notify in writing all record shareholders of
22 the subsidiary who are entitled to assert appraisal rights
23 that the corporate action became effective. Such notice must
24 be sent within ten days after the corporate action became
25 effective and include the materials described in section
26 490.1322.
27 3. Where any corporate action specified in section
28 490.1302, subsection 1, is to be approved by written consent
29 of the shareholders pursuant to section 490.704, all of the
30 following apply:
31 *a.* Written notice that appraisal rights are, are not, or may
32 be available must be sent to each record shareholder from whom
33 a consent is solicited at the time consent of such shareholder
34 is first solicited and, if the corporation has concluded that
35 appraisal rights are or may be available, must be accompanied

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by a copy of this chapter.

*b.* Written notice that appraisal rights are, are not, or may be available must be delivered together with the notice to nonconsenting and nonvoting shareholders required by section 490.704, subsections 5 and 6, may include the materials described in section 490.1322 and, if the corporation has concluded that appraisal rights are or may be available, must be accompanied by a copy of this chapter.

4. Where corporate action described in section 490.1302, subsection 1, is proposed, or a merger pursuant to section 490.1105 is effected, the notice referred to in subsection 1 or 3, if the corporation concludes that appraisal rights are or may be available, and in subsection 2 shall be accompanied by all of the following:

*a.* The annual financial statements specified in section 490.1620, subsection 1, of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than sixteen months before the date of the notice and shall comply with section 490.1620, subsection 2; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

*b.* The latest available quarterly financial statements of such corporation, if any.

5. The right to receive the information described in subsection 4 may be waived in writing by a shareholder before or after the corporate action.

Sec. 59. Section 490.1321, Code 2011, is amended to read as follows:

**490.1321 Notice of intent to demand payment.**

1. If ~~proposed~~ a corporate action ~~requiring appraisal rights under~~ specified in section 490.1302, subsection 1, is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must do all of the following:

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*a.* Deliver to the corporation before the vote is taken written notice of the shareholder's intent to demand payment if the proposed action is effectuated.

*b.* Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

2. If a corporate action specified in section 490.1302, subsection 1, is to be approved by less than unanimous written consent, a shareholder who wishes to assert appraisal rights with respect to any class or series of shares must not sign a consent in favor of the proposed action with respect to that class or series of shares.

3. A shareholder who ~~does not~~ fails to satisfy the requirements of subsection 1 or 2, is not entitled to payment under this part.

Sec. 60. Section 490.1322, subsection 1, Code 2011, is amended to read as follows:

1. If proposed corporate action requiring appraisal rights under section 490.1302, subsection 1, becomes effective, the corporation must ~~deliver~~ send a written appraisal notice and the form required by subsection 2, paragraph *"a"*, to all shareholders who satisfied the requirements of section 490.1321, subsection 1, or section 490.1321, subsection 2. In the case of a merger under section 490.1105, the parent must deliver ~~a written~~ an appraisal notice and form to all record shareholders who may be entitled to assert appraisal rights.

Sec. 61. Section 490.1322, subsection 2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

The appraisal notice must be ~~sent~~ delivered no earlier than the date the corporate action specified in section 490.1302, subsection 1, became effective and no later than ten days after such date and must do all of the following:

Sec. 62. Section 490.1322, subsection 2, paragraph a, Code 2011, is amended to read as follows:

*a.* ~~Be accompanied by~~ Supply a form that ~~specifies~~ does all of the following:

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(1) Specifies the first date of any announcement to shareholders made prior to the date the corporate action became effective of the ~~first announcement to shareholders of the~~ principal terms of the proposed corporate action ~~and requires~~, if any.

(2) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date.

(3) Requires the shareholder asserting appraisal rights to certify ~~whether or not beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date, and~~ that ~~the~~ such shareholder did not vote for or consent to the transaction.

Sec. 63. Section 490.1322, subsection 2, paragraph b, subparagraph (2), Code 2011, is amended to read as follows:

(2) A date by which the corporation must receive the form, which date shall not be fewer than forty nor more than sixty days after the date the appraisal notice ~~and form are~~ is sent under subsection 1, and state that the shareholder shall have waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date.

Sec. 64. Section 490.1323, subsections 1 and 3, Code 2011, are amended to read as follows:

1. A shareholder who receives notice pursuant to section 490.1322 and who wishes to exercise appraisal rights must ~~certify on~~ sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph "b", subparagraph (2). In addition, if applicable, the shareholder must certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date

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required to be set forth in the notice pursuant to section 490.1322, subsection 2, paragraph *"a"*. If a shareholder fails to make this certification, the corporation may elect to treat the shareholder's shares as after-acquired shares under section 490.1325. In addition, a shareholder who wishes to exercise appraisal rights must execute and return the form and, in a case of certificated shares, deposit the shareholder's certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to section 490.1322, subsection 2, paragraph *"b"*, subparagraph (2). Once a shareholder deposits that shareholder's certificates or, in the case of uncertificated shares, returns the ~~executed~~ signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection 2.

3. A shareholder who does not ~~execute~~ sign and return the form and, in the case of certificated shares, deposit the shareholder's share certificates where required, each by the date set forth in the notice described in section 490.1322, subsection 2, shall not be entitled to payment under this division.

Sec. 65. Section 490.1324, subsection 2, paragraph a, Code 2011, is amended to read as follows:

*a.* (i) ~~Financial~~ The annual financial statements specified in section 490.1620, subsection 1, of the corporation that issued the shares to be appraised, ~~consisting of a balance sheet as of the end of a fiscal year~~ which shall be of a date ending not more than sixteen months before the date of payment~~,~~ ~~an income statement for that year, a statement of changes in shareholders' equity for that year,~~ and ~~the~~ shall comply with section 490.1620, subsection 2; provided that, if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information.

(ii) The latest available ~~interim~~ quarterly financial statements of such corporation, if any.

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1 Sec. 66. Section 490.1325, subsection 1, Code 2011, is
2 amended to read as follows:
3 1. A corporation may elect to withhold payment required
4 by section 490.1324 from any shareholder who was required to,
5 but did not certify that beneficial ownership of all of the
6 shareholder's shares for which appraisal rights are asserted
7 was acquired before the date set forth in the appraisal notice
8 sent pursuant to section 490.1322, subsection 2, paragraph *"a"*.
9 Sec. 67. Section 490.1331, Code 2011, is amended to read as
10 follows:
11 **490.1331 Court costs and ~~counsel fees~~ expenses.**
12 1. The court in an appraisal proceeding commenced under
13 section 490.1330 shall determine all court costs of the
14 proceeding, including the reasonable compensation and expenses
15 of appraisers appointed by the court. The court shall assess
16 the court costs against the corporation, except that the court
17 may assess court costs against all or some of the shareholders
18 demanding appraisal, in amounts the court finds equitable, to
19 the extent the court finds such shareholders acted arbitrarily,
20 vexatiously, or not in good faith with respect to the rights
21 provided by this division.
22 2. The court in an appraisal proceeding may also assess the
23 ~~fees and~~ expenses ~~of counsel and experts~~ for the respective
24 parties, in amounts the court finds equitable, for ~~either~~ any
25 of the following:
26 *a.* Against the corporation and in favor of any or all
27 shareholders demanding appraisal if the court finds the
28 corporation did not substantially comply with the requirements
29 of section 490.1320, 490.1322, 490.1324, or 490.1325.
30 *b.* Against either the corporation or a shareholder demanding
31 appraisal, in favor of any other party, if the court finds that
32 the party against whom the ~~fees and~~ expenses are assessed acted
33 arbitrarily, vexatiously, or not in good faith with respect to
34 the rights provided by this chapter.
35 3. If the court in an appraisal proceeding finds that the

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1 ~~services of counsel for~~ expenses incurred by any shareholder
2 were of substantial benefit to other shareholders similarly
3 situated, and that ~~the fees for those services~~ such expenses
4 should not be assessed against the corporation, the court may
5 ~~award to such counsel reasonable fees to~~ direct that such
6 expenses be paid out of the amounts awarded the shareholders
7 who were benefited.
8 4. To the extent the corporation fails to make a required
9 payment pursuant to section 490.1324, 490.1325, or 490.1326,
10 the shareholder may sue directly for the amount owed and, to
11 the extent successful, shall be entitled to recover from the
12 corporation ~~all costs and~~ expenses of the suit~~, including~~
13 ~~counsel fees~~.
14 Sec. 68. NEW SECTION. **490.1340 Other remedies limited.**
15 1. The legality of a proposed or completed corporate
16 action described in section 490.1302, subsection 1, shall not
17 be contested, nor may the corporate action be enjoined, set
18 aside, or rescinded, in a legal or equitable proceeding by a
19 shareholder after the shareholders have approved the corporate
20 action.
21 2. Subsection 1 does not apply to a corporate action that
22 meets any of the following conditions:
23 *a.* Was not authorized and approved in accordance with the
24 applicable provisions of any of the following:
25 (1) Division X, XI, or XII of this chapter.
26 (2) The articles of incorporation or bylaws.
27 (3) The resolution of the board of directors authorizing the
28 corporate action.
29 *b.* Was procured as a result of fraud, a material
30 misrepresentation, or an omission of a material fact necessary
31 to make statements made, in light of the circumstances in which
32 they were made, not misleading.
33 *c.* Is an interested transaction, unless it has been
34 recommended by the board of directors in the same manner as
35 is provided in section 490.862 and has been approved by the

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1 shareholders in the same manner as is provided in section
2 490.863 as if the interested transaction were a director's
3 conflicting interest transaction.
4 *d.* Is approved by less than unanimous consent of the
5 voting shareholders pursuant to section 490.704, if all of the
6 following apply:
7 (1) The challenge to the corporate action is brought by a
8 shareholder who did not consent and as to whom notice of the
9 approval of the corporate action was not effective at least ten
10 days before the corporate action was effected.
11 (2) The proceeding challenging the corporate action is
12 commenced within ten days after notice of the approval of the
13 corporate action is effective as to the shareholder bringing
14 the proceeding.
15 Sec. 69. Section 490.1402, subsection 2, paragraph a, Code
16 2011, is amended to read as follows:
17 *a.* (1) The board of directors must recommend dissolution to
18 the shareholders unless ~~the~~ any of the following apply:
19 (a) The board of directors determines that because of
20 conflict of interest or other special circumstances it should
21 make no recommendation ~~and communicates~~.
22 (b) Section 490.826 applies.
23 (2) If paragraph "*a*", subparagraph (1) or (2), applies,
24 it must communicate the basis for ~~its determination to the~~
25 ~~shareholders~~ so proceeding.
26 Sec. 70. Section 490.1430, Code 2011, is amended to read as
27 follows:
28 **490.1430 Grounds for judicial dissolution.**
29 1. The district court may dissolve a corporation in any of
30 the following ways:
31 ~~1.~~ *a.* A proceeding by the attorney general, if it is
32 established that ~~either~~ any of the following apply:
33 ~~*a.*~~ (1) The corporation obtained its articles of
34 incorporation through fraud.
35 ~~*b.*~~ (2) The corporation has continued to exceed or abuse the

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1 authority conferred upon it by law.
2 ~~2.~~ *b.* A proceeding by a shareholder if it is established
3 that any of the following conditions exist:
4 ~~*a.*~~ (1) The directors are deadlocked in the management of
5 the corporate affairs, the shareholders are unable to break the
6 deadlock, and either irreparable injury to the corporation is
7 threatened or being suffered, or the business and affairs of
8 the corporation can no longer be conducted to the advantage of
9 the shareholders generally, because of the deadlock.
10 ~~*b.*~~ (2) The directors or those in control of the corporation
11 have acted, are acting, or will act in a manner that is
12 illegal, oppressive, or fraudulent.
13 ~~*c.*~~ (3) The shareholders are deadlocked in voting power
14 and have failed, for a period that includes at least two
15 consecutive annual meeting dates, to elect successors to
16 directors whose terms have expired.
17 ~~*d.*~~ (4) The corporate assets are being misapplied or wasted.
18 ~~3.~~ *c.* A proceeding by a creditor if it is established that
19 ~~either~~ any of the following apply:
20 ~~*a.*~~ (1) The creditor's claim has been reduced to judgment,
21 the execution on the judgment returned unsatisfied, and the
22 corporation is insolvent.
23 ~~*b.*~~ (2) The corporation has admitted in writing that the
24 creditor's claim is due and owing and the corporation is
25 insolvent.
26 ~~4.~~ *d.* A proceeding by the corporation to have its voluntary
27 dissolution continued under court supervision.
28 *e.* A proceeding by a shareholder if the corporation has
29 abandoned its business and has failed within a reasonable time
30 to liquidate and distribute its assets and dissolve.
31 2. Subsection 1, paragraph "*b*", shall not apply in the
32 case of a corporation that, on the date of the filing of the
33 proceeding, has shares which are any of the following:
34 *a.* Listed on the New York stock exchange, the American stock
35 exchange, or on any exchange owned or operated by the NASDAQ

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1 stock market, l.l.c., or listed or quoted on a system owned or
2 operated by the national association of securities dealers,
3 inc.
4 *b.* Not so listed or quoted, but are held by at least three
5 hundred shareholders and the shares outstanding have a market
6 value of at least twenty million dollars, exclusive of the
7 value of such shares held by the corporation's subsidiaries,
8 senior executives, directors, and beneficial shareholders
9 owning more than ten percent of such shares.
10 3. As used in this section, *"beneficial shareholder"* has the
11 meaning specified in section 490.1301, subsection 2.
12 Sec. 71. Section 490.1431, subsection 4, Code 2011, is
13 amended to read as follows:
14 4. Within ten days of the commencement of a proceeding
15 ~~under section 490.1430, subsection 2,~~ to dissolve a corporation
16 ~~that has no shares listed on a national securities exchange or~~
17 ~~regularly traded in a market maintained by one or more members~~
18 ~~of a national securities exchange~~ under section 490.1430,
19 subsection 1, paragraph *"b"*, the corporation must send to all
20 shareholders, other than the petitioner, a notice stating that
21 the shareholders are entitled to avoid the dissolution of the
22 corporation by electing to purchase the petitioner's shares
23 under section 490.1434, and a copy of section 490.1434.
24 Sec. 72. Section 490.1432, subsections 1 and 5, Code 2011,
25 are amended to read as follows:
26 1. ~~A~~ Unless an election to purchase has been filed under
27 section 490.1434, a court in a judicial proceeding brought to
28 dissolve a corporation may appoint one or more receivers to
29 wind up and liquidate, or one or more custodians to manage,
30 the business and affairs of the corporation. The court shall
31 hold a hearing, after notifying all parties to the proceeding
32 and any interested persons designated by the court, before
33 appointing a receiver or custodian. The court appointing a
34 receiver or custodian has ~~exclusive~~ jurisdiction over the
35 corporation and all its property wherever located.

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5. The court from time to time during the receivership or custodianship may order compensation paid and ~~expense disbursements or reimbursements made~~ expenses paid or reimbursed to the receiver or custodian ~~and the receiver's or custodian's counsel~~ from the assets of the corporation or proceeds from the sale of the assets.

Sec. 73. Section 490.1434, subsections 1, 2, 4, and 5, Code 2011, are amended to read as follows:

1. In a proceeding under section 490.1430, subsection ~~2~~ 1, paragraph "b", to dissolve a corporation ~~that has no shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national or affiliated securities association~~, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

2. An election to purchase pursuant to this section may be filed with the court at any time within ninety days after the filing of the petition under section 490.1430, subsection ~~2~~ 1, paragraph "b", or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within ten days thereafter, give written notice to all shareholders, other than the petitioner. The notice must state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and must advise the recipients of their right to join the election to purchase shares in accordance with this section. Shareholders who wish to participate must file notice of their intention to join in the purchase no later than thirty days after the effective date of the notice to them. All shareholders who have filed an election or notice of their intention to participate in the election to purchase thereby become parties

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to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under section 490.1430, subsection ~~2~~ 1, paragraph "b", shall not be discontinued or settled, nor shall the petitioning shareholder sell or otherwise dispose of the shareholder's shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

4. If the parties are unable to reach an agreement as provided for in subsection 3, the court, upon application of any party, shall stay the section 490.1430, subsection ~~2~~ 1, paragraph "b", proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under section 490.1430, subsection ~~2~~ 1, paragraph "b", was filed or as of such other date as the court deems appropriate under the circumstances.

5. Upon determining the fair value of the shares, the court shall enter an order directing the purchase upon such terms and conditions as the court deems appropriate, which may include payment of the purchase price in installments, where necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional costs, fees, and expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes shall not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable,

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but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder has probable grounds for relief under section 490.1430, subsection ~~2~~ 1, paragraph ~~"b" or "d"~~ "b", subparagraph (2) or (4), it may award to the petitioning shareholder reasonable fees and expenses of counsel and of any experts employed by the shareholder.

Sec. 74. Section 490.1508, subsection 2, Code 2011, is amended to read as follows:

2. If ~~a registered agent changes~~ the street address of ~~the~~ a registered agent's business office changes, the ~~registered~~ agent may change the street address of the registered office of any foreign corporation for which the ~~agent~~ person is the registered agent by notifying the corporation in writing of the change, and signing~~, either manually or in facsimile,~~ and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection 1 and recites that the corporation has been notified of the change.

Sec. 75. NEW SECTION. **490.1523 Transfer of authority.**

1. A foreign business corporation authorized to transact business in this state that converts to a foreign nonprofit corporation or to any form of foreign unincorporated entity that is required to obtain a certificate of authority or make a similar type of filing with the secretary of state if it transacts business in this state shall file with the secretary of state an application for transfer of authority signed by any officer or other duly authorized representative. The application shall set forth all of the following:

*a.* The name of the corporation.

*b.* The type of unincorporated entity to which it has been converted and the jurisdiction whose laws govern its internal affairs.

*c.* Any other information that would be required in a filing under the laws of this state by an unincorporated entity of the

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type the corporation has become seeking authority to transact business in this state.

2. The application for transfer of authority shall be delivered to the secretary of state for filing and shall take effect at the effective time provided in section 490.123.

3. Upon the effectiveness of the application for transfer of authority, the authority of the corporation under this chapter to transact business in this state shall be transferred without interruption to the converted entity which shall thereafter hold such authority subject to the provisions of the laws of this state applicable to that type of unincorporated entity.

Sec. 76. Section 490.1601, subsection 4, Code 2011, is amended to read as follows:

4. A corporation shall maintain its records in ~~written~~ the form of a document, including an electronic record, or in another form capable of conversion into ~~written~~ paper form within a reasonable time.

Sec. 77. Section 490.1602, Code 2011, is amended to read as follows:

**490.1602 Inspection of records by shareholders.**

1. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in section 490.1601, subsection 5, if the shareholder gives the corporation signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

2. For any meeting of shareholders for which the record date for determining shareholders entitled to vote at the meeting is different than the record date for notice of the meeting, any person who becomes a shareholder subsequent to the record date for notice of the meeting and is entitled to vote at the meeting is entitled to obtain from the corporation upon request the notice and any other information provided by the corporation to shareholders in connection with the meeting,

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unless the corporation has made such information generally available to shareholders by posting it on its website or by other generally recognized means. Failure of a corporation to provide such information does not affect the validity of action taken at the meeting.

3. A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection ~~3~~ 4 and gives the corporation a signed written notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy any of the following:

*a.* Excerpts from minutes of any meeting of the board of directors~~, records of any action of~~ or a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders, ~~or~~ board of directors, or a committee of the board without a meeting, to the extent not subject to inspection under subsection 1 ~~of this section~~.

*b.* Accounting records of the corporation.

*c.* The record of shareholders.

~~3.~~ 4. A shareholder may inspect and copy the records described in subsection ~~2~~ 3 only if all of the following apply:

*a.* The shareholder's demand is made in good faith and for a proper purpose.

*b.* The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect.

*c.* The records are directly connected with the shareholder's purpose.

~~4.~~ 5. The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

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~~5.~~ 6. This section does not affect ~~either~~ any of the following:

*a.* The right of a shareholder to inspect records under section 490.720 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant.

*b.* The power of a court, independently of this chapter, to compel the production of corporate records for examination.

7. For purposes of this section, *"shareholder"* includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.

Sec. 78. Section 490.1603, subsection 3, Code 2011, is amended to read as follows:

3. The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under section 490.1602~~, subsection 2, paragraph *"c"*,~~ by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

Sec. 79. Section 490.1604, subsection 2, Code 2011, is amended to read as follows:

2. If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other records, the shareholder who complies with section 490.1602~~, subsections 2 and 3~~ may apply to the district court in the county where the corporation's principal office or, if none in this state, its registered office is located for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

Sec. 80. Section 490.1606, subsection 1, Code 2011, is amended to read as follows:

1. Whenever notice ~~is~~ would otherwise be required to be given under any provision of this chapter to ~~any~~ a shareholder, such notice ~~shall~~ need not be ~~required to be~~ given if ~~either~~ any of the following ~~applies~~ apply:

*a.* ~~Notice~~ Notices to the shareholders of two consecutive annual meetings, and all notices of meetings during the period

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1 between such two consecutive annual meetings, have been sent to
2 such shareholder at such shareholder's address as shown on the
3 records of the corporation and have been returned undeliverable
4 or could not be delivered.
5 *b.* All, but not less than two, payments of dividends on
6 securities during a twelve-month period, or two consecutive
7 payments of dividends on securities during a period of more
8 than twelve months, have been sent to such shareholder at
9 such shareholder's address as shown on the records of the
10 corporation and have been returned undeliverable or could not
11 be delivered.
12 Sec. 81. Section 490.1620, Code 2011, is amended by striking
13 the section and inserting in lieu thereof the following:
14 **490.1620 Financial statements for shareholders.**
15 1. A corporation shall deliver to its shareholders
16 annual financial statements, which may be consolidated or
17 combined statements of the corporation and one or more of its
18 subsidiaries, as appropriate, that include a balance sheet as
19 of the end of the fiscal year, an income statement for that
20 year, and a statement of changes in shareholders' equity for
21 the year unless that information appears elsewhere in the
22 financial statements. If financial statements are prepared for
23 the corporation on the basis of generally accepted accounting
24 principles, the annual financial statements must also be
25 prepared on that basis.
26 2. If the annual financial statements are reported upon by a
27 public accountant, the report must accompany them. If not, the
28 statements must be accompanied by a statement of the president
29 or the person responsible for the corporation's accounting
30 records which does all of the following:
31 *a.* States such person's reasonable belief whether the
32 statements were prepared on the basis of generally accepted
33 accounting principles and, if not, describing the basis of
34 preparation.
35 *b.* Describes any respects in which the statements were

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not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

3. Within one hundred twenty days after the close of each fiscal year, the corporation shall send the annual financial statements to each shareholder. Thereafter, on written request from a shareholder to whom the statements were not sent, the corporation shall send the shareholder the latest financial statements. A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements, or otherwise making them available, in any manner permitted by the applicable rules and regulations of the United States securities and exchange commission.

Sec. 82. Section 490.1703, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 3. In the event that any provision of this chapter is deemed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., the provisions of this chapter shall control to the maximum extent permitted by section 102(a)(2) of that federal Act.

Sec. 83. REPEAL. Section 490.832, Code 2011, is repealed.

Sec. 84. AMENDMENTS PREVAIL OVER REPEAL. The section of this division of this Act amending section 490.805, subsection 2, Code Supplement 2011, shall prevail over the repeal of the enactment of and amendment to that provision by 2011 Iowa Acts, chapter 2, section 4, pursuant to 2011 Iowa Acts, chapter 2, section 9, subsection 1.

Sec. 85. EFFECTIVE DATE. This division of this Act takes effect January 1, 2013.

DIVISION II

FUTURE PROVISIONS

Sec. 86. Section 490.140, subsection 21A, Code Supplement 2011, is amended by striking the subsection and inserting in lieu thereof the following:

21A. *"Public corporation"* means a corporation that has

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1 shares listed on a national securities exchange or regularly
2 traded in a market maintained by one or more members of a
3 national securities association.
4 Sec. 87. Section 490.732, subsection 4, Code 2011, is
5 amended by striking the subsection and inserting in lieu
6 thereof the following:
7 4. An agreement authorized by this section shall cease to be
8 effective when the corporation becomes a public corporation.
9 If the agreement ceases to be effective for any reason, the
10 board of directors may, if the agreement is contained or
11 referred to in the corporation's articles of incorporation or
12 bylaws, adopt an amendment to the articles of incorporation or
13 bylaws, without shareholder action, to delete the agreement and
14 any references to it.
15 Sec. 88. EFFECTIVE DATE. This division of this Act takes
16 effect upon the repeal of 2011 Iowa Acts, chapter 2, as
17 provided in section 9, subsection 1, of that Act.
18 EXPLANATION
19 BACKGROUND. The "Iowa Business Corporation Act" (Code
20 chapter 490), a model Act adopted by the American Bar
21 Association, governs the requirements for the creation,
22 organization, and operation of corporations and the
23 relationship between shareholders, directors, and officers of
24 the corporation. Generally, the Act's provisions establish
25 default requirements and procedures which may be modified by a
26 corporation's articles of incorporation or bylaws.
27 PUBLIC CORPORATIONS. A public corporation is a corporation
28 that has a class of voting stock that is listed on a national
29 securities exchange or held of record by more than 2,000
30 shareholders (Code section 490.140). The bill amends the
31 definition to eliminate the reference to a class of shares
32 or number of shareholders. It provides that a corporation
33 is public if traded in a market maintained by a member of
34 the national securities association. The bill also amends
35 a provision regulating shareholder agreements that govern a

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1 corporation's corporate affairs including by eliminating or
2 restricting the powers of its board of directors (Code section
3 490.732). Specifically, the bill provides that a shareholder
4 agreement is automatically terminated when the corporation
5 becomes public. These provisions take effect January 1, 2015.
6 NOTICES, DOCUMENTS, AND COMMUNICATION. A notice must be
7 in writing unless oral notice is reasonable (Code section
8 490.141). The bill requires that notices be in English.
9 It provides for the electronic transmission and receipt
10 and acknowledgment of information. The bill replaces the
11 requirement that documents be executed with a requirement
12 that they be signed, including documents associated with
13 the adoption or abandonment of articles of merger or share
14 exchange (Code sections 490.1106 and 490.1108). The bill also
15 authorizes a corporation to keep its records in an electronic
16 form so long as it can be converted into a paper form (Code
17 section 490.1601). The corporation is required to deliver a
18 written notice, report, or statement to shareholders who share
19 a common address, complies with delivery requirements, by
20 delivering to that address, unless a shareholder makes a timely
21 objection (Code section 490.144).
22 QUALIFIED DIRECTORS. In a number of circumstances a
23 director must be considered "disinterested" when taking an
24 action affecting the welfare of the corporation. The bill
25 eliminates the term "disinterested" and replaces it with
26 "qualified" (Code section 490.143; see Code sections 490.853
27 and 490.855). The bill requires a director to be qualified
28 under different circumstances which may involve board action
29 or court proceedings. For purposes of dismissing a derivative
30 proceeding by a court based on a good-faith determination of
31 directors (Code section 490.744), directors are qualified if
32 they do not have a material interest in the outcome of the
33 proceeding or a material relationship with a person who has
34 such an interest. For purposes of advancing expenses to a
35 board member before the disposition of a case (Code section

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1 490.853) or later indemnifying a director (Code section
2 490.855), the authorization must be made by directors who are
3 qualified because they are not parties to the proceeding, do
4 not have a conflicting interest in the related transaction,
5 and do not have a material relationship with a director
6 who is a party or has a conflicting interest. For purposes
7 of voting to excuse a director from a conflicting interest
8 transaction (Code section 490.862), the vote must be taken
9 by directors who are qualified because they do not have a
10 conflict or have a material relationship with the director who
11 does have a conflict. For purposes of determining whether a
12 director may take advantage of a business opportunity because
13 other directors disclaimed the corporation's interest in the
14 opportunity (Code section 490.870), the directors are qualified
15 if the business opportunity was a conflicting interest
16 transaction for those directors.
17 DIRECTORS AND OFFICERS —— FUNCTIONS AND DUTIES. Generally,
18 a corporation must have a board of directors, unless dispensed
19 with pursuant to a shareholder agreement (Code sections 490.801
20 and 490.732). The bill provides that the business affairs of a
21 corporation may be subject to the directors' oversight rather
22 than direct management. It authorizes a corporate officer to
23 designate recipients of compensation awards (e.g., rights,
24 options, or warrants associated with shares) (Code section
25 490.624). The bill substitutes the term "functions" in lieu
26 of "duties" in some places when referring to an officer's
27 obligations (Code section 490.841).
28 SHAREHOLDER MEETINGS —— WRITTEN CONSENT IN LIEU OF HOLDING
29 MEETINGS. Shareholders are allowed to act by written consent
30 without holding a meeting if the action is taken by unanimous
31 written consent (Code section 490.704). The bill provides
32 that a corporation's articles of incorporation may provide for
33 shareholder action by less than unanimous written consent,
34 if a written consent is signed by shareholders having the
35 minimum number of votes that would be required to authorize the

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1 action at a shareholder meeting assuming that all shareholders
2 entitled to vote were present. It creates a corresponding
3 exception to the requirement that a corporation must hold at
4 least one annual shareholder meeting, presumably to elect
5 directors (Code sections 490.701 and 490.803), by providing
6 that the annual meeting is not necessary when directors are
7 elected by the written consent of shareholders. The bill
8 also provides a number of procedures for providing notice to
9 shareholders and tabulating written consents delivered to the
10 corporation.
11 SHAREHOLDER MEETING — RECORD DATE. A corporation
12 establishes procedures for providing notice to and voting by
13 shareholders at a meeting (or by written consent) according to
14 a record date. The record date determines both shareholders
15 who are entitled to notice of the meeting and to vote at
16 the meeting. The catch-all provision states that the record
17 date is the date before notice is mailed to a voting group or
18 shareholders (Code section 490.705), although a record date
19 may be established by court order (Code section 490.703) or
20 according to the corporation's bylaws or board of directors
21 (Code section 490.707). The bill provides that there may be
22 more than one record date. According to the bill, the record
23 date for a shareholder meeting may be established by the
24 corporation's bylaws or by the board unless the board provides
25 a different date to determine shareholders entitled to vote at
26 the meeting (Code section 490.707). The bill provides that
27 the corporation may be required to provide a list of names of
28 shareholders entitled to vote at the meeting, to be available
29 for inspection (Code section 490.720). The record date is
30 also used to determine when appraisal rights of shareholders
31 apply (Code section 490.1302). The bill requires shareholders'
32 appraisal rights to be triggered on the record date by tying
33 it only to when a shareholder is entitled to receive notice
34 and not when entitled to vote on the matter. The bill also
35 provides that the board may fix a record date for determining

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1 when a shareholder is entitled to vote that is different than
2 the record date for determining when a shareholder is entitled
3 to notice of the meeting. A person who becomes a shareholder
4 after the record date for the notice, and is otherwise entitled
5 to vote at the meeting, may obtain the notice and other
6 information provided to the shareholders in preparation for the
7 meeting (Code sections 490.1602 and 490.1606).
8 SHAREHOLDER MEETINGS — REMOTE PARTICIPATION. The bill
9 authorizes shareholders to participate in a meeting of
10 shareholders by means of remote communication to the extent
11 approved by the board (Code section 490.709).
12 ELECTIONS AND VOTING — CUMULATIVE VOTING. Generally,
13 directors are elected by a plurality of votes cast unless the
14 corporation's articles of incorporation provide for cumulative
15 voting allowing shareholders to cast all their votes for a
16 single candidate (Code section 490.728). The bill provides
17 that shareholders otherwise entitled to vote cumulatively
18 cannot so vote unless the meeting notice authorizes it, or a
19 shareholder who has that right gives notice to the corporation
20 before the meeting.
21 LEGAL PROCEEDING — DERIVATIVE ACTIONS. As a result of a
22 derivative action, the court may order a corporation to pay
23 the plaintiff's expenses (defined in Code section 490.140)
24 if the court determines that the proceeding has resulted in
25 substantial benefit to the corporation and alternatively may
26 order the plaintiff to pay the defendant's expenses if it
27 finds the proceeding was commenced without reasonable cause
28 or for an improper purpose (Code section 490.746). The bill
29 eliminates the court's statutory authority to order the payment
30 of attorney fees.
31 PROCEEDINGS — COURT APPOINTMENT OF A CUSTODIAN OR RECEIVER.
32 The bill provides that a shareholder may obtain relief from a
33 court, due to an injury suffered by the corporation due to the
34 action or inaction of the board (through deadlock or fraud) or
35 because the corporation is insolvent (Code section 490.748).

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1 The custodian or receiver appointed by the court has all
2 authority to manage the corporation as provided by court order.
3 ELECTIONS AND VOTING. The bill provides for the directors'
4 terms of office including when the board's terms are staggered
5 (Code sections 490.806 and 490.806A). The bill provides that a
6 corporation's articles of incorporation may govern situations
7 in which a nominated director fails to receive the requisite
8 votes for election (Code sections 490.805, 490.806, 490.806A,
9 and 490.807). The bill also provides that in the case of a
10 director's vacancy, where a director was elected by a voting
11 group of shareholders, and the vacancy is to be filled by the
12 remaining directors, only directors elected by that voting
13 group may vote to fill the vacancy (Code section 490.810).
14 RIGHT OF SHAREHOLDERS TO VOTE. The bill provides that a
15 corporation may agree to submit a matter to a vote of its
16 shareholders even if the board determines not to recommend
17 the matter (Code section 490.826). It expressly authorizes
18 such vote on an amendment to the corporation's articles of
19 incorporation (Code section 490.1003), an action on a plan of
20 merger or share exchange (Code section 490.1104), the approval
21 of a plan of merger or share exchange (Code section 490.1106),
22 and the dissolution of the corporation (Code section 490.1402).
23 DIRECTORS AND OFFICERS — STANDARDS OF CONDUCT. A director
24 must perform all required duties in good faith and in a
25 manner that the director reasonably believes to be in the
26 corporation's best interest (Code section 490.830) and an
27 officer has the same duty to act in good faith (Code section
28 490.842). The bill expressly obligates a director to disclose
29 relevant material regarding the corporation to the board. It
30 also provides that an officer has an obligation to inform a
31 superior officer or the board (or a committee of the board)
32 about the affairs of the corporation or a probable material
33 violation of law or a material breach of duty involving an
34 officer or other person connected to the corporation.
35 PROCEEDINGS — ADVANCING FUNDS TO A DIRECTOR OR INDEMNIFYING

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1 A DIRECTOR FOR EXPENSES. A corporation may advance funds to a
2 director or indemnify the director for legal expenses incurred
3 in the course of a director's defense of an act or omission
4 (Code sections 490.850, 490.853, 490.855, and 490.858). The
5 bill provides that in the case of advances, writings required
6 to be submitted to the board (e.g., an affirmation that the
7 director acted in compliance with applicable standards of
8 conduct or a promise to repay advanced funds) must be in
9 writing (Code section 490.853). It also provides that when
10 the board authorizes an advance or indemnification, the voting
11 directors must be qualified rather than disinterested (Code
12 sections 490.853 and 490.854). Finally, the bill provides that
13 the defending director's right to an advance or indemnification
14 in effect prior to the director's act or omission cannot be
15 eliminated or impaired after the conduct occurred, unless that
16 right was expressly qualified in the authorization (i.e., in
17 the articles of incorporation, bylaws, or board's resolution)
18 (Code section 490.858).
19 DIRECTOR'S CONFLICT OF INTEREST — GENERAL. Generally, a
20 director is prohibited from taking action on a matter which
21 would be detrimental to the interests of the corporation. The
22 bill replaces the current provision addressing a director's
23 conflict of interest (Code section 490.832) with four
24 provisions (Code sections 490.860 through 490.863) that
25 govern conflicting interest transactions. In order to be so
26 classified, a transaction must be effectuated or proposed to
27 be effectuated by the corporation or an entity controlled
28 by the corporation. In addition, the director must be in a
29 special position to take personal advantage of the transaction,
30 as a party to the transaction or by virtue of the fact that
31 the director, or a related person, has a material financial
32 interest in the transaction. The bill provides that a director
33 is related to a person if the person is a close family member,
34 an individual who lives in the same home, or another entity
35 controlled by the director. The bill provides that in order

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1 for a court to invalidate a transaction or otherwise provide a
2 legal or equitable remedy, such conduct must fall within the
3 statutory parameters (Code section 490.861). The definition
4 of "director's conflicting interest transaction" requires
5 knowledge of the transaction, except where the director is a
6 party. In addition, the transaction must occur at a relevant
7 time, meaning the time at the which the director's action is
8 required (e.g., a board vote) or when the director's action
9 somehow consummates the transaction (Code section 490.862).
10 DIRECTOR'S CONFLICT OF INTEREST — EXCUSED TRANSACTIONS
11 (SAFE HARBOR EXCEPTION). The bill excuses a director's
12 conduct, and consequently validates the transaction, even if
13 there exists a conflicting interest transaction (Code section
14 490.861), sometimes referred to as "safe harbor", in certain
15 circumstances. First, it may be excused if a majority of
16 qualified directors (but not less than two) vote to approve
17 the transaction or the action is approved by an authorized
18 committee in which all members are qualified directors (Code
19 section 490.862). The director who has the conflict must
20 disclose information regarding the conflict to the extent that
21 the information is not required to be protected under law or
22 some ethical rule of confidentiality (Code section 490.862).
23 The transaction is excused if the shareholders later ratify
24 the transaction according to specific procedural requirements
25 (Code section 490.863) after disclosure (but no provision for
26 limited disclosure). Finally, the transaction is excused if
27 the transaction is fair to the corporation, although neither
28 directors' nor shareholders' action was taken. The bill
29 provides that in any legal action attacking a director, the
30 plaintiff has the burden of proof (Code section 490.831).
31 DIRECTOR'S BUSINESS OPPORTUNITY (SAFE HARBOR EXCEPTION).
32 An analogous situation to a conflicting interest transaction
33 is when a director seeks a corporation's permission prior to
34 the director's action. The bill allows qualified directors
35 or shareholders to disclaim the corporation's interest before

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1 the director proceeds in taking advantage of the business
2 opportunity (see Code section 490.870). Instead of making a
3 "required disclosure" as provided for conflicts (Code sections
4 490.860 and 490.862), the director must provide the corporation
5 material facts concerning the business opportunity then
6 known. The qualified directors or shareholders disclaiming
7 the corporation's interest must be done in the same manner
8 as if the matter concerned a director's conflicting interest
9 transaction (Code sections 490.862 and 490.863). However, a
10 director's decision not to use the procedures for disclaimer
11 does not create a negative inference or alter a burden of
12 proof in a subsequent action alleging an improper taking of a
13 corporate opportunity.
14 SHAREHOLDER APPRAISAL RIGHTS — GENERAL RULE. A number of
15 corporate actions may trigger the right of a shareholder to
16 obtain an appraisal of the corporation and obtain fair payment
17 of shares, including mergers, share exchanges, disposition
18 of assets, amendments to the articles of incorporation, and
19 conversion of the corporation to another entity (Code section
20 490.1302). A corporation must pay shareholders the amount the
21 corporation estimates to be the fair value of the shares plus
22 interest (Code section 490.1324).
23 SHAREHOLDER APPRAISAL RIGHTS — LIMITATION ON THE GENERAL
24 RULE (MARKET-OUT EXCEPTION). The general rule is limited in
25 the case where there are at least 2,000 shareholders and the
26 market value of the shares equals at least $20 million (the
27 so-called "market-out" exception), presumably because the true
28 value for the shares can be obtained on the market. However,
29 the amount does not include shares held by the corporation's
30 subsidiaries, senior executives, directors, and beneficial
31 shareholders owning more than 10 percent of the shares.
32 "Beneficial ownership" refers to the control of shares by a
33 person who does not own them including the power to vote, or to
34 direct the voting of the shares (Code section 490.1302).
35 SHAREHOLDER APPRAISAL RIGHTS — NEW MARKET-OUT EXCEPTIONS.

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1 The bill provides two new categories under the market-out
2 exception: (1) when the shares are classified as a covered
3 security regulated by the United States securities exchange
4 commission under the federal Securities Act of 1933, and (2)
5 when the shares are issued by an open-end management investment
6 company registered by the securities and exchange commission
7 under the federal Investment Company Act of 1940 (Code section
8 490.1302).
9 SHAREHOLDER APPRAISAL RIGHTS — LIMITATIONS ON THE
10 MARKET-OUT EXCEPTIONS. The bill eliminates a provision
11 which allows shareholder appraisal rights notwithstanding
12 the market-out exception in cases where the corporation's
13 shares or assets are being acquired or converted, whether by
14 merger, share exchange, or otherwise (Code section 490.1302).
15 Instead, the bill allows such rights in cases where the
16 corporate action involves an interested transaction, which is a
17 corporate action, other than a merger, involving an interested
18 person in which the shares or assets of the corporation are
19 being acquired or converted. A person is "interested" if
20 the person is a beneficial owner of 20 percent or more of
21 the corporation's voting shares, controlled the appointment
22 or election of 25 percent or more of the directors, or was a
23 senior executive or director of the corporation entitled to
24 receive certain financial benefits (Code section 490.1301).
25 SHAREHOLDER APPRAISAL RIGHTS — NOTICE. A corporation must
26 notify shareholders of their appraisal rights when a corporate
27 action is submitted to a vote at a shareholder meeting (Code
28 section 490.1320). The bill provides for notice when approval
29 is performed by written consent in lieu of a meeting (Code
30 section 490.704). A shareholder must provide notice of an
31 intent to exercise appraisal rights before the corporate action
32 (vote) is taken (Code section 490.1321). In order to remain
33 eligible to exercise those rights, the shareholder must not
34 vote on the matter. A shareholder who plans on asserting
35 appraisal rights cannot likewise exercise rights after signing

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1 a consent in favor of the proposal (Code section 490.1321).
2 If a corporate action requiring appraisal rights becomes
3 effective, the corporation must deliver a written appraisal
4 notice and form (Code section 490.1322). The bill provides for
5 the contents of the notice, including information regarding
6 an announcement to shareholders made prior to the date the
7 corporate action became effective and requires a shareholder
8 asserting appraisal rights to certify beneficial ownership.
9 The bill provides for perfecting shareholder appraisal rights
10 by signing and returning the form (Code section 490.1323). The
11 bill provides an estimated (prepaid) payment to shareholders
12 exercising their appraisal rights after the form's due date
13 (Code section 490.1324). The bill provides for a financial
14 statement required to accompany the payment (Code section
15 490.1620), and allows the corporation to substitute another
16 document in lieu of a financial statement if it is unavailable.
17 SHAREHOLDER APPRAISAL RIGHTS —— COURT COSTS. As part of
18 a shareholder appraisal rights proceeding, the court must
19 determine the court costs of the proceeding, and may assess
20 such costs against the corporation or shareholders demanding
21 appraisal (Code section 490.1331). The bill amends the
22 provision to eliminate a court's discretion to assess fees
23 associated with attorneys and experts.
24 SHAREHOLDER RIGHTS —— LIMITATION ON OTHER REMEDIES. The
25 bill provides that a corporate action triggering a right to
26 appraisal (Code section 490.1302) cannot be enjoined, set
27 aside, or rescinded by a shareholder after the shareholder
28 has approved the corporate action (Code section 490.1340).
29 However, this limitation does not apply to four situations:
30 (1) where the process of approving the corporate action was
31 flawed (e.g., unauthorized in the corporation's articles of
32 incorporation), (2) the corporate action was procured by fraud,
33 (3) the corporate action was an interested transaction in the
34 same manner as a director's conflicting interest transaction
35 (Code section 490.860), or (4) the transaction was approved,

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1 but without a meeting (Code section 490.704) and by less
2 than unanimous consent and the challenge is brought by a
3 nonconsenting director.
4 JUDICIAL DISSOLUTION — LIMITATION ON ACTIONS. A court may
5 dissolve a corporation in a proceeding brought by shareholders
6 on a number of grounds, including the directors are deadlocked,
7 the directors are acting fraudulently, the shareholders
8 are deadlocked, or there is waste of corporate assets (Code
9 section 490.1430). The bill adds a new ground, that the
10 corporation has abandoned its business and failed to liquidate
11 and distribute its assets and dissolve. The bill also
12 provides that the right of a shareholder to bring the action
13 does not apply to a corporation listed on the New York stock
14 exchange, the American stock exchange, an exchange owned or
15 controlled by NASDAQ, or listed on a system owned or controlled
16 by the national association of security dealers (NASD).
17 Alternatively, it does not apply to a corporation having 300
18 or more shareholders holding shares valued at $20 million
19 or more, again excluding shares held by the corporation's
20 subsidiaries, senior executives, directors, and beneficial
21 shareholders owning more than 10 percent of the shares (Code
22 section 490.1302).
23 FOREIGN CORPORATIONS — TRANSFER OF AUTHORITY. The bill
24 provides for the conversion of a foreign business corporation
25 authorized to do business in this state into a domestic
26 corporation by applying to the secretary of state (Code section
27 490.1523).
28 REPLACEMENT OF FUTURE REPEALED PROVISIONS. In 2011, the
29 general assembly enacted SF 325 (2011 Iowa Acts, chapter
30 2), carving out a special provision which provided for the
31 staggered terms of directors of public corporations and
32 providing for the repeal of the Act on December 31, 2014. This
33 bill amends one of those provisions, Code section 490.805,
34 subsection 2, and consequently the bill provides that the
35 provision of this Act amending that Code section prevails over

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1 the repeal of the 2011 amendments to that Code section.
2 The bill provides that once the provisions in SF 325 are
3 repealed, provisions in the model Act referring to public
4 corporations are enacted.

**House File 2427 - Introduced**

HOUSE FILE 2427
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HSB 655)

## A BILL FOR

1 An Act relating to electrical and mechanical amusement devices
2 concerning liability for device distributors and penalties
3 for awarding cash prizes for the use of electrical or
4 mechanical amusement devices.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6076HV (1) 84
ec/rj

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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 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 twenty-five dollars or less in violation of section 99B.10, subsection 1, paragraph "*b*", pursuant to rules adopted by the department, shall be issued a warning letter by the department.

*b.* A person who commits, within two years, a second offense of awarding a cash prize of twenty-five 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 twenty-five 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

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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"*.

EXPLANATION

This bill concerns electrical and mechanical amusement devices.

Code section 99B.10 is amended to provide that a distributor of a device shall not be liable for a violation of this Code section relative to amusement devices unless the distributor or an employee of the distributor intentionally violates the Code section.

This bill also concerns the penalties applicable to a person who awards a cash prize for the use of an electrical or mechanical amusement device in violation of Code section 99B.10(1)(b). The bill provides that if the cash prize awarded in violation of this provision is $25 or less, the penalty

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1 shall be a warning letter. Current penalties applicable to any
2 awarding of a cash prize in violation of this provision are
3 amended by the bill and made applicable to a second violation
4 of awarding a cash prize of $25 or less within two years or to
5 a violation of awarding a cash prize of more than $25. The
6 bill eliminates the 10-year revocation of the registration
7 authorizing an electrical or mechanical amusement device
8 penalty but retains the 14-day suspension of an applicable
9 liquor control license or beer permit penalty for a violation
10 of these provisions.

**House File 2428 - Introduced**

HOUSE FILE 2428
BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HF 2282)

## A BILL FOR

1 An Act relating to escort and permit requirements for the
2 movement of certain vehicles and combinations of vehicles of
3 excessive size.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5737HV (1) 84
dea/nh

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Section 1. Section 321E.1, subsection 1, Code 2011, is amended to read as follows:

1. The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads, or highways and for vehicles with indivisible loads which exceed the maximum dimensions and weights specified in sections 321.452 through 321.466, but not to exceed the limitations imposed in this section and sections 321E.2 through 321E.15 except as provided in ~~section~~ sections 321E.8B and 321E.29.

Sec. 2. Section 321E.2, subsection 1, Code 2011, is amended to read as follows:

1. Annual, multi-trip, and single-trip permits shall be issued by the authority responsible for the maintenance of the system of highways or streets. However, the department may issue permits on primary road extensions in cities in conjunction with movements on the rural primary road system. The department may issue an all-system permit under section 321E.8 which is valid for movements on all highways or streets under the jurisdiction of either the state or those local authorities which have indicated in writing to the department those streets or highways for which an all-system permit is not valid. The department may issue annual permits pursuant to section 321E.8A valid only for operation on noninterstate highways in counties stipulated in the permit. The department may issue an annual permit under section 321E.8B which is valid for movements on highways or streets that are not part of the national network of highways identified pursuant to 23 C.F.R. pt. 658 and are under the jurisdiction of either the state or those local authorities that have indicated in writing to the department those streets or highways for which an all-system permit is not valid.

Sec. 3. NEW SECTION. **321E.8B Vehicle combinations with divisible loads — annual permit.**

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The department may issue an annual permit for a truck tractor-semitrailer-semitrailer combination or a truck tractor-semitrailer-trailer combination carrying a divisible load and having an overall length not to exceed one hundred ten feet and with each trailer in the combination having an overall length not to exceed forty-five feet; an overall width not to exceed sixteen feet; an overall height not to exceed seventeen feet four inches; and a total gross weight not to exceed eighty thousand pounds; provided that the gross weight on any one axle does not exceed the maximum prescribed in section 321.463 and the load carried on each semitrailer or trailer is an indivisible load. A permit issued under this section shall allow travel only on highways that are not part of the national network of highways identified pursuant to 23 C.F.R. pt. 658. The length limitations specified for a permit issued under this section apply for the purpose of picking up a divisible load and returning from delivery of the divisible load.

Sec. 4. Section 321E.14, subsection 1, Code 2011, is amended to read as follows:

1. The department or local authorities issuing permits shall charge a fee of twenty-five dollars for an annual permit issued under section 321E.8, subsection 1, a fee of three hundred dollars for an annual permit issued under section 321E.8, subsection 2, a fee of two hundred dollars for a multi-trip permit issued under section 321E.9A, a fee of six hundred dollars for a special alternative energy multi-trip permit issued under section 321E.9B, and a fee of ten dollars for a single-trip permit, and shall determine charges for permits issued pursuant to section 321E.8B and special permits issued pursuant to section 321E.29 by rules adopted pursuant to chapter 17A. Fees for the movement of buildings, parts of buildings, or unusual vehicles or loads may be increased to cover the costs of inspections by the issuing authority. A fee not to exceed two hundred fifty dollars per day or a prorated fraction of that fee per person and car for escort service may

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be charged when requested or when required under this chapter. Proration of escort fees between state and local authorities when more than one governmental authority provides or is required to provide escort for a movement during the period of a day shall be determined by rule under section 321E.15. The department and local authorities may charge a permit applicant for the cost of trimming trees and removal and replacement of natural obstructions or official signs and signals or other public or private property required to be removed during the movement of a vehicle and load. In addition to the fees provided in this section, the annual fee for a permit for special mobile equipment, as defined in section 321.1, subsection 75, operated pursuant to section 321E.7, subsection 3, with a combined gross weight up to and including eighty thousand pounds shall be twenty-five dollars and for a combined gross weight exceeding eighty thousand pounds, fifty dollars.

Sec. 5. Section 321E.34, subsection 2, Code 2011, is amended to read as follows:

2. *a.* Vehicles under permit, the width of which, including any load, exceeds that prescribed in section 321.454 but does not exceed fourteen feet six inches including appurtenances, may be moved on two-lane highways of this state without an escort if the highway being traversed has a minimum lane width of twelve feet and a sufficient shoulder width and if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load. ~~In addition, vehicles~~

*b.* Vehicles moving under permit, including any load, with an overall width not exceeding sixteen feet six inches may be moved on an interstate or four-lane highway of this state without an escort if an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load.

*c.* The department may in its discretion allow a vehicle moving under permit with a width not exceeding sixteen feet

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1 zero inches, including any load, to be moved on a two-lane
2 highway without an escort if the highway being traversed has
3 a minimum lane width of twelve feet and a sufficient shoulder
4 width and if an amber revolving light or strobe light is
5 displayed on the power unit and on the rear extremity of the
6 vehicle or load.
7 EXPLANATION
8 This bill provides for the issuance of an annual oversize
9 vehicle permit for the movement of certain combinations of
10 vehicles carrying a divisible load. Currently, oversize
11 vehicle permits are only issued for vehicles carrying
12 indivisible loads, except under special or emergency
13 circumstances.
14 The bill authorizes the department of transportation
15 to issue an annual all-system permit for a truck
16 tractor-semitrailer-semitrailer or a truck
17 tractor-semitrailer-trailer combination of vehicles carrying
18 a divisible load to travel on certain roads which are not part
19 of the national network. The combination of vehicles cannot
20 exceed 110 feet in overall length, 16 feet in overall width, 17
21 feet 4 inches in overall height, and 80,000 pounds in gross
22 weight and must comply with statutory axle weight limits. Each
23 semitrailer or trailer in the combination of vehicles may be up
24 to 45 feet in length, and the load on each individual trailer
25 must be indivisible. The permit allows the combination of
26 vehicles to make a return trip unladen. The bill specifies
27 that the fee for the annual permit shall be established by the
28 department by rule.
29 Under current Iowa law, vehicle size limits are established
30 in compliance with limits established by the federal highway
31 administration for vehicles traveling on the national network
32 of highways. The national network is made up of interstate
33 highways and designated portions of the federal-aid primary
34 system. The length limit for a semitrailer or trailer in a
35 truck tractor-semitrailer-semitrailer combination or a truck

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tractor-semitrailer-trailer combination is 28 feet 6 inches. In order to comply with the federal limit on trailer length, a permit issued under the bill allows travel only on highways that are not part of the national network. State permits for loads exceeding the established federal width limit of 102 inches are permissible under federal law.

Current law requires the use of escort vehicles to accompany certain vehicles of excessive size and weight. A vehicle with a width in excess of 14 feet 6 inches, including any load or appurtenances, is required to have an escort when moved on a two-lane highway. An escort is not required for movement of a vehicle with a width not exceeding 16 feet 6 inches on a four-lane highway or an interstate, provided that an amber revolving light or strobe light is displayed on the power unit and on the rear extremity of the vehicle or load. This bill allows the department to waive the escort requirement for a vehicle with a width not exceeding 16 feet to be moved on a two-lane highway that has a minimum lane width of 12 feet and a sufficient shoulder width. The vehicle must have an amber revolving light or strobe light displayed on the power unit and on the rear extremity of the vehicle or load.

**House File 2429 - Introduced**

HOUSE FILE 2429
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 638)

## A BILL FOR

1 An Act relating to identity theft, providing penalties, and
2 making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5943HV (1) 84
rn/rj

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Section 1. Section 715A.8, Code 2011, is amended to read as follows:

**715A.8 Identity theft — offenses — penalties.**

1. *a.* For purposes of this section, *"identification information"* includes, but is not limited to, the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

*b.* For purposes of this section, *"financial institution"* means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

2. *a.* A person commits the offense of identity theft if the person ~~fraudulently uses or attempts to fraudulently use identification information of another person, with the intent to obtain credit, property, services, or other benefit~~ fraudulently or knowingly takes, purchases, manufactures, records, possesses, uses, or attempts to take, purchase, manufacture, record, possess, or use identification information of another person or entity, including a real or fictitious person or entity, without the consent of the other person or entity, with the intent to obtain or use the identification information for any unlawful purpose, or to cause loss to the other person or entity, or with the intent to obtain or continue employment. An offense is committed regardless of whether the other person or entity actually suffers any economic loss as a result of the offense.

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1 *b.* A person commits the offense of knowingly accepting
2 the identity of another person if the person, in hiring an
3 employee, knowingly does both of the following:
4 (1) Accepts any identification information of another
5 person with knowledge that the other person presenting the
6 identification information is not the actual person identified
7 by that identification information.
8 (2) Uses the identification information for the purpose of
9 determining whether the person who presented the identification
10 information has the legal right or authorization under federal
11 law to work in the United States as described and determined
12 pursuant to the processes and procedures under 8 U.S.C. §
13 1324a.
14 *c.* (1) A person commits the offense of aggravated identity
15 theft if the person does either of the following:
16 (a) Fraudulently or knowingly takes, purchases,
17 manufactures, records, possesses, uses, or attempts to take,
18 purchase, manufacture, record, possess, or use identification
19 information of five or more other persons or entities,
20 including real or fictitious persons or entities, without the
21 consent of the other persons or entities, with the intent to
22 obtain or use the identification information for any unlawful
23 purpose, or to cause loss to the persons or entities. An
24 offense is committed regardless of whether the persons or
25 entities actually suffer any economic loss as a result of the
26 offense.
27 (b) Commits the offense of identity theft under paragraph
28 *"a"* and causes another person or entity to suffer an economic
29 loss of three thousand dollars or more.
30 (2) In an action for aggravated identity theft pursuant to
31 this paragraph *"c"*, proof of possession outside the regular
32 course of business of identification information of five or
33 more persons or entities may give rise to an inference that
34 the identification information was possessed for an unlawful
35 purpose.

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*d.* A person commits the offense of trafficking identity theft if the person fraudulently or knowingly sells, transfers, or transmits any identification information of another person or entity, including a real or fictitious person or entity, without the consent of the other person or entity for any unlawful purpose or to cause loss to the person or entity regardless of whether the other person or entity actually suffers any economic loss as a result of the offense.

3. ~~If the value of the credit, property, or services exceeds one thousand dollars, the person commits a class "D" felony. If the value of the credit, property, or services does not exceed one thousand dollars, the person commits an aggravated misdemeanor.~~ A violation of this subsection shall be punishable as follows:

*a.* A person who violates subsection 2, paragraph *"a"*, commits a class "D" felony.

*b.* A person who violates subsection 2, paragraph *"b"*, commits a class "D" felony, and notwithstanding section 902.9, subsection 5, shall be punished by confinement for no more than seven years and a fine of at least eight hundred fifty dollars but not more than eight thousand five hundred dollars.

*c.* A person who violates subsection 2, paragraph *"c"*, commits a class "C" felony.

*d.* A person who violates subsection 2, paragraph *"d"*, commits a class "C" felony, and notwithstanding section 902.9, subsection 4, shall be punished by confinement for no more than twelve years and a fine of at least one thousand two hundred fifty dollars but not more than ten thousand two hundred fifty dollars.

4. A violation of this section is an unlawful practice under section 714.16.

5. Violations of this section shall be prosecuted in any of the following venues:

*a.* In the county in which the violation occurred.

*b.* If the violation was committed in more than one county,

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1 or if the elements of the offense were committed in more than
2 one county, then in any county where any violation occurred or
3 where an element of the offense occurred.
4 *c.* In the county where the victim resides.
5 *d.* In the county where the property that was ~~fraudulently~~
6 ~~used or attempted to be used~~ subject to the violation was
7 located at the time of the violation.
8 6. Any real or personal property obtained by a person as
9 a result of a violation of this section, including but not
10 limited to any money, interest, security, claim, contractual
11 right, or financial instrument that is in the possession of the
12 person, shall be subject to seizure and forfeiture pursuant to
13 chapter 809A. A victim injured by a violation of this section,
14 or a financial institution that has indemnified a victim
15 injured by a violation of this section, may file a claim as
16 an interest holder pursuant to section 809A.11 for payment of
17 damages suffered by the victim including costs of recovery and
18 reasonable attorney fees.
19 7. A financial institution may file a complaint regarding a
20 violation of this section on behalf of a victim and shall have
21 the same rights and privileges as the victim if the financial
22 institution has indemnified the victim for such violations.
23 8. Upon the request of a victim, a peace officer in any
24 jurisdiction described in subsection 5 shall take a report
25 regarding an alleged violation of this section and shall
26 provide a copy of the report to the victim. The report may also
27 be provided to any other law enforcement agency in any of the
28 jurisdictions described in subsection 5.
29 EXPLANATION
30 This bill modifies current provisions constituting identity
31 theft, and adds additional forms of identity theft subject to
32 penalty.
33 Code section 715A.8 currently specifies that a person
34 commits the offense of identity theft if the person
35 fraudulently uses or attempts to fraudulently use

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1 identification information, as defined in the Code section, of
2 another person, with the intent to obtain credit, property,
3 services, or other benefit. The bill modifies the Code section
4 by creating four separate offenses constituting identity theft.
5 The bill provides that a person commits the offense of
6 identity theft if the person fraudulently or knowingly
7 takes, purchases, manufactures, records, possesses, uses, or
8 attempts to take, purchase, manufacture, record, possess, or
9 use identification information of another person or entity,
10 including a real or fictitious person or entity, without the
11 consent of the other person or entity, with the intent to
12 obtain or use the identification information for any unlawful
13 purpose, or to cause loss to the other person or entity, or
14 with the intent to obtain or continue employment. The bill
15 states that an offense is committed regardless of whether the
16 other person or entity actually suffers any economic loss as a
17 result of the offense.
18 The bill provides that a person commits the offense
19 of knowingly accepting the identity of another person if
20 the person, in hiring an employee, knowingly accepts any
21 identification information of another person with knowledge
22 that the other person is not the actual person identified by
23 that information, or uses the information for the purpose of
24 determining whether the person who presented the information
25 has the legal right or authorization under federal law to work
26 in the United States as described and determined pursuant to
27 the processes and procedures under 8 U.S.C. § 1324a dealing
28 with the unlawful employment of aliens.
29 The bill provides that a person commits the offense of
30 aggravated identity theft if the person either commits the
31 offense of identity theft in relation to the identification
32 information of five or more persons or entities, or commits
33 the offense of identity theft and causes another person or
34 entity to suffer an economic loss of $3,000 or more. The
35 bill adds that in an action for aggravated identity theft

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1 proof of possession outside the regular course of business
2 of identification information of five or more persons or
3 entities may give rise to an inference that the identification
4 information was possessed for an unlawful purpose.
5 The bill provides that a person commits the offense of
6 trafficking identity theft if the person fraudulently or
7 knowingly sells, transfers, or transmits any identification
8 information of another person or entity, including a real or
9 fictitious person or entity, without the consent of the other
10 person or entity for any unlawful purpose or to cause loss to
11 the person or entity regardless of whether the other person or
12 entity actually suffers any economic loss.
13 The bill also modifies penalties applicable to the offense
14 of identity theft. Currently penalties vary depending upon
15 the value of the credit, property, or services subject to the
16 offense. If the value of the credit, property, or services
17 exceeds $1,000, the person commits a class "D" felony. If the
18 value of the credit, property, or services does not exceed
19 $1,000, the person commits an aggravated misdemeanor. The bill
20 replaces these provisions with separate penalties applicable
21 for each of the four types of identity theft. The bill
22 provides that the "basic" form of identity theft is punishable
23 as a class "D" felony. A class "D" felony is punishable
24 by confinement for no more than five years and a fine of
25 at least $750 but not more than $7,500. The bill provides
26 that knowingly accepting the identity of another person is
27 punishable as a class "D" felony, but with increased potential
28 terms of confinement and fines in the form of no more than
29 seven years confinement and a fine of at least $850 but not
30 more than $8,500. The bill provides that aggravated identity
31 theft is punishable as a class "C" felony. A class "C" felony
32 is punishable by confinement for no more than 10 years and a
33 fine of at least $1,000 but not more than $10,000. The bill
34 provides that trafficking identity theft is punishable as a
35 class "C" felony, but again with increased potential terms of

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1 confinement and fines in the form of no more than 12 years
2 confinement and a fine of at least $1,250 but not more than
3 $10,250.
4 In addition to the penalties provided in the bill, all forms
5 of identity theft will be subject to the existing civil cause
6 of action provisions of Code section 714.16B, which provide
7 that a person suffering a pecuniary loss as a result of an
8 identity theft by another person under Code section 715A.8,
9 or a financial institution on behalf of an account holder
10 suffering a pecuniary loss as a result of an identity theft
11 by another person under the Code section, may bring an action
12 against such other person to recover specified costs and fees,
13 and the amount of $5,000 or three times the actual damages,
14 whichever is greater. Existing Code section 715A.9 provides a
15 method for the determination of the value of credit, property,
16 or services subject to an identity theft.
17 Additionally, Code section 715A.8 provides that identity
18 theft constitutes an unlawful practice under the consumer
19 fraud provisions of Code section 714.16. In addition to
20 other specified remedies, Code section 714.16 provides that
21 the attorney general may request and the court may impose a
22 civil penalty not to exceed $40,000 per violation against
23 a person found by the court to have engaged in a method,
24 act, or practice declared unlawful, and that the court may
25 impose a civil penalty of not more than $5,000 for each day
26 of intentional violation of a temporary restraining order,
27 preliminary injunction, or permanent injunction issued under
28 the Code section.

**House File 2430 - Introduced**

HOUSE FILE 2430
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2156)

## A BILL FOR

1 An Act relating to the employment of unauthorized aliens and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5018HV (4) 84
je/rj

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1 Section 1. NEW SECTION. **93.1 Definitions.**
2 As used in this chapter, unless the context otherwise
3 requires:
4 1. *"Agency"* means an agency, department, board, or
5 commission of this state or a political subdivision that issues
6 a license for purposes of operating a business in this state.
7 2. *"Economic development incentive"* means a grant, loan, or
8 performance-based incentive awarded by a government entity of
9 this state. *"Economic development incentive"* does not include a
10 tax credit or tax incentive program.
11 3. *"Employ"* means hiring or continuing to employ an
12 individual to perform services.
13 4. *"Employee"* means an individual who provides services
14 or labor for an employer in this state for wages or other
15 remuneration. *"Employee"* does not include an independent
16 contractor.
17 5. *"Employer"* means a person, as defined in chapter 4, that
18 transacts business in this state, that has a license issued by
19 an agency in this state, and that employs one or more employees
20 in this state. *"Employer"* includes this state, a political
21 subdivision of this state, and a self-employed individual.
22 In the case of an independent contractor, *"employer"* means
23 the independent contractor and does not mean the person or
24 organization that uses the contract labor.
25 6. *"E-verify program"* means the employment verification
26 program as jointly administered by the United States department
27 of homeland security and the United States social security
28 administration or any successor program.
29 7. *"Government entity"* means this state or a political
30 subdivision of this state that receives and uses tax revenues.
31 8. *a. "Independent contractor"* means a person that carries
32 on an independent business, that contracts to do a piece of
33 work according to the person's own means and methods and that
34 is subject to control only as to results. Whether a person is
35 an independent contractor is determined on a case-by-case basis

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1 through various factors, including whether the person does any
2 of the following:
3 (1) Supplies tools or materials.
4 (2) Makes services available to the general public.
5 (3) Works or may work for a number of clients at the same
6 time.
7 (4) Has an opportunity for profit or loss as a result of
8 labor or service provided.
9 (5) Invests in facilities for work.
10 (6) Directs the order or sequence in which the work is
11 completed.
12 (7) Determines the hours when the work is completed.
13 *b.* Independent contractor status includes an individual who
14 performs services and is not an employee pursuant to section
15 3508 of the Internal Revenue Code.
16 9. *"Knowingly employ an unauthorized alien"* means the
17 actions described in 8 U.S.C. § 1324a, and shall be interpreted
18 consistently with 8 U.S.C. § 1324a and any applicable federal
19 regulations.
20 10. *"License"* means a permit, certificate, approval,
21 registration, charter, or similar form of authorization, other
22 than a professional license, that is required by law and that
23 is issued by an agency, allowing the licensee to do business
24 in this state.
25 11. *"Social security number verification service"* means
26 the program administered by the United States social security
27 administration or any successor program.
28 12. *"Unauthorized alien"* means an alien who does not have
29 the legal right or authorization under federal law to work in
30 the United States as described in 8 U.S.C. § 1324a(h)(3).
31 Sec. 2. NEW SECTION. **93.2 Knowingly employing unauthorized**
32 **aliens.**
33 1. *Knowingly employing unauthorized aliens prohibited.* An
34 employer shall not knowingly employ an unauthorized alien. If
35 an employer uses a contract, subcontract, or other independent

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1 contractor agreement to obtain the labor of an alien in
2 this state, and the employer knowingly contracts with an
3 unauthorized alien or with a person who employs or contracts
4 with an unauthorized alien to perform the labor, the employer
5 violates this subsection.
6 2. *Complaints.*
7 *a.* The secretary of state shall prescribe a complaint
8 form for a person to allege a violation of subsection 1. The
9 complainant shall not be required to list the complainant's
10 social security number on the complaint form or to have the
11 complaint form notarized. Complaints shall be submitted to the
12 county sheriff or a local law enforcement agency in the county
13 in which the alleged unauthorized alien is or was employed
14 by the employer. This subsection shall not be construed to
15 prohibit the filing of anonymous complaints that are not
16 submitted on a prescribed complaint form.
17 *b.* On receipt of a complaint on a prescribed complaint
18 form which alleges that an employer knowingly employs or
19 employed a named individual employee who is an unauthorized
20 alien, the county sheriff or local law enforcement agency
21 shall investigate whether the employer has violated subsection
22 1. On receipt of a complaint on a prescribed complaint
23 form which alleges that an employer knowingly employs or
24 employed an unauthorized alien, but which does not name a
25 specific individual employee, the county sheriff or local law
26 enforcement agency may investigate whether the employer has
27 violated subsection 1. If a complaint is received but is not
28 submitted on a prescribed complaint form or is an anonymous
29 complaint, the county sheriff or local law enforcement agency
30 may investigate whether the employer has violated subsection 1.
31 *c.* The county sheriff or local law enforcement agency shall
32 not investigate complaints that are based solely on race,
33 color, or national origin. When investigating a complaint
34 alleging that a named individual is an unauthorized alien, the
35 county sheriff or local law enforcement agency shall verify the

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1 work authorization of the alleged unauthorized alien with the
2 federal government pursuant to 8 U.S.C. § 1373(c). A state,
3 county, or local official shall not attempt to independently
4 make a final determination on whether an alien is authorized
5 to work in the United States.
6 *d.* A person who knowingly files a false or frivolous
7 complaint under this subsection is guilty of a simple
8 misdemeanor.
9 3. *Required notifications.* If, after an investigation,
10 the county sheriff or local law enforcement agency determines
11 that the complaint is not false and not frivolous, the
12 county sheriff or local law enforcement agency shall ask the
13 appropriate county attorney to bring an action pursuant to
14 subsection 4. The county sheriff or local law enforcement
15 agency shall also notify United States immigration and customs
16 enforcement of the unauthorized alien.
17 4. *Court action required.* An action for a violation of
18 subsection 1 shall be brought against the employer by the
19 county attorney in the district court of the county where the
20 unauthorized alien employee is or was employed by the employer.
21 The district court shall expedite the action, including
22 assigning a hearing at the earliest practicable date.
23 5. *Court order — first violation.* On a finding of a first
24 violation as described in subsection 7, the court shall require
25 by order all of the following:
26 *a.* The employer shall terminate the employment of all
27 unauthorized aliens.
28 *b.* (1) The employer shall be subject to a three-year
29 probationary period for the business location where the
30 unauthorized alien performed work.
31 (2) During the probationary period, the employer shall file
32 quarterly reports on the form prescribed in section 252G.3 with
33 the county attorney for each new employee who is hired by the
34 employer at the business location where the unauthorized alien
35 performed work.

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1 *c.* The employer shall be required to file a signed sworn
2 affidavit with the county attorney within three business days
3 after the order is issued. The affidavit shall state that the
4 employer has terminated the employment of all unauthorized
5 aliens in this state and that the employer will not knowingly
6 employ an unauthorized alien in this state.
7 (1) The court shall order the appropriate agencies to
8 suspend all licenses that are held by the employer if the
9 employer fails to file a signed sworn affidavit with the county
10 attorney within three business days after the order is issued.
11 All licenses that are suspended shall remain suspended until
12 the employer files a signed sworn affidavit with the county
13 attorney. Upon filing of the affidavit, the suspended licenses
14 shall be reinstated immediately by the appropriate agencies.
15 (2) Licenses that are subject to suspension under this
16 paragraph *"c"* are all licenses that are held by the employer
17 specific to the business location where the unauthorized alien
18 performed work. If the employer does not hold a license
19 specific to the business location where the unauthorized alien
20 performed work, but a license is necessary to operate the
21 employer's business in general, the licenses that are subject
22 to suspension under this paragraph *"c"* are all licenses that
23 are held by the employer at the employer's primary place of
24 business. On receipt of the court's order, the appropriate
25 agencies shall suspend the licenses according to the court's
26 order. The court shall send a copy of the court's order to the
27 secretary of state and the secretary of state shall maintain
28 the copy pursuant to subsection 8.
29 (3) The court may order the appropriate agencies to suspend
30 all licenses described in this paragraph *"c"* that are held by
31 the employer for not more than ten business days. The court
32 shall base its decision to suspend under this subparagraph
33 on any evidence or information submitted to it during the
34 action for a violation of subsection 1 and shall consider the
35 following factors, if relevant:

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1 (a) The number of unauthorized aliens employed by the
2 employer.
3 (b) Any prior misconduct by the employer.
4 (c) The degree of harm resulting from the violation.
5 (d) Whether the employer made good faith efforts to comply
6 with any applicable requirements.
7 (e) The duration of the violation.
8 (f) The role of the directors, officers, or principals of
9 the employer in the violation.
10 (g) Any other factors the court deems appropriate.
11 6. *Court order — second violation.* For a second violation,
12 as described in subsection 7, the court shall order the
13 appropriate agencies to permanently revoke all licenses that
14 are held by the employer specific to the business location
15 where the unauthorized alien performed work. If the employer
16 does not hold a license specific to the business location
17 where the unauthorized alien performed work, but a license
18 is necessary to operate the employer's business in general,
19 the court shall order the appropriate agencies to permanently
20 revoke all licenses that are held by the employer at the
21 employer's primary place of business. On receipt of the order,
22 the appropriate agencies shall immediately revoke the licenses.
23 7. *Violations defined.*
24 *a.* A violation shall be considered a first violation by
25 an employer at a business location if the violation did not
26 occur during a probationary period ordered by the court under
27 subsection 5, paragraph "*b*", for that employer's business
28 location.
29 *b.* A violation shall be considered a second violation by
30 an employer at a business location if the violation occurred
31 during a probationary period ordered by the court under
32 subsection 5, paragraph "*b*", for that employer's business
33 location.
34 8. *Secretary of state database.* The secretary of state
35 shallmaintain copies of court orders that are received pursuant

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1 to subsection 5, paragraph *"c"*, and shall maintain a database of
2 the employers and business locations found to have committed
3 a first violation of subsection 1 and make the court orders
4 available on the secretary of state's internet site.
5 9. *Federal determination governs.* In determining whether
6 an employee is an unauthorized alien, the court shall consider
7 only the federal government's determination pursuant to 8
8 U.S.C. § 1373(c). The federal government's determination
9 creates a rebuttable presumption of the employee's lawful
10 status. The court may take judicial notice of the federal
11 government's determination and may request the federal
12 government to provide automated or testimonial verification
13 pursuant to 8 U.S.C. § 1373(c).
14 10. *Good-faith compliance.* For the purposes of this
15 section, an employer that establishes that it has complied
16 in good faith with the requirements of 8 U.S.C. § 1324a(b)
17 establishes a conclusive affirmative defense that the employer
18 did not knowingly employ an unauthorized alien. An employer is
19 considered to have complied with the requirements of 8 U.S.C. §
20 1324a(b), notwithstanding an isolated, sporadic, or accidental
21 technical or procedural failure to meet the requirements, if
22 there is a good-faith attempt to comply with the requirements.
23 11. *Entrapment as affirmative defense.*
24 *a.* It is an affirmative defense to a violation of subsection
25 1 that the employer was entrapped. To claim entrapment, the
26 employer must admit by the employer's testimony or other
27 evidence the substantial elements of the violation. An
28 employer who asserts an entrapment defense has the burden
29 of proving all of the following by a preponderance of the
30 evidence:
31 (1) The idea of committing the violation started with law
32 enforcement officers or their agents rather than with the
33 employer.
34 (2) The law enforcement officers or their agents urged and
35 induced the employer to commit the violation.

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1 (3) The employer was not predisposed to commit the violation
2 before the law enforcement officers or their agents urged and
3 induced the employer to commit the violation.
4 *b.* An employer does not establish entrapment if the employer
5 was predisposed to violate subsection 1 and the law enforcement
6 officers or their agents merely provided the employer with an
7 opportunity to commit the violation. It is not entrapment for
8 law enforcement officers or their agents merely to use a ruse
9 or to conceal their identity. The conduct of law enforcement
10 officers and their agents may be considered in determining if
11 an employer has proven entrapment.
12 Sec. 3. NEW SECTION. **93.3 E-verify program — employer**
13 **participation.**
14 1. An employer, after hiring an employee, shall verify the
15 employment eligibility of the employee through the e-verify
16 program and shall keep a record of the verification for the
17 duration of the employee's employment or at least three years,
18 whichever is longer.
19 2. In addition to any other requirement for an employer to
20 receive an economic development incentive from a government
21 entity, the employer shall register with and participate
22 in the e-verify program. Before receiving the economic
23 development incentive, the employer shall provide proof to the
24 government entity that the employer is registered with and
25 is participating in the e-verify program. If the government
26 entity determines that the employer is not complying with this
27 subsection, the government entity shall notify the employer
28 by certified mail of the government entity's determination
29 of noncompliance and the employer's right to appeal the
30 determination. On a final determination of noncompliance,
31 the employer shall repay all moneys received as an economic
32 development incentive to the government entity within thirty
33 days of the final determination.
34 3. Every three months, the secretary of state shall request
35 from the United States department of homeland security a

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1 list of employers from this state that are registered with
2 the e-verify program. On receipt of the list of employers,
3 the secretary of state shall make the list available on the
4 secretary of state's internet site.
5 Sec. 4. NEW SECTION. **93.4 Compliance with federal and state**
6 **law.**
7 This chapter shall not be construed to require an employer to
8 take any action that the employer believes in good faith would
9 violate federal or state law.
10 Sec. 5. IMPLEMENTATION OF ACT. Section 25B.2, subsection
11 3, shall not apply to this Act.
12 EXPLANATION
13 This bill prohibits employers from knowingly employing
14 unauthorized aliens. The bill directs the secretary of
15 state to prescribe a complaint form for alleged violations of
16 the prohibition. The bill provides that complaints may be
17 submitted to the county sheriff or local law enforcement agency
18 in the county in which the alleged unauthorized alien is or was
19 employed by the employer. The bill directs the county sheriff
20 or local law enforcement agency to investigate complaints they
21 receive, and to verify the work authorization of an alleged
22 unauthorized alien with the federal government. The bill
23 provides that the investigation is discretionary for complaints
24 which do not name specific employees, anonymous complaints,
25 and complaints not submitted on a prescribed complaint form.
26 The bill prohibits the county sheriff or local law enforcement
27 agency from investigating complaints that are based solely
28 on race, color, or national origin. The bill provides that
29 a person who knowingly files a false or frivolous complaint
30 is guilty of a simple misdemeanor, which is punishable by
31 confinement for no more than 30 days or a fine of at least $65
32 but not more than $625 or by both.
33 The bill requires the county sheriff or local law
34 enforcement agency to notify United States immigration and
35 customs enforcement and the county attorney of a complaint

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that is not false and not frivolous. The bill requires the county attorney to bring an action in district court against an employer for a violation in the county where the unauthorized alien employee is or was employed by the employer. The bill provides that such an action must be expedited by the court.

The bill provides that for a first violation, the court must order the employer to terminate the employment of all unauthorized aliens and to submit a signed sworn affidavit to that effect or face suspension of business licenses by appropriate agencies. The court will also order a three-year probationary period for the employer. The court may also order the suspension of the employer's business licenses by appropriate agencies for up to 10 business days, after considering certain factors. The bill provides that for a second violation, defined as a violation occurring during a probationary period for a previous violation, the court must order the permanent revocation of the employer's business licenses. The bill directs the secretary of state to maintain an online database of first-time offenders.

The bill provides that the district court can only consider a determination by the federal government in determining the immigration status of an alleged unauthorized alien employed by an employer. The bill provides that an employer who establishes that the employer complied in good faith with 8 U.S.C. § 1324a(b) establishes a conclusive affirmative defense that the employer did not knowingly employ an unauthorized alien. The bill provides that an employer is considered to have complied with the requirements of 8 U.S.C. § 1324a(b), notwithstanding an isolated, sporadic, or accidental technical or procedural failure to meet the requirements, if there is a good-faith attempt to comply with the requirements. The bill provides an employer with an affirmative defense of entrapment if certain elements are met.

The bill requires an employer hiring a new employee to verify the employee's employment eligibility through the

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1 federal e-verify program. The bill requires the employer
2 to keep records of the verification for the duration of the
3 employee's employment or three years, whichever is longer. The
4 bill requires an employer receiving an economic development
5 incentive from a state government entity to register with the
6 federal e-verify program. The bill provides that an employer
7 who does not comply with the requirement must repay all moneys
8 received for the economic development incentive. The bill
9 provides an employer the right to appeal a determination of
10 noncompliance, and does not require repayment until a final
11 determination of noncompliance is made. The bill directs the
12 secretary of state to request from the United States department
13 of homeland security a list of employers registered with the
14 e-verify program every three months. The bill directs the
15 secretary of state to make the list available on the secretary
16 of state's internet site.
17 The bill provides that the bill shall not be construed
18 to require an employer to take any action that the employer
19 believes in good faith would violate federal or state law.
20 The bill may include a state mandate as defined in Code
21 section 25B.3. The bill makes inapplicable Code section 25B.2,
22 subsection 3, which would relieve a political subdivision from
23 complying with a state mandate if funding for the cost of
24 the state mandate is not provided or specified. Therefore,
25 political subdivisions are required to comply with any state
26 mandate included in the bill.

**House File 2431 - Introduced**

HOUSE FILE 2431
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 646)

## A BILL FOR

1 An Act relating to redesign of publicly funded mental
2 health and disability services by requiring certain core
3 services and addressing other services and providing
4 for establishment of regions, making appropriations, and
5 including effective date and applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 6075HV (2) 84
jp/rj

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1 DIVISION I
2 CORE SERVICES
3 Section 1. Section 331.439, Code Supplement 2011, is
4 amended by adding the following new subsection:
5 NEW SUBSECTION. 9A. *a.* Beginning July 1, 2012, the county
6 management plan for mental health services shall provide that
7 an individual's eligibility for individualized services shall
8 be determined by the level of care utilization system for
9 psychiatric and addiction services, developed by the American
10 association of community psychiatrists, or other standardized
11 functional assessment methodology approved for this purpose by
12 the state commission.
13 *b.* Beginning July 1, 2012, the county management plan
14 for intellectual disability services shall provide that an
15 individual's eligibility for individualized services shall
16 be determined by the supports intensity scale, developed by
17 the American association on intellectual and developmental
18 disabilities, or other standardized functional assessment
19 methodology approved for this purpose by the state commission.
20 *c.* Beginning July 1, 2012, the county management plan
21 for brain injury services shall provide that an individual's
22 eligibility for individualized services shall be determined
23 in accordance with a standardized functional assessment
24 methodology approved for this purpose by the state commission.
25 Sec. 2. NEW SECTION. **331.439A Regional service system**
26 **management plan.**
27 1. The mental health and disability services provided
28 by counties operating as a region shall be delivered in
29 accordance with a regional service system management plan
30 approved by the region's governing board and implemented by
31 the regional administrator in accordance with this section.
32 The requirements for a regional service system management plan
33 shall be specified in rule adopted by the state commission.
34 A regional service system management plan is subject to
35 the approval of the regional governing board and the state

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1 commission.
2 2. The provisions of a regional service system management
3 plan shall include but are not limited to all of the following:
4 *a.* An approved policies and procedures manual for the use of
5 county, state, and other funding administered by the region. A
6 service system management plan for each county in the region
7 shall be defined in the manual. Once the regional manual
8 is approved, an amendment to the manual shall be submitted
9 to the department of human services at least forty-five
10 days prior to the date of implementation of the amendment.
11 Prior to implementation of an amendment to the manual, the
12 amendment must be approved by the director of human services in
13 consultation with the state commission.
14 *b.* For informational purposes, a regional service system
15 management plan review submitted by the regional administrator
16 to the department of human services by December 1 of each year.
17 The annual review shall incorporate an analysis of the data
18 associated with the regional service systems managed during
19 the preceding fiscal year by the region. The annual review
20 shall also identify measurable outcomes and results showing the
21 region's progress in fulfilling the purposes listed in section
22 225C.1 and in achieving the disability services outcomes and
23 indicators identified by the state commission pursuant to
24 section 225C.6.
25 *c.* For informational purposes, a three-year strategic plan
26 submitted every three years by the regional administrator to
27 the department of human services. The strategic plan shall
28 describe how the region will proceed to attain the plan's
29 goals and objectives, and the measurable outcomes and results
30 necessary for moving the regional services system toward an
31 individualized, community-based focus in accordance with
32 section 225C.1. The initial three-year strategic plan shall be
33 submitted by April 1, 2015, and by April 1 of every third year
34 thereafter.
35 *d.* The regional administrator's plans to implement the

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1 regional service system management plan and other service
2 management functions in a manner that seeks to achieve all of
3 the following purposes identified in section 225C.1 for persons
4 who are covered by the regional plan or are otherwise subject
5 to the regional service system's management functions. The
6 regional plan shall describe how the regional service system
7 will accomplish all of the following purposes:
8 (1) The regional service system seeks to empower persons
9 to exercise their own choices about the amounts and types of
10 services and other support to receive.
11 (2) The regional service system seeks to empower the persons
12 to accept responsibility, exercise choices, and take risks.
13 (3) The regional service system seeks to provide services
14 and other support that are individualized, provided to produce
15 results, flexible, and cost-effective.
16 (4) The regional service system seeks to provide services
17 and other support in a manner which enhances the ability of the
18 persons to live, learn, work, and recreate in communities of
19 their choice.
20 *e.* Measures to address the needs of individuals who have two
21 or more co-occurring mental health, intellectual disability,
22 brain injury, or substance-related disorders and individuals
23 with specialized needs.
24 3. The region may either directly implement a system
25 of service management and contract with service providers,
26 or contract with a private entity to manage the regional
27 service system, provided all requirements of this section
28 are met by the private entity. The regional service system
29 shall incorporate service management and clinical assessment
30 processes developed in accordance with applicable requirements.
31 4. The regional service system management plan for a region
32 shall include but is not limited to all of the following
33 elements, which shall be specified in administrative rules
34 adopted by the state commission:
35 *a.* The enrollment and eligibility process.

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1 *b.* The scope of services included in addition to the core
2 services required by this part of this chapter.
3 *c.* The method of plan administration.
4 *d.* The process for managing utilization and access to
5 services and other assistance.
6 *e.* The quality management and improvement processes.
7 *f.* The risk management provisions and fiscal viability of
8 the plan, if the region contracts with a private entity.
9 *g.* The access points for services.
10 *h.* The requirements for designation of targeted case
11 management providers which shall be designed to provide
12 consumer choice, prohibit a provider from referring consumers
13 to services administered by the provider, and include other
14 provisions to ensure compliance with federal requirements for
15 conflict-free case management.
16 *i.* A plan for a systems of care approach in which multiple
17 public and private agencies partner with families and
18 communities to address the multiple needs of the individuals
19 and their families involved with the regional service system.
20 *j.* A plan to assure effective crisis prevention, response,
21 and resolution.
22 *k.* A plan for provider network formation and management.
23 *l.* A plan for provider reimbursement approaches that
24 includes approaches other than fee-for-service and to
25 compensate the providers engaged in a systems of care approach
26 and other nontraditional providers.
27 *m.* If the region applies any provider licensing,
28 certification, or accreditation requirements in addition to
29 those required by the state, the procedures for implementing
30 the requirements.
31 *n.* Service provider payment provisions.
32 *o.* Financial forecasting measures.
33 *p.* A process for resolving grievances.
34 *q.* Measures for implementing interagency and multisystem
35 collaboration and care coordination.

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1 5. A region may provide assistance to service populations
2 with disabilities to which the counties comprising the region
3 have historically provided assistance but who are not included
4 in the service management provisions required under subsection
5 2, subject to the availability of funding.
6 6. If a region determines that the region cannot provide
7 services for the fiscal year in accordance with the regional
8 plan and remain in compliance with applicable budgeting
9 requirements, the region may implement a waiting list for
10 the services. The procedures for establishing and applying
11 a waiting list shall be specified in the regional plan. If
12 a region implements a waiting list for services, the region
13 shall notify the department of human services. The department
14 shall maintain on the department's internet site an up-to-date
15 listing of the regions that have implemented a waiting list and
16 the services affected by each waiting list.
17 7. The director's approval of a regional plan shall not be
18 construed to constitute certification of the respective county
19 budgets or of the region's budget.
20 Sec. 3. NEW SECTION. **331.439B Financial eligibility**
21 **requirements.**
22 A person must comply with all of the following financial
23 eligibility requirements to be eligible for services under the
24 regional service system:
25 1. The person must have an income equal to or less than
26 one hundred fifty percent of the federal poverty level, as
27 defined by the most recently revised poverty income guidelines
28 published by the United States department of health and
29 human services, to be eligible for disability services
30 public funding. It is the intent of the general assembly to
31 consider increasing this income eligibility provision to two
32 hundred percent of the federal poverty level, contingent upon
33 implementation of the federal Patient Protection and Affordable
34 Care Act beginning in January 2014.
35 2. *a.* A region or a service provider contracting with

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1 the region may apply a copayment requirement for a particular
2 service to a person with an income equal to or less than one
3 hundred fifty percent of the federal poverty level, provided
4 the disability service, uniform copayment standards, and the
5 copayment amounts comply with rules adopted by the state
6 commission.
7 *b.* A person with an income above one hundred fifty percent
8 of the federal poverty level may be eligible subject to a
9 copayment or other cost-sharing arrangement, in accordance with
10 limitations adopted in rule by the state commission.
11 *c.* A provider under the regional service system of a service
12 that is not funded by the medical assistance program under
13 chapter 249A may waive the copayment or other cost-sharing
14 arrangement if the provider is fully able to absorb the cost.
15 3. A person who is eligible for federally funded services
16 and other support must apply for such services and support.
17 4. The person is in compliance with resource limitations
18 identified in rule adopted by the state commission. The
19 limitation shall be derived from the federal supplemental
20 security income program resource limitations. A person with
21 resources above the federal supplemental security income
22 program resource limitations may be eligible subject to
23 limitations adopted in rule by the state commission. If a
24 person does not qualify for federally funded services and other
25 support but meets income, resource, and functional eligibility
26 requirements for regional services, the following types of
27 resources shall be disregarded:
28 *a.* A retirement account that is in the accumulation stage.
29 *b.* A burial, medical savings, or assistive technology
30 account.
31 Sec. 4. NEW SECTION. **331.439C Diagnosis — functional**
32 **assessment.**
33 1. A person must comply with all of the following
34 requirements to be eligible for mental health services under
35 the regional service system:

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1 *a.* The person complies with financial eligibility
2 requirements under section 331.439B.
3 *b.* The person is at least eighteen years of age and is a
4 resident of this state.
5 *c.* The person has had at any time during the preceding
6 twelve-month period a diagnosable mental health, behavioral, or
7 emotional disorder. The diagnosis shall be made in accordance
8 with the criteria provided in the diagnostic and statistical
9 manual of mental disorders, fourth edition text revised,
10 published by the American psychiatric association, and shall
11 not include the manual's "V" codes identifying conditions other
12 than a disease or injury. The diagnosis shall also not include
13 substance-related disorders, dementia, antisocial personality,
14 or developmental disabilities, unless co-occurring with another
15 diagnosable mental illness.
16 *d.* The person's eligibility for individualized services
17 shall be determined by the level of care utilization system for
18 psychiatric and addiction services, developed by the American
19 association of community psychiatrists, or other standardized
20 functional assessment methodology approved for this purpose by
21 the state commission.
22 2. A person must comply with all of the following
23 requirements to be eligible for intellectual disability or
24 other developmental disability services under the regional
25 service system:
26 *a.* The person complies with financial eligibility
27 requirements under section 331.439B.
28 *b.* The person is at least eighteen years of age and is a
29 resident of this state.
30 *c.* The person has a diagnosis of intellectual disability or
31 an intelligence quotient of seventy or less or has a diagnosis
32 of developmental disability other than intellectual disability.
33 *d.* The person's eligibility for individualized services
34 shall be determined by the supports intensity scale, developed
35 by the American association on intellectual and developmental

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1 disabilities, or other standardized functional assessment
2 methodology approved for this purpose by the state commission.
3 3. A person must comply with all of the following
4 requirements to be eligible for brain injury services under the
5 regional service system:
6 *a.* The person complies with financial eligibility
7 requirements under section 331.439B.
8 *b.* The person is at least eighteen years of age and is a
9 resident of this state.
10 *c.* The person has a diagnosis of brain injury.
11 *d.* The person's eligibility for individualized services
12 shall be determined in accordance with a standardized
13 functional assessment methodology approved for this purpose by
14 the state commission.
15 Sec. 5. NEW SECTION. **331.439D Mental health core services.**
16 1. For the purposes of this section, unless the context
17 otherwise requires:
18 *a.* *"Crisis stabilization facility"* means an institution,
19 place, building, or agency with restricted means of egress
20 designed to provide accommodation, board, and the services
21 of a mental health professional on a short-term basis of no
22 more than five days to three or more individuals who present
23 in the facility with acute psychiatric needs. The goal of a
24 crisis stabilization facility is to decrease the severity of an
25 individual's condition to allow transition of the individual
26 to a less restrictive facility.
27 *b.* *"Domain"* means a range of services that can be provided
28 depending upon an individual's service needs.
29 2. Each of the providers of the core services and services
30 provided under a required service domain shall be capable of
31 working with individuals who have co-occurring disabilities or
32 specialized needs. It is the intent of the general assembly
33 that services have adequate reimbursement to ensure the
34 financial viability necessary to achieve desired outcomes and
35 fidelity to accepted service models.

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1 3. A regional service system shall provide the following
2 core mental health service domains, subject to the availability
3 of funding:
4 *a.* Acute care and crisis intervention services.
5 *b.* Mental health treatment.
6 *c.* Mental health disorder prevention.
7 *d.* Community living.
8 *e.* Employment.
9 *f.* Recovery supports.
10 *g.* Family supports.
11 *h.* Physical health and primary care services.
12 *i.* Justice system-involved services.
13 4. A regional service system shall provide the following
14 specific core mental health services, subject to the
15 availability of funding:
16 *a.* Peer-run self-help centers.
17 *b.* Psychiatric emergency services to provide a range of
18 crisis intervention and diversion services. The services shall
19 include but are not limited to providing a crisis stabilization
20 facility.
21 *c.* Subacute residential services.
22 *d.* Jail diversion.
23 *e.* Assertive community treatment.
24 *f.* Community support services, supportive community living,
25 and case management.
26 *g.* Health homes.
27 *h.* Supported employment and education.
28 *i.* Family support services.
29 *j.* Transportation.
30 5. A regional service system may provide funding for other
31 appropriate services or other support. In considering whether
32 to provide such funding, a region may consider the following
33 criteria:
34 *a.* Applying a person-centered planning process to identify
35 the need for the services or other support.

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1 *b.* The efficacy of the services or other support is
2 substantiated by an evidence base.
3 *c.* A determination that the services or other support
4 provides an effective alternative to existing services that
5 have been shown by the evidence base to be ineffective, to not
6 yield the desired outcome, or to not support the principles
7 outlined in Olmstead v. L.C., 527 U.S. 581 (1999).
8 Sec. 6. NEW SECTION. **331.439E Intellectual disability and**
9 **other developmental disability core services.**
10 1. A regional service system shall provide funding of
11 intellectual disability services that are not funded by the
12 medical assistance program. In addition, to the extent funding
13 is available, a regional service system shall also provide
14 funding of developmental disability services for persons with a
15 developmental disability other than an intellectual disability.
16 In selecting the services eligible for the funding, a region
17 shall consider the following criteria:
18 *a.* Applying a person-centered planning process to identify
19 the need for the services or other support.
20 *b.* The efficacy of the services or other support is
21 substantiated by an evidence base.
22 *c.* A determination that the services or other support
23 provides an effective alternative to existing services that
24 have been shown by the evidence base to be ineffective, to not
25 yield the desired outcome, or to not support the principles
26 outlined in Olmstead v. L.C., 527 U.S. 581 (1999).
27 2. The core services provided by a region shall include all
28 of the services for adults with an intellectual disability or a
29 developmental disability that were mandated by law and covered
30 in the service management plans of the counties comprising the
31 region under section 331.439, Code 2011, as of June 30, 2012,
32 other than those services funded by the medical assistance
33 program under chapter 249A. The provision of the core services
34 is subject to availability of funding. The core services shall
35 include all of the following, unless covered by the medical

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1 assistance program:
2 *a.* Case management.
3 *b.* Homemaker-home health aide services.
4 *c.* Respite care.
5 *d.* Home and vehicle modification.
6 *e.* Supported community living.
7 *f.* Outpatient mental health services.
8 *g.* Evaluation.
9 *h.* Sheltered workshop services.
10 *i.* Work activity services.
11 *j.* Adult day care.
12 *k.* Residential care facility services.
13 *l.* Residential care facility for persons with an
14 intellectual disability services.
15 *m.* Intermediate care facility for persons with an
16 intellectual disability services.
17 *n.* Supported community living.
18 *o.* Inpatient care at a state mental health institute.
19 *p.* Inpatient care at a state resource center.
20 *q.* Inpatient care at a community hospital.
21 *r.* Diagnostic evaluation related to a civil commitment
22 proceeding.
23 *s.* Transportation related to a civil commitment.
24 *t.* Legal representation for commitment.
25 *u.* Mental health advocate.
26 3. A region shall transition from and replace the services
27 under subsection 2 with services that expand and support
28 the community support and integration principles outlined
29 in Olmstead v. L.C., 527 U.S. 581 (1999) and the purposes
30 identified in section 225C.1.
31 4. The core services for persons with an intellectual
32 disability or a developmental disability shall include all of
33 the following:
34 *a.* Efforts to support the availability of best practice
35 health and primary care services in local communities.

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1 *b.* Efforts to provide best practice family support services
2 to help families to maintain a family member with a disability
3 at home.
4 Sec. 7. NEW SECTION. **331.440B Regional service system**
5 **financing.**
6 1. *a.* The financing of a regional mental health and
7 disability service system is limited to a fixed budget amount.
8 The fixed budget amount shall be the amount identified in a
9 regional service system management plan and budget for the
10 fiscal year. The region shall be authorized an allowed growth
11 factor adjustment as established by statute for services
12 addressed by the regional plan. The statute establishing
13 the allowed growth factor adjustment shall establish the
14 adjustment for the fiscal year which commences two years from
15 the beginning date of the fiscal year in progress at the time
16 the statute is enacted.
17 *b.* Based upon information contained in regional plans and
18 budgets and proposals made by representatives of the regions,
19 the state commission shall recommend an allowed growth factor
20 adjustment to the governor by November 15 for the fiscal year
21 which commences two years from the beginning date of the fiscal
22 year in progress at the time the recommendation is made. The
23 allowed growth factor adjustment may address various costs
24 including but not limited to the costs associated with new
25 consumers of services, service cost inflation, and investments
26 for economy and efficiency. In developing the service
27 cost inflation recommendation, the state commission shall
28 consider the cost trends indicated by the regional financial
29 reports. The governor shall consider the state commission's
30 recommendation in developing the governor's recommendation for
31 an allowed growth factor adjustment for such fiscal year. The
32 governor's recommendation shall be submitted to the general
33 assembly at the time the governor's proposed budget for the
34 succeeding fiscal year is submitted in accordance with chapter
35 8.

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1 2. A region shall implement its regional service system
2 management plan in a manner so as to provide adequate funding
3 of services for the entire fiscal year by budgeting for
4 ninety-nine percent of the funding anticipated to be available
5 for the regional plan for the fiscal year. A region may expend
6 all of the funding anticipated to be available for the regional
7 plan.
8 Sec. 8. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3,
9 shall not apply to this division of this Act.
10 Sec. 9. CODE EDITOR. The Code editor may codify the Code
11 provisions enacted by this division of this Act as a new part
12 of chapter 331, division III.
13 Sec. 10. APPLICABILITY. The provisions of this division of
14 this Act enacting new Code sections 331.439A through 331.439E,
15 and section 331.440B apply beginning on July 1, 2013.
16 DIVISION II
17 WORKFORCE DEVELOPMENT AND REGULATION
18 Sec. 11. NEW SECTION. **225C.6C Mental health and disability**
19 **services workforce development workgroup.**
20 1. The department of human services shall convene and
21 provide support to a mental health and disability services
22 workforce development workgroup to address issues connected
23 with assuring that an adequate workforce is available in the
24 state to provide mental health and disability services. The
25 workgroup shall report at least annually to the governor
26 and general assembly providing findings, recommendations,
27 and financing information concerning the findings and
28 recommendations.
29 2. The membership of the workgroup shall include all of the
30 following:
31 *a.* The director of the department of aging or the director's
32 designee.
33 *b.* The director of the department of corrections or the
34 director's designee.
35 *c.* The director of the department of education or the

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1 director's designee.
2 *d.* The director of human services or the director's
3 designee.
4 *e.* The director of the department of public health or the
5 director's designee.
6 *f.* The director of the department of workforce development
7 or the director's designee.
8 *g.* At least three staff of regional administrators
9 appointed by the community services affiliate of the Iowa state
10 association of counties.
11 *h.* At least three individuals receiving mental health and
12 disability services or involved relatives of such individuals.
13 *i.* At least three providers of mental health and disability
14 services.
15 *j.* A representative of the entity under contract with
16 the department to provide mental health managed care for the
17 medical assistance program.
18 *k.* One or more representatives of the institutions under
19 the control of the state board of regents who are knowledgeable
20 concerning the mental health and disability services workforce.
21 *l.* Other persons identified by the workgroup.
22 3. In addition to the members identified in subsection
23 2, the membership of the workgroup shall include four
24 members of the general assembly serving in a nonvoting, ex
25 officio capacity. One member shall be designated by each
26 of the following: the majority leader of the senate, the
27 minority leader of the senate, the speaker of the house of
28 representatives, and the minority leader of the house of
29 representatives. A legislative member serves for a term as
30 provided in section 69.16B.
31 4. Except as provided in subsection 3 for legislative
32 appointments, the workgroup shall determine its own rules of
33 procedure, membership terms, and operating provisions.
34 5. The workforce development measures considered for
35 recommendation by the workgroup shall include but are not

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limited to all of the following:

*a.* Provide for the college of direct support or comparable internet-based training to be available at no charge to all service providers.

*b.* Require every direct support professional to demonstrate a level of competency in core curricula.

*c.* Provide financial incentives for those providers who support direct care staff in securing a voluntary certification from the national alliance for direct support professionals or a comparable certification or accreditation body.

*d.* Change the rate reimbursement methodologies to allow providers to bill direct care staff development costs as a direct expense rather than as an indirect cost.

*e.* Implement regional service system staffing capability to provide positive behavior supports training and to mount a crisis intervention and prevention response that is based on a model successfully tested in this state.

*f.* Make technical assistance available to service providers for issues such as crisis intervention, sheltered workshop conversion, and other approaches to modernize services.

*g.* Implement co-occurring disability cross training for mental health professionals as well as training for primary care practitioners on intellectual disability and developmental disability behavioral issues.

Sec. 12. NEW SECTION. **225C.6D Regional service system — outcomes and performance measures committee.**

1. The department shall establish an outcomes and performance measures committee to recommend to the department and the commission's specific outcomes and performance measures to be utilized by the regional mental health and disability services system. The membership of the committee shall include regional administrator and departmental staff, individuals receiving mental health and disability services or involved relatives of such individuals, providers of mental health and disability services, a representative of the person under

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1 contract with the department to provide mental health managed
2 care for the medical assistance program, a representative
3 of the institutions under the control of the state board of
4 regents who is knowledgeable concerning mental health and
5 disability services, a representative of the department's task
6 force to address the decision in Olmstead v. L.C., 527 U.S. 581
7 (1999), and other stakeholders.
8 2. To the extent possible, the committee shall seek to
9 provide outcome and performance measures recommendations
10 that are consistent across the mental health and disability
11 services populations addressed. The committee shall also
12 evaluate data collection requirements utilized in the regional
13 service system to identify the requirements that could be
14 eliminated or revised due to the administrative burden involved
15 or the low degree of relevance to outcomes or other reporting
16 requirements.
17 Sec. 13. NEW SECTION. **225C.6E Regional service system —**
18 **regulatory requirements.**
19 1. The departments of inspections and appeals, human
20 services, and public health shall comply with the requirements
21 of this section in their efforts to improve the regulatory
22 requirements applied to the regional service system
23 administration and service providers.
24 2. The three departments shall work together to establish
25 a process to streamline accreditation, certification, and
26 licensing standards applied to the regional service system
27 administration and service providers.
28 3. The departments of human services and inspections and
29 appeals shall jointly review the standards and inspection
30 process applicable to residential care facilities.
31 4. The three departments shall do all of the following in
32 developing regulatory requirements applicable to the regional
33 service system administration and service providers:
34 *a.* Consider the costs to administrators and providers in the
35 development of quality monitoring efforts.

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1 *b.* Develop uniform, streamlined, and statewide cost
2 reporting standards and tools.
3 *c.* Make quality monitoring information, including services,
4 quality, and location information, easily available and
5 understandable to all citizens.
6 *d.* Establish standards that are clearly understood and are
7 accompanied by interpretive guidelines to support understanding
8 by those responsible for applying the standards.
9 *e.* Develop a partnership with providers in order to
10 improve the quality of services and develop mechanisms for the
11 provision of technical assistance.
12 *f.* Develop consistent data collection efforts based on
13 statewide standards and make information available to all
14 providers.
15 *g.* Evaluate existing provider qualification and monitoring
16 efforts to identify duplication and gaps, and align the efforts
17 with valued outcomes.
18 *h.* Streamline and enhance existing standards.
19 *i.* Consider how accreditations can be used for the
20 certification of provider qualifications.
21 5. The three departments shall seek to increase the number
22 of staff dedicated to oversight of service providers.
23 DIVISION III
24 COMMUNITY MENTAL HEALTH CENTER AMENDMENTS
25 Sec. 14. Section 230A.106, subsection 2, paragraph c, as
26 enacted by 2011 Iowa Acts, chapter 121, section 16, is amended
27 to read as follows:
28 *c. Day treatment, partial hospitalization, or psychosocial*
29 *rehabilitation services.* Such services shall be provided as
30 structured day programs in segments of less than twenty-four
31 hours using a multidisciplinary team approach to develop
32 treatment plans that vary in intensity of services and the
33 frequency and duration of services based on the needs of the
34 patient. These services may be provided directly by the center
35 or in collaboration or affiliation with other appropriately

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1 accredited providers. In lieu of day treatment, partial
2 hospitalization, or psychosocial rehabilitation services, the
3 center may provide an assertive community treatment program.
4 Sec. 15. Section 230A.110, subsection 1, as enacted by
5 2011 Iowa Acts, chapter 121, section 20, is amended to read as
6 follows:
7 1. The division shall recommend and the commission shall
8 adopt standards for designated community mental health
9 centers and comprehensive community mental health programs,
10 with the overall objective of ensuring that each center
11 and each affiliate providing services under contract with a
12 center furnishes high-quality mental health services within
13 a framework of accountability to the community it serves.
14 The standards adopted shall conform with federal standards
15 applicable to community mental health centers and shall be
16 in substantial conformity with the applicable behavioral
17 health standards adopted by the joint commission, formerly
18 known as the joint commission on accreditation of health care
19 organizations, ~~and~~ or other recognized national standards for
20 evaluation of psychiatric facilities unless in the judgment of
21 the division, with approval of the commission, there are sound
22 reasons for departing from the standards.
23 DIVISION IV
24 REGIONAL SERVICE SYSTEM
25 Sec. 16. NEW SECTION. **331.438A Definitions.**
26 As used in this part, unless the context otherwise requires:
27 1. *"Department"* means the department of human services.
28 2. *"Disability services"* means the same as defined in
29 section 225C.2.
30 3. *"Population"* means the population shown by the latest
31 preceding certified federal census or the latest applicable
32 population estimate issued by the United States census bureau,
33 whichever is most recent.
34 4. *"Regional administrator"* means the administrative entity
35 formed by agreement of the counties participating in a region

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1 to function on behalf of those counties in accordance with this
2 part.
3 5. *"State commission"* means the mental health and disability
4 services commission created in section 225C.5.
5 Sec. 17. NEW SECTION. **331.438B Mental health and disability**
6 **services regions — criteria.**
7 1. Local access to mental health and disability services for
8 children and adults shall be provided by counties organized in
9 a regional service system. The regional service system shall
10 be implemented in stages in accordance with this section.
11 2. Formation of a mental health and disability services
12 region is subject to approval of the director of human services
13 and the mental health and disability services commission.
14 3. Each county in the state shall participate in an approved
15 mental health and disability services region. A mental health
16 and disability services region shall comply with all of the
17 following requirements:
18 *a.* The counties comprising the region are contiguous.
19 *b.* The region has at least three counties.
20 *c.* The combined general population of the counties
21 comprising a region shall be at least two hundred thousand
22 persons and not more than seven hundred thousand persons.
23 However, the director of human services, with the approval
24 of the commission, may grant a waiver from this requirement
25 if there is convincing evidence that compliance with the
26 requirement is not workable.
27 *d.* The region has the capacity to provide required core
28 services and perform required functions.
29 *e.* At least one community mental health center or a
30 federally qualified health center with providers qualified
31 to provide psychiatric services, either directly or with
32 assistance from psychiatric consultants, is located within the
33 region, has the capacity to provide outpatient services for the
34 region, and is either under contract with the region or has
35 provided documentation of intent to contract with the region

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1 to provide the services.
2 *f.* A hospital with an inpatient psychiatric unit or a state
3 mental health institute is located in or within reasonably
4 close proximity to the region, has the capacity to provide
5 inpatient services for the region, and is either under contract
6 with the region or has provided documentation of intent to
7 contract with the region to provide the services.
8 *g.* The regional administrator structure proposed for or
9 utilized by the region has clear lines of accountability and
10 the regional administrator functions as a lead agency utilizing
11 shared county staff or other means of limiting administrative
12 costs.
13 4. County formation of a mental health and disability
14 services region is subject to all of the following:
15 *a.* On or before November 1, 2012, counties voluntarily
16 participating in a region have complied with all of the
17 following formation criteria:
18 (1) The counties forming the region have been identified
19 and the board of supervisors of the counties have approved a
20 written letter of intent to join together to form the region.
21 (2) The proposed region complies with the requirements in
22 subsection 3.
23 (3) The department provides written notice to the boards
24 of supervisors of the counties identified for the region in
25 the letter of intent that the counties have complied with the
26 requirements in subsection 3.
27 *b.* Upon compliance with the provisions of paragraph *"a"*, the
28 participating counties are eligible for technical assistance
29 provided by the department.
30 *c.* During the period of November 2, 2012, through January
31 1, 2013, a county that has not agreed to be part of a region
32 in accordance with paragraph *"a"* shall be assigned by the
33 department to a region.
34 *d.* On or before June 30, 2013, all counties shall be part of
35 a region that is in compliance with the provisions of paragraph

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1 *"a"* other than meeting the November 1, 2012, date.
2 *e.* On or before June 30, 2014, all counties shall be
3 in compliance with all of the following mental health and
4 disability services region implementation criteria:
5 (1) The board of supervisors of each county participating in
6 the region has voted to approve a chapter 28E agreement.
7 (2) The duly authorized representatives of all the counties
8 participating in the region have signed the chapter 28E
9 agreement that is in compliance with section 331.438C.
10 (3) The county board of supervisors' or supervisors'
11 designee members and other members of the region's governing
12 board have been appointed in accordance with section 331.438C.
13 (4) Executive staff for the region's regional administrator
14 have been identified or engaged.
15 (5) An initial draft of a regional service management
16 transition plan has been developed which identifies the steps
17 to be taken by the region to do all of the following:
18 (a) Designate access points for the disability services
19 administered by the region.
20 (b) Designate the region's targeted case manager provider
21 funded by the medical assistance program.
22 (c) Identify the service provider network for the region.
23 (d) Define the service access and service authorization
24 process to be utilized for the region.
25 (e) Identify the information technology and data management
26 capacity to be employed to support regional functions.
27 (f) Establish business functions, funds accounting
28 procedures, and other administrative processes.
29 (g) Comply with data reporting and other information
30 technology requirements adopted by the state commission.
31 (6) The department and the state commission have approved
32 the region's chapter 28E agreement and the initial draft of the
33 regional management transition plan.
34 *f.* If the department, with the concurrence of the state
35 commission, determines that a region is in substantial

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1 compliance with the implementation criteria in paragraph *"e"*
2 and has sufficient operating capacity to begin operations, the
3 region may commence partial or full operations prior to July
4 2014.
5 Sec. 18. NEW SECTION. **331.438C Regional governance**
6 **structure.**
7 1. The counties comprising a mental health and disability
8 services region shall enter into an agreement under chapter
9 28E to form a regional administrator under the control of a
10 governing board to function on behalf of those counties.
11 2. The governing board shall comply with all of the
12 following requirements:
13 *a.* The membership of the governing board shall consist
14 of one or more board of supervisor members from each county
15 comprising the region or their designees. The decisions
16 involving the local public funding administered by the
17 governing board and the regional administrator shall be made
18 by these members.
19 *b.* The membership of the governing board shall also consist
20 of at least three individuals who utilize mental health and
21 disability services or actively involved relatives of such
22 individuals. These members shall be designated in a manner
23 so as to represent the geographic areas of the region and to
24 provide balanced representation for the various disability
25 groups utilizing the services provided through the region.
26 *c.* The membership of the governing board shall not include
27 representatives of service providers or the department.
28 *d.* The governing board shall have a regional advisory
29 committee consisting of individuals who utilize services or
30 actively involved relatives of such individuals, service
31 providers, and regional governing board members.
32 3. The regional administrator shall be under the control of
33 the governing board. The regional administrator shall enter
34 into performance-based contracts with the department for the
35 regional administrator to manage, on behalf of the counties

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1 comprising the region, the mental health and disability
2 services that are not funded by the medical assistance program
3 under chapter 249A and for coordinating with the department the
4 provision of mental health and disability services that are
5 funded under the medical assistance program.
6 Sec. 19. NEW SECTION. **331.438D Regional finances.**
7 1. The funding under the control of the governing board
8 shall be maintained in a combined account, in separate county
9 accounts that are under the control of the governing board, or
10 pursuant to other arrangements authorized by law that limit the
11 administrative burden of such control while facilitating public
12 scrutiny of financial processes.
13 2. The administrative costs of the regional administrator
14 shall be limited to five percent of expenditures. Expenditures
15 considered to be administrative costs shall be determined in
16 accordance with law.
17 3. The funding provided pursuant to performance-based
18 contracts with the department shall be credited to the account
19 or accounts under the control of the governing board.
20 Sec. 20. NEW SECTION. **331.438E Regional governance**
21 **agreements.**
22 1. In addition to compliance with the applicable provisions
23 of chapter 28E, the chapter 28E agreement entered into by the
24 counties comprising a mental health and disability services
25 region in forming the regional administrator to function on
26 behalf of the counties shall comply with the requirements of
27 this section.
28 2. The organizational provisions of the agreement shall
29 include all of the following:
30 *a.* A statement of purpose, goals, and objectives of entering
31 into the agreement.
32 *b.* Identification of the governing board membership and the
33 terms, methods of appointment, voting procedures, and other
34 provisions applicable to the operation of the governing board.
35 *c.* The identification of the executive staff of the regional

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1 administrator serving as the single point of accountability for
2 the region.
3 *d.* The counties participating in the agreement.
4 *e.* The time period of the agreement and terms for
5 termination or renewal of the agreement.
6 *f.* The circumstances under which additional counties may
7 join the region.
8 *g.* Methods for dispute resolution and mediation.
9 *h.* Methods for termination of a county's participation in
10 the region.
11 *i.* Provisions for formation and assigned responsibilities
12 for one or more advisory committees consisting of individuals
13 who utilize services or actively involved relatives of such
14 individuals, service providers, governing board members, and
15 other interests identified in the agreement.
16 3. The administrative provisions of the agreement shall
17 include all of the following:
18 *a.* Responsibility of the governing board in appointing and
19 evaluating the performance of the chief executive officer of
20 the regional administrator.
21 *b.* A specific list of the functions and responsibilities of
22 the regional administrator's chief executive officer and other
23 administrative staff.
24 *c.* Specification of the functions to be carried out by each
25 party to the agreement and by any subcontractor of a party to
26 the agreement. A contract with a provider network shall be
27 separately addressed.
28 4. The financial provisions of the agreement shall include
29 all of the following:
30 *a.* Methods for pooling, management, and expenditure of the
31 funding under the control of the regional administrator. If
32 the agreement does not provide for pooling of the participating
33 county moneys in a single fund, the agreement shall specify how
34 the participating county moneys will be subject to the control
35 of the regional administrator.

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1 *b.* Methods for allocating administrative funding and
2 resources.
3 *c.* Contributions and uses of initial funding or related
4 contributions made by the counties participating in the
5 region for purposes of commencing operations by the regional
6 administrator.
7 *d.* Methods for acquiring or disposing of real property.
8 *e.* A process for determining the use of savings for
9 reinvestment.
10 *f.* A process for performance of an annual independent audit
11 of the regional administrator.
12 Sec. 21. NEW SECTION. **331.438F County of residence —**
13 **services to residents — service authorization appeals —**
14 **disputes between counties or regions and the department.**
15 1. For the purposes of this section, unless the context
16 otherwise requires:
17 *a.* *"County of residence"* means the county in this state in
18 which, at the time a person applies for or receives services,
19 the person is living in the county and has established an
20 ongoing presence with the declared, good faith intention of
21 living in the county for a permanent or indefinite period of
22 time. The county of residence of a person who is a homeless
23 person is the county where the homeless person usually sleeps.
24 *"County of residence"* does not mean the county where a person is
25 present for the purpose of receiving services in a hospital,
26 a correctional facility, a halfway house for community-based
27 corrections or substance-related treatment, a nursing facility,
28 an intermediate care facility for persons with an intellectual
29 disability, or a residential care facility, or for the purpose
30 of attending a college or university.
31 *b.* *"Homeless person"* means the same as defined in section
32 48A.2.
33 *c.* *"Person"* means a person who is a United States citizen or
34 a qualified alien as defined in 8 U.S.C. § 1641.
35 2. If a person appeals a service authorization or

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1 other services-related determination made by a regional
2 administrator, the appeal shall be heard in a contested
3 case proceeding by a state administrative law judge. The
4 administrative law judge's decision shall be considered a final
5 agency decision under chapter 17A.
6 3. If a county of residence is part of a mental health and
7 disability services region that has agreed to pool funding and
8 liability for services, the responsibilities of the county
9 under law regarding such services shall be performed on behalf
10 of the county by the regional administrator. The county of
11 residence or the county's mental health and disability services
12 region, as applicable, is responsible for paying the public
13 costs of the mental health and disability services that are
14 not covered by the medical assistance program under chapter
15 249A and are provided in accordance with the region's approved
16 service management plan to persons who are residents of the
17 county or region.
18 4. *a.* The dispute resolution process implemented in
19 accordance with this subsection applies to residency disputes.
20 The dispute resolution process is not applicable to disputes
21 involving persons committed to a state facility pursuant to
22 chapter 812 or rule of criminal procedure 2.22, Iowa court
23 rules, or to disputes involving service authorization decisions
24 made by a region.
25 *b.* If a county, region, or the department, as applicable,
26 receives a billing for services provided to a resident
27 in another county or region, or objects to a residency
28 determination certified by the department or another county's
29 or region's regional administrator and asserts either that the
30 person has residency in another county or region or the person
31 is not a resident of this state or the person's residency
32 is unknown so that the person is deemed a state case, the
33 person's residency status shall be determined as provided in
34 this section. The county or region shall notify the department
35 of the county's or region's assertion within one hundred

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1 twenty days of receiving the billing. If the county or region
2 asserts that the person has residency in another county or
3 region, that county or region shall be notified at the same
4 time as the department. If the department disputes a residency
5 determination certification made by a regional administrator,
6 the department shall notify the affected counties or regions
7 of the department's assertion.
8 *c.* The department, county, or region that received the
9 notification, as applicable, shall respond to the party that
10 provided the notification within forty-five days of receiving
11 the notification. If the parties cannot agree to a settlement
12 as to the person's residency status within ninety days of the
13 date of notification, on motion of any of the parties, the
14 matter shall be referred to the department of inspections and
15 appeals for a contested case hearing under chapter 17A before
16 an administrative law judge assigned in accordance with section
17 10A.801 to determine the person's residency status.
18 *d.* (1) The administrative law judge's determination
19 of the person's residency status is a final agency action,
20 notwithstanding contrary provisions of section 17A.15.
21 The party that does not prevail in the determination or
22 subsequent judicial review is liable for costs associated with
23 the proceeding, including reimbursement of the department
24 of inspections and appeals' actual costs associated with
25 the administrative proceeding. Judicial review of the
26 determination may be sought in accordance with section 17A.19.
27 (2) If following the determination of a person's residency
28 status in accordance with this section, additional evidence
29 becomes available that merits a change in that determination,
30 the parties affected may change the determination by mutual
31 agreement. Otherwise, a party may move that the matter be
32 reconsidered by the department, county, or region, or by the
33 administrative law judge.
34 *e.* (1) Unless a petition is filed for judicial review,
35 the administrative law judge's determination of the person's

1 residency status shall result in one of the following:
2 (a) If a county or region is determined to be the person's
3 residence, the county or region shall pay the amounts due and
4 shall reimburse any other amounts paid for services provided by
5 the other county or region or the department on the person's
6 behalf prior to the determination.
7 (b) If it is determined that the person is not a resident
8 of this state or the person's residency is unknown so that the
9 person is deemed to be a state case, the department shall pay
10 the amounts due and shall reimburse the county or region, as
11 applicable, for any payment made on behalf of the person prior
12 to the determination.
13 (2) The payment or reimbursement shall be remitted within
14 forty-five days of the date the decision was issued. After
15 the forty-five-day period, a penalty of not greater than one
16 percent per month may be added to the amount due.
17 Sec. 22. CODE EDITOR. The Code editor shall codify the
18 provisions of this division of this Act enacting new sections
19 in chapter 331, as a new part of division IV, tentatively
20 numbered part 2A.
21 Sec. 23. APPLICABILITY. The provisions of this division
22 of this Act enacting new sections in chapter 331, except
23 as specifically provided by the provisions, are applicable
24 beginning July 1, 2013.
25 DIVISION V
26 SUBACUTE CARE FACILITIES FOR PERSONS WITH SERIOUS AND
27 PERSISTENT MENTAL ILLNESS
28 Sec. 24. NEW SECTION. **135P.1 Definitions.**
29 As used in this chapter, unless the context otherwise
30 requires:
31 1. *"Department"* means the department of inspections and
32 appeals.
33 2. *"Direction"* means authoritative policy or procedural
34 guidance for the accomplishment of a function or an activity.
35 3. *"Licensee"* means the holder of a license issued to

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1 operate a subacute care facility for persons with serious and
2 persistent mental illness.
3 4. *"Mental health professional"* means the same as defined
4 in section 228.1.
5 5. *"Physician"* means a person licensed under chapter 148.
6 6. *"Psychiatric services"* means services provided under
7 the direction of a physician which address mental, emotional,
8 medical, or behavioral problems.
9 7. *"Rehabilitative services"* means services to encourage and
10 assist restoration of a resident's optimum mental and physical
11 capabilities.
12 8. *"Resident"* means a person who is eighteen years of age
13 or older and has been admitted by a physician to a subacute
14 care facility for persons with serious and persistent mental
15 illness.
16 9. *"Treatment care plan"* means a plan of care and services
17 designed to eliminate the need for acute care by improving
18 the condition of a person with serious and persistent mental
19 illness. Services must be based upon a diagnostic evaluation,
20 which includes an examination of the medical, psychological,
21 social, behavioral, and developmental aspects of the person's
22 situation, reflecting the need for inpatient care.
23 10. *"Subacute care facility for persons with serious and*
24 *persistent mental illness"* or *"subacute care facility"* means an
25 institution, place, building, or agency with restricted means
26 of egress designed to provide accommodation, board, and the
27 services of a licensed psychiatrist for a period exceeding
28 twenty-four consecutive hours to three or more individuals who
29 primarily have serious and persistent mental illness, diagnosis
30 of a co-occurring disorder, and are not related to the owner
31 within the third degree of consanguinity.
32 11. *"Supervision"* means direct oversight and inspection of
33 the act of accomplishing a function or activity.
34 Sec. 25. NEW SECTION. **135P.2 Purpose.**
35 The purpose of this chapter is to provide for the

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1 development, establishment, and enforcement of basic standards
2 for the operation, construction, and maintenance of a
3 subacute care facility which will ensure the safe and adequate
4 diagnosis, evaluation, and treatment of the residents.
5 Sec. 26. NEW SECTION. **135P.3 Nature of care — seclusion**
6 **room — admissions.**
7 1. A subacute care facility shall utilize a team of
8 professionals to direct an organized program of diagnostic
9 services, psychiatric services, and rehabilitative services
10 to meet the needs of residents in accordance with a treatment
11 care plan developed for each resident under the supervision of
12 a licensed psychiatrist. The goal of a treatment care plan
13 is to transition residents to a less restrictive environment,
14 including a home-based community setting. Social and
15 rehabilitative services shall be provided under the direction
16 of a mental health professional.
17 2. The licensed psychiatrist providing supervision of
18 the subacute care facility shall evaluate the condition of
19 each resident no less than two times each month and shall be
20 available to residents of the facility on an on-call basis
21 at all other times. The subacute care facility may employ a
22 seclusion room meeting the conditions described in 42 C.F.R. §
23 483.364(b) with approval of the licensed psychiatrist of the
24 facility or by order of the resident's physician.
25 3. An admission to the subacute care facility is subject
26 to a physician's written order certifying that the individual
27 being admitted requires regular oversight by a licensed
28 psychiatrist and requires no greater degree of care than that
29 which the facility to which the admission is made is licensed
30 to provide and is capable of providing.
31 4. A subacute care facility does not constitute an
32 *"institution for mental diseases"* within the meaning of 42
33 U.S.C. § 1396d(i).
34 Sec. 27. NEW SECTION. **135P.4 Licensure.**
35 1. A person shall not establish, operate, or maintain a

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1 subacute care facility unless the person obtains a license for
2 the subacute care facility under this chapter.
3 2. An intermediate care facility for persons with mental
4 illness licensed under chapter 135C may convert to a subacute
5 care facility by providing written notice to the department
6 that the facility has employed a full-time psychiatrist and
7 desires to make the conversion.
8 Sec. 28. NEW SECTION. **135P.5 Application for license.**
9 An application for a license under this chapter shall be
10 submitted on a form requesting information required by the
11 department, which may include affirmative evidence of the
12 applicant's ability to comply with the rules for standards
13 adopted pursuant to this chapter. An application for a license
14 shall be accompanied by the required license fee which shall
15 be credited to the general fund of the state. The initial and
16 annual license fee is twenty-five dollars.
17 Sec. 29. NEW SECTION. **135P.6 Inspection — conditions for**
18 **issuance.**
19 The department shall issue a license to an applicant under
20 this chapter if the department has ascertained that the
21 applicant's facilities and staff are adequate to provide the
22 care and services required of a subacute care facility and if
23 the applicant has been awarded a certificate of need pursuant
24 to chapter 135.
25 Sec. 30. NEW SECTION. **135P.7 Denial, suspension, or**
26 **revocation of license.**
27 The department may deny an application or suspend or revoke
28 a license if the department finds that an applicant or licensee
29 has failed or is unable to comply with this chapter or the
30 rules establishing minimum standards pursuant to this chapter
31 or if any of the following conditions apply:
32 1. It is shown that a resident is a victim of cruelty or
33 neglect due to the acts or omissions of the licensee.
34 2. The licensee has permitted, aided, or abetted in the
35 commission of an illegal act in the subacute care facility.

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1 3. An applicant or licensee acted to obtain or to retain a
2 license by fraudulent means, misrepresentation, or submitting
3 false information.
4 4. The licensee has willfully failed or neglected to
5 maintain a continuing in-service education and training program
6 for persons employed by the subacute care facility.
7 5. The application involves a person who has failed to
8 operate a subacute care facility in compliance with the
9 provisions of this chapter.
10 Sec. 31. NEW SECTION. **135P.8 Provisional license.**
11 The department may issue a provisional license, effective
12 for not more than one year, to a licensee whose subacute care
13 facility does not meet the requirements of this chapter if,
14 prior to issuance of the license, the applicant submits written
15 plans to achieve compliance with the applicable requirements
16 and the plans are approved by the department. The plans shall
17 specify the deadline for achieving compliance.
18 Sec. 32. NEW SECTION. **135P.9 Notice and hearings.**
19 The procedure governing notice and hearing to deny an
20 application or suspend or revoke a license shall be in
21 accordance with rules adopted by the department pursuant to
22 chapter 17A. A full and complete record shall be kept of the
23 proceedings and of any testimony. The record need not be
24 transcribed unless judicial review is sought. A copy or copies
25 of a transcript may be obtained by an interested party upon
26 payment of the cost of preparing the transcript or copies.
27 Sec. 33. NEW SECTION. **135P.10 Rules.**
28 The department of inspections and appeals, in consultation
29 with the department of human services and affected professional
30 groups, shall adopt and enforce rules setting out the standards
31 for a subacute care facility and the rights of the residents
32 admitted to a subacute care facility. The department of
33 inspections and appeals and the department of human services
34 shall coordinate the adoption of rules and the enforcement of
35 the rules in order to prevent duplication of effort by the

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1 departments and of requirements of the licensee.
2 Sec. 34. NEW SECTION. **135P.11 Complaints alleging**
3 **violations — confidentiality.**
4 1. A person may request an inspection of a subacute care
5 facility by filing with the department a complaint of an
6 alleged violation of an applicable requirement of this chapter
7 or a rule adopted pursuant to this chapter. The complaint
8 shall state in a reasonably specific manner the basis of the
9 complaint. A statement of the nature of the complaint shall be
10 delivered to the subacute care facility involved at the time of
11 or prior to the inspection. The name of the person who files a
12 complaint with the department shall be kept confidential and
13 shall not be subject to discovery, subpoena, or other means
14 of legal compulsion for its release to a person other than
15 department employees involved in the investigation of the
16 complaint.
17 2. Upon receipt of a complaint made in accordance with
18 subsection 1, the department shall make a preliminary review
19 of the complaint. Unless the department concludes that the
20 complaint is intended to harass a subacute care facility or a
21 licensee or is without reasonable basis, it shall within twenty
22 working days of receipt of the complaint make or cause to be
23 made an on-site inspection of the subacute care facility which
24 is the subject of the complaint. The department of inspections
25 and appeals may refer to the department of human services
26 any complaint received by the department of inspections and
27 appeals if the complaint applies to rules adopted by the
28 department of human services. The complainant shall also
29 be notified of the name, address, and telephone number of
30 the designated protection and advocacy agency if the alleged
31 violation involves a facility with one or more residents with a
32 developmental disability or mental illness. In any case, the
33 complainant shall be promptly informed of the result of any
34 action taken by the department in the matter.
35 3. An inspection made pursuant to a complaint filed under

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1 subsection 1 need not be limited to the matter or matters
2 referred to in the complaint; however, the inspection shall
3 not be a general inspection unless the complaint inspection
4 coincides with a scheduled general inspection. Upon arrival
5 at the subacute care facility to be inspected, the inspector
6 shall show identification to the person in charge of the
7 subacute care facility and state that an inspection is to
8 be made, before beginning the inspection. Upon request of
9 either the complainant or the department, the complainant or
10 the complainant's representative or both may be allowed the
11 privilege of accompanying the inspector during any on-site
12 inspection made pursuant to this section. The inspector may
13 cancel the privilege at any time if the inspector determines
14 that the privacy of a resident of the subacute care facility to
15 be inspected would be violated. The dignity of the resident
16 shall be given first priority by the inspector and others.
17 Sec. 35. NEW SECTION. **135P.12 Information confidential.**
18 1. The department's final findings regarding licensure
19 shall be made available to the public in a readily available
20 form and place. Other information relating to the subacute
21 care facility is confidential and shall not be made available
22 to the public except in proceedings involving licensure, a
23 civil suit involving a resident, or an administrative action
24 involving a resident.
25 2. The name of a person who files a complaint with the
26 department shall remain confidential and is not subject to
27 discovery, subpoena, or any other means of legal compulsion for
28 release to a person other than an employee of the department or
29 an agent involved in the investigation of the complaint.
30 3. Information regarding a resident who has received or is
31 receiving care shall not be disclosed directly or indirectly
32 except as authorized under section 217.30.
33 Sec. 36. NEW SECTION. **135P.13 Judicial review.**
34 Judicial review of the action of the department may be sought
35 pursuant to the Iowa administrative procedure Act, chapter 17A.

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1 Notwithstanding chapter 17A, a petition for judicial review of
2 the department's actions under this chapter may be filed in the
3 district court of the county in which the related subacute care
4 facility is located or is proposed to be located. The status
5 of the petitioner or the licensee shall be preserved pending
6 final disposition of the judicial review.
7 Sec. 37. NEW SECTION. **135P.14 Penalty.**
8 A person who establishes, operates, or manages a subacute
9 care facility without obtaining a license under this chapter
10 commits a serious misdemeanor. Each day of continuing
11 violation following conviction shall be considered a separate
12 offense.
13 Sec. 38. NEW SECTION. **135P.15 Injunction.**
14 Notwithstanding the existence or pursuit of another remedy,
15 the department may maintain an action for injunction or other
16 process to restrain or prevent the establishment, operation, or
17 management of a subacute care facility without a license.
18 Sec. 39. Section 249A.26, subsection 2, Code 2011, is
19 amended by adding the following new paragraph:
20 NEW PARAGRAPH. *d.* Notwithstanding any provision of
21 this chapter to the contrary, for services provided to
22 eligible persons in a subacute care facility for persons
23 with serious and persistent mental illness licensed under
24 chapter 135P, the daily rate shall be equal to the sum of
25 the direct care Medicare-certified hospital-based nursing
26 facility patient-day-weighted median and the nondirect
27 care Medicare-certified hospital-based nursing facility
28 patient-day-weighted median.
29 Sec. 40. IMPLEMENTATION OF ACT. Section 25B.2, subsection
30 3, shall not apply to this division of this Act.
31 DIVISION VI
32 CONFORMING AMENDMENTS — CENTRAL POINT OF COORDINATION, LEGAL
33 SETTLEMENT, AND DISPUTE RESOLUTION PROCESSES
34 Sec. 41. Section 218.99, Code 2011, is amended to read as
35 follows:

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**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 regional administrator of 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~~ regional administrator of the 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, notice shall be made to the director of human services and the administrator in control of the institution involved.~~

Sec. 42. Section 222.2, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 43. Section 222.2, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *"Regional administrator"* means the same as defined in section 331.438A.

Sec. 44. 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

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1 administrator. The administrator shall provide for the return
2 of the patient to the authorities in the state from which the
3 unauthorized departure was made. Pending return, such patient
4 may be detained temporarily at one of the institutions of this
5 state governed by the administrator or by the administrator of
6 the division of child and family services of the department
7 of human services. The provisions of this section relating
8 to the administrator shall also apply to the return of other
9 nonresident persons with mental retardation having legal
10 ~~settlement~~ residency outside the state of Iowa.
11 Sec. 45. Section 222.13, Code 2011, is amended to read as
12 follows:
13 **222.13 Voluntary admissions.**
14 1. If an adult person is believed to be a person with mental
15 retardation, the adult person or the adult person's guardian
16 may ~~submit a~~ request ~~through the central point of coordination~~
17 ~~process for~~ the ~~county board of supervisors~~ regional
18 administrator of the adult person's county of residence in
19 writing to apply to the superintendent of any state resource
20 center for the voluntary admission of the adult person either
21 as an inpatient or an outpatient of the resource center.
22 ~~After determining the legal settlement of the adult person as~~
23 ~~provided by this chapter, the board of supervisors~~ The regional
24 administrator, on behalf of the board of supervisors shall, on
25 forms prescribed by the department's administrator, apply to
26 the superintendent of the resource center in the district for
27 the admission of the adult person to the resource center. An
28 application for admission to a special unit of any adult person
29 believed to be in need of any of the services provided by the
30 special unit under section 222.88 may be made in the same
31 manner, upon request of the adult person or the adult person's
32 guardian. The superintendent shall accept the application
33 ~~providing~~ if a preadmission diagnostic evaluation, performed
34 ~~through the central point of coordination process~~ through the
35 regional administrator, confirms or establishes the need for

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1 admission, except that an application ~~may~~ shall not be accepted
2 if the institution does not have adequate facilities available
3 or if the acceptance will result in an overcrowded condition.
4 2. If the resource center ~~has no~~ does not have an
5 appropriate program for the treatment of an adult or minor
6 person with mental retardation applying under this section
7 or section 222.13A, the ~~board of supervisors~~ regional
8 administrator on behalf of the board of supervisors shall
9 arrange for the placement of the person in any public or
10 private facility within or without the state, approved by the
11 director ~~of the department~~ of human services, which offers
12 appropriate services for the person, as determined ~~through~~
13 ~~the central point of coordination process~~ by the regional
14 administrator.
15 3. Upon applying for admission of an adult or minor person
16 to a resource center, or a special unit, or upon arranging for
17 the placement of the person in a public or private facility,
18 if the county would be liable to pay the expenses in full
19 or in part, the regional administrator, on behalf of the
20 board of supervisors shall make a full investigation into
21 the financial circumstances of that person and those liable
22 for that person's support under section 222.78 to determine
23 whether or not any of them are able to pay the expenses arising
24 out of the admission of the person to a resource center,
25 special treatment unit, or public or private facility. If
26 the ~~board~~ regional administrator finds that the person or
27 those legally responsible for the person are presently unable
28 to pay the expenses, the ~~board~~ regional administrator shall
29 direct that the expenses be paid by the county. The ~~board~~
30 regional administrator may review its finding at any subsequent
31 time while the person remains at the resource center, or
32 is otherwise receiving care or treatment for which this
33 chapter obligates the county to pay. If the ~~board~~ regional
34 administrator finds upon review that the person or those
35 legally responsible for the person are presently able to pay

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1 the expenses, the finding shall apply only to the charges
2 incurred during the period beginning on the date of the
3 review and continuing thereafter, unless and until the ~~board~~
4 regional administrator again changes its finding. If the ~~board~~
5 regional administrator finds that the person or those legally
6 responsible for the person are able to pay the expenses, the
7 ~~board~~ regional administrator shall direct that the charges
8 be so paid to the extent required by section 222.78, and the
9 county auditor shall be responsible for the collection of the
10 charges.
11 Sec. 46. Section 222.13A, subsections 1, 2, and 4, Code
12 2011, are amended to read as follows:
13 1. If a minor is believed to be a person with mental
14 retardation, the minor's parent, guardian, or custodian
15 may request the county board of supervisors in writing to
16 apply for admission of the minor as a voluntary patient in
17 a state resource center. If the resource center does not
18 have appropriate services for the minor's treatment, the
19 board of supervisors may arrange for the admission of the
20 minor in a public or private facility within or without the
21 state, approved by the director of human services, which
22 offers appropriate services for the minor's treatment. If
23 half or more of the nonfederal share of the costs of services
24 provided to a minor in accordance with this section is the
25 responsibility of the state, the costs of the preadmission
26 diagnostic evaluation, court appointed attorney, and court
27 costs, relating to the services shall be paid by the state.
28 If more than half of the nonfederal share of the costs of
29 such services is the responsibility of the minor's county of
30 residence, the costs of the preadmission diagnostic evaluation,
31 court appointed attorney, and court costs, relating to the
32 services shall be paid by the county of residence.
33 2. Upon receipt of an application for voluntary admission
34 of a minor, the board of supervisors shall provide for a
35 preadmission diagnostic evaluation of the minor to confirm

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1 or establish the need for the admission. The preadmission
2 diagnostic evaluation shall be performed by a person who
3 meets the qualifications of a qualified mental retardation
4 professional who is designated through the ~~central point of~~
5 ~~coordination process~~ regional administrator. Any portion of
6 the cost of the evaluation not paid by the minor or those
7 liable for the minor's support under section 222.78 is the
8 responsibility of the state.
9 4. As soon as practicable after the filing of a petition for
10 approval of the voluntary admission, the court shall determine
11 whether the minor has an attorney to represent the minor in the
12 proceeding. If the minor does not have an attorney, the court
13 shall assign to the minor an attorney. If the minor is unable
14 to pay for an attorney, the attorney shall be compensated by
15 the county or state, as applicable, at an hourly rate to be
16 established ~~by the county board of supervisors~~ in substantially
17 the same manner as provided in section 815.7.
18 Sec. 47. Section 222.22, Code 2011, is amended to read as
19 follows:
20 **222.22 Time of appearance.**
21 The time of appearance shall not be less than five days
22 after completed service unless the court orders otherwise.
23 Appearance on behalf of the person who is alleged to have
24 mental retardation may be made by any citizen of the county
25 or by any relative. The district court shall assign counsel
26 for the person who is alleged to have mental retardation.
27 Counsel shall prior to proceedings personally consult with the
28 person who is alleged to have mental retardation unless the
29 judge appointing counsel certifies that in the judge's opinion,
30 consultation shall serve no useful purpose. The certification
31 shall be made a part of the record. An attorney assigned by
32 the court shall be compensated by the ~~county~~ state at an hourly
33 rate to be established ~~by the county board of supervisors~~ in
34 substantially the same manner as provided in section 815.7.
35 Sec. 48. Section 222.28, Code 2011, is amended to read as

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1 follows:
2 **222.28 Commission to examine.**
3 The court may, at or prior to the final hearing, appoint
4 a commission of one qualified physician and one qualified
5 psychologist, designated through the ~~central point of~~
6 ~~coordination process,~~ regional administrator who shall make
7 a personal examination of the person alleged to be mentally
8 retarded for the purpose of determining the mental condition
9 of the person.
10 Sec. 49. Section 222.31, subsection 1, paragraph b, Code
11 2011, is amended to read as follows:
12 *b.* (1) Commit the person to the state resource center
13 designated by the administrator to serve the county in which
14 the hearing is being held, or to a special unit. The court
15 shall, prior to issuing an order of commitment, request
16 that a diagnostic evaluation of the person be made by ~~the~~
17 ~~superintendent of the resource center or the special unit, or~~
18 ~~the superintendent's qualified designee~~ a person qualified
19 to perform the diagnostic evaluation. ~~The evaluation shall~~
20 ~~be conducted at a place as the superintendent may direct.~~
21 ~~The cost of the evaluation shall be defrayed by the county~~
22 ~~of legal settlement unless otherwise ordered by the court.~~
23 The cost of the evaluation to be charged may be equal to but
24 shall not exceed the actual cost of the evaluation. ~~Persons~~
25 ~~referred by a court to a resource center or the special unit~~
26 ~~for diagnostic evaluation shall be considered as outpatients of~~
27 ~~the institution. No order of commitment shall be issued unless~~
28 ~~the superintendent of the institution recommends that the order~~
29 ~~be issued, and advises the court that adequate facilities for~~
30 ~~the care of the person are available.~~
31 (2) The court shall examine the report of the county
32 attorney filed pursuant to section 222.13, and if the report
33 shows that neither the person nor those liable for the person's
34 support under section 222.78 are presently able to pay the
35 charges rising out of the person's care in a resource center,

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or special treatment unit, shall enter an order stating that finding and directing that the charges be paid by the person's county of residence or the state, as determined in accordance with section 222.60. The court ~~may~~, upon request of the ~~board of supervisors~~ payer of the charges, may review its finding at any subsequent time while the person remains at the resource center, or is otherwise receiving care or treatment for which this chapter obligates the ~~county~~ payer to pay. If the court finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, that finding shall apply only to the charges incurred during the period beginning on the date of the ~~board's~~ payer's request for the review and continuing ~~thereafter~~ after that date, unless and until the court again changes its finding. If the court finds that the person, or those liable for the person's support, are able to pay the charges, the court shall enter an order directing that the charges be so paid to the extent required by section 222.78.

Sec. 50. 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. 51. 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

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1 person's county ~~which is the legal settlement of the person~~
2 of residence or the state, as determined in accordance with
3 section 222.60, shall, on presentation of a properly itemized
4 bill for such costs, repay the costs to the former county.
5 ~~When the person's legal settlement is outside the state or is~~
6 ~~unknown, the costs shall be paid out of money in the state~~
7 ~~treasury not otherwise appropriated, itemized on vouchers~~
8 ~~executed by the auditor of the county which paid the costs, and~~
9 ~~approved by the administrator.~~
10 Sec. 52. Section 222.59, subsection 1, unnumbered paragraph
11 1, Code 2011, is amended to read as follows:
12 Upon receiving a request from an authorized requester, the
13 superintendent of a state resource center shall coordinate
14 with the ~~central point of coordination process~~ regional
15 administrator in assisting the requester in identifying
16 available community-based services as an alternative to
17 continued placement of a patient in the state resource center.
18 For the purposes of this section, *"authorized requester"* means
19 the parent, guardian, or custodian of a minor patient, the
20 guardian of an adult patient, or an adult patient who does not
21 have a guardian. The assistance shall identify alternatives
22 to continued placement which are appropriate to the patient's
23 needs and shall include but are not limited to any of the
24 following:
25 Sec. 53. Section 222.60, subsection 1, Code 2011, is amended
26 to read as follows:
27 1. All necessary and legal expenses for the cost of
28 admission or commitment or for the treatment, training,
29 instruction, care, habilitation, support and transportation of
30 persons with mental retardation, as provided for in the ~~county~~
31 regional mental health and disability services management plan
32 provisions implemented pursuant to ~~section 331.439, subsection~~
33 ~~1~~ chapter 331, in a state resource center, or in a special
34 unit, or any public or private facility within or without the
35 state, approved by the director ~~of the department~~ of human

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1 services, shall be paid by either:
2 *a.* The person's county ~~in which such person has legal~~
3 ~~settlement as defined in section 252.16~~ of residence unless the
4 expenses are covered by the medical assistance program under
5 chapter 249A.
6 *b.* The state when ~~such~~ the person ~~has no legal settlement~~
7 ~~or when such settlement is unknown~~ is a resident in another
8 state or in a foreign country, the residence is unknown, or the
9 expenses are covered by the medical assistance program under
10 chapter 249A. The payment responsibility shall be deemed to be
11 a state case.
12 Sec. 54. Section 222.60, subsection 2, Code 2011, is amended
13 to read as follows:
14 2. *a.* Prior to a county of ~~legal settlement~~ residence
15 approving the payment of expenses for a person under this
16 section, the county may require that the person be diagnosed
17 to determine if the person has mental retardation or that
18 the person be evaluated to determine the appropriate level
19 of services required to meet the person's needs relating to
20 mental retardation. The diagnosis and the evaluation may be
21 performed concurrently and shall be performed by an individual
22 or individuals approved by the county who are qualified
23 to perform the diagnosis or the evaluation. Following the
24 initial approval for payment of expenses, the county ~~of legal~~
25 ~~settlement~~ may require that an evaluation be performed at
26 reasonable time periods.
27 *b.* The cost of a county-required diagnosis and an evaluation
28 is at the county's expense. In the case of a ~~person without~~
29 ~~legal settlement or whose legal settlement is unknown~~ service
30 covered under the medical assistance program, the state
31 may apply the diagnosis and evaluation provisions of this
32 subsection at the state's expense.
33 *c.* A diagnosis or an evaluation under this section may be
34 part of a ~~county's central point of coordination process under~~
35 ~~section 331.440,~~ regional service management plan provided that

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a diagnosis is performed only by an individual qualified as provided in this section.

Sec. 55. 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~~ regional administrator to determine and certify that the ~~legal settlement~~ residence 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. 56. 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~~ regional administrator determines 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. 57. Section 222.63, Code 2011, is amended to read as follows:

**222.63 Finding of ~~settlement~~ residency — objection.**

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A ~~board of supervisors'~~ certification ~~utilizing~~ of the ~~central point of coordination process~~ county's regional administrator 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~~ regional administrator 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. 58. 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. 59. 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~~

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1 ~~settlement~~ residency of the person and proceed as follows:
2 1. If the administrator concurs with a certified
3 determination as to ~~legal settlement~~ residency of the person
4 so that the person is deemed a state case under section
5 222.60, the administrator shall cause the person either to be
6 transferred to a resource center or a special unit or to be
7 transferred to the place of foreign ~~settlement~~ residency.
8 2. If the administrator disputes a certified determination
9 of ~~legal settlement~~ residency, the administrator shall order
10 the person transferred to a state resource center or a special
11 unit until the dispute is resolved.
12 3. If the administrator disputes a certified determination
13 of ~~legal settlement~~ residency, the administrator shall utilize
14 the procedure provided in section ~~225C.8~~ 331.438F to resolve
15 the dispute. A determination of the person's ~~legal settlement~~
16 residency status made pursuant to section ~~225C.8~~ 331.438F is
17 conclusive.
18 Sec. 60. Section 222.66, Code 2011, is amended to read as
19 follows:
20 **222.66 Transfers — state cases — expenses.**
21 1. The transfer to a resource center or a special unit or
22 to the place of ~~legal settlement~~ residency of a person with
23 mental retardation who has no ~~legal settlement~~ residence in
24 this state or whose ~~legal settlement~~ residency is unknown,
25 shall be made in accordance with such directions as shall
26 be prescribed by the administrator and when practicable by
27 employees of the state resource center or the special unit.
28 The actual and necessary expenses of such transfers shall be
29 paid by the department on itemized vouchers sworn to by the
30 claimants and approved by the administrator and the approved
31 amount is appropriated to the department from any funds in the
32 state treasury not otherwise appropriated.
33 2. The case of a person with mental retardation who
34 is determined to have no residence in this state or whose
35 residence is unknown shall be considered a state case.

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Sec. 61. 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. 62. 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

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due.

Sec. 63. 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. 64. 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. 65. 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.~~

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1 Sec. 66. Section 222.78, Code 2011, is amended to read as
2 follows:
3 **222.78 Parents and others liable for support.**
4 1. The father and mother of any patient admitted or
5 committed to a resource center or to a special unit, as
6 either an inpatient or an outpatient, and any person, firm, or
7 corporation bound by contract made for support of the patient
8 are liable for the support of the patient. The patient and
9 those legally bound for the support of the patient shall be
10 liable to the county or state, as applicable, for all sums
11 advanced ~~by the county to the state under~~ in accordance with
12 the provisions of sections 222.60 and 222.77.
13 2. The liability of any person, other than the patient,
14 who is legally bound for the support of a patient who is under
15 eighteen years of age in a resource center or a special unit
16 shall not exceed the average minimum cost of the care of a
17 normally intelligent minor without a disability of the same
18 age and sex as the minor patient. The administrator shall
19 establish the scale for this purpose but the scale shall not
20 exceed the standards for personal allowances established by
21 the state division under the family investment program. The
22 father or mother shall incur liability only during any period
23 when the father or mother either individually or jointly
24 receive a net income from whatever source, commensurate with
25 that upon which they would be liable to make an income tax
26 payment to this state. The father or mother of a patient shall
27 not be liable for the support of the patient upon the patient
28 attaining eighteen years of age. Nothing in this section
29 shall be construed to prevent a relative or other person
30 from voluntarily paying the full actual cost as established
31 by the administrator for caring for the patient with mental
32 retardation.
33 Sec. 67. Section 222.79, Code 2011, is amended to read as
34 follows:
35 **222.79 Certification statement presumed correct.**

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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. 68. 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. 69. 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

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shall be limited in conformance to section 614.1, subsection 4.

Sec. 70. 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 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. 71. 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. 72. Section 225.11, Code 2011, is amended to read as follows:

**225.11 Initiating commitment procedures.**

When a court finds upon completion of a hearing held pursuant to section 229.12 that the contention that a respondent is seriously mentally impaired has been sustained by clear and convincing evidence, and the application filed under section 229.6 also contends or the court otherwise concludes that it would be appropriate to refer the respondent to the state psychiatric hospital for a complete psychiatric evaluation and appropriate treatment pursuant to section 229.13, the judge may order that a financial investigation be made in the manner prescribed by section 225.13. If the costs of a respondent's evaluation or treatment are payable in whole or in part by a county, an order under this section shall be for referral of the respondent through the ~~central point of coordination~~

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1 ~~process~~ regional administrator for an evaluation and referral
2 of the respondent to an appropriate placement or service, which
3 may include the state psychiatric hospital for additional
4 evaluation or treatment. For purposes of this chapter, ~~*"central*~~
5 ~~*point of coordination process"*~~ *"regional administrator"* means the
6 same as defined in section ~~331.440~~ 331.438A.
7 Sec. 73. Section 225.15, Code 2011, is amended to read as
8 follows:
9 **225.15 Examination and treatment.**
10 1. When a respondent arrives at the state psychiatric
11 hospital, the admitting physician shall examine the respondent
12 and determine whether or not, in the physician's judgment, the
13 respondent is a fit subject for observation, treatment, and
14 hospital care. If, upon examination, the physician decides
15 that the respondent should be admitted to the hospital, the
16 respondent shall be provided a proper bed in the hospital;
17 and the physician who has charge of the respondent shall
18 proceed with observation, medical treatment, and hospital care
19 as in the physician's judgment are proper and necessary, in
20 compliance with sections 229.13 to 229.16.
21 2. A proper and competent nurse shall also be assigned to
22 look after and care for the respondent during observation,
23 treatment, and care. Observation, treatment, and hospital care
24 under this section which are payable in whole or in part by a
25 county shall only be provided as determined through the ~~central~~
26 ~~point of coordination process~~ county's regional administrator.
27 Sec. 74. Section 225.17, subsection 2, Code 2011, is amended
28 to read as follows:
29 2. When the respondent arrives at the hospital, the
30 respondent shall receive the same treatment as is provided for
31 committed public patients in section 225.15, in compliance with
32 sections 229.13 to 229.16. However, observation, treatment,
33 and hospital care under this section of a respondent whose
34 expenses are payable in whole or in part by a county shall
35 only be provided as determined through the ~~central point of~~

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1 ~~coordination process~~ county's regional administrator.
2 Sec. 75. Section 225.23, Code 2011, is amended to read as
3 follows:
4 **225.23 Collection for treatment.**
5 If the bills for a committed or voluntary private patient are
6 paid by the state, the state psychiatric hospital shall file a
7 certified copy of the claim for the bills with the ~~auditor of~~
8 ~~the patient's county of residence~~ department of administrative
9 services. The ~~county of residence~~ department shall proceed to
10 collect the claim in the name of the state psychiatric hospital
11 ~~and, when collected, pay the amount collected to the director~~
12 ~~of the department of administrative services~~. ~~The hospital~~
13 ~~shall also, at the same time, forward a duplicate of the claim~~
14 ~~to the director of the department of administrative services.~~
15 Sec. 76. Section 225C.2, subsection 2, Code 2011, is amended
16 by striking the subsection.
17 Sec. 77. Section 225C.2, Code 2011, is amended by adding the
18 following new subsection:
19 NEW SUBSECTION. 9. *"Regional administrator"* means the same
20 as defined in section 331.438A.
21 Sec. 78. Section 225C.5, subsection 1, paragraph f, Code
22 Supplement 2011, is amended to read as follows:
23 *f.* Two members shall be ~~administrators of the central point~~
24 ~~of coordination process established in accordance with section~~
25 ~~331.440~~ regional administrator staff selected from nominees
26 submitted by the community services affiliate of the Iowa state
27 association of counties.
28 Sec. 79. Section 225C.6, subsection 1, paragraph b, Code
29 Supplement 2011, is amended to read as follows:
30 *b.* Adopt necessary rules pursuant to chapter 17A which
31 relate to disability programs, core disability services, and
32 other services, including but not limited to definitions of
33 each disability included within the term *"disability services"*
34 as necessary for purposes of state, county, and regional
35 planning, programs, and services.

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Sec. 80. Section 225C.6, subsection 1, paragraph 1, Code Supplement 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

*1.* 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. 81. Section 225C.6A, Code 2011, is amended to read as follows:

**225C.6A Disability services data system ~~redesign~~.**

The commission shall do the following relating to ~~redesign of the~~ data concerning the disability services system in the state:

~~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.*~~ 1. 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 assess the status of the compliance in order to assure that data security is protected.

~~*b.*~~ 2. In implementing a system under this ~~subsection~~ section for collecting and analyzing state, county, 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,

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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.

~~c.~~ 3. 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.

~~4. Work with county representatives and other qualified persons to develop an implementation plan for replacing the county of legal settlement approach to determining service system funding responsibilities with an approach based upon residency. The plan shall address a statewide standard for proof of residency, outline a plan for establishing a data system for identifying residency of eligible individuals, address residency issues for individuals who began residing in a county due to a court order or criminal sentence or to obtain services in that county, recommend an approach for contesting a residency determination, and address other implementation issues.~~

Sec. 82. Section 225C.14, subsection 1, Code 2011, is amended to read as follows:

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation performed through the ~~central point of coordination process~~ regional administrator of the person's county of residence has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. If provided for through the ~~central point of coordination process~~ regional administrator, the evaluation may be performed by a

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1 community mental health center or by an alternative diagnostic
2 facility. The policy established by this section shall be
3 implemented in the manner and to the extent prescribed by
4 sections 225C.15, 225C.16 and 225C.17.
5 Sec. 83. Section 225C.16, subsections 2 through 4, Code
6 2011, are amended to read as follows:
7 2. The clerk of the district court in that county shall
8 refer a person applying for authorization for voluntary
9 admission, or for authorization for voluntary admission of
10 another person, in accordance with section 229.42, to the
11 appropriate entity designated through the ~~central point of~~
12 ~~coordination process~~ regional administrator of the person's
13 county of residence under section 225C.14 for the preliminary
14 diagnostic evaluation unless the applicant furnishes a written
15 statement from the appropriate entity which indicates that the
16 evaluation has been performed and that the person's admission
17 to a state mental health institute is appropriate. This
18 subsection does not apply when authorization for voluntary
19 admission is sought under circumstances which, in the opinion
20 of the chief medical officer or that officer's physician
21 designee, constitute a medical emergency.
22 3. Judges of the district court in that county or the
23 judicial hospitalization referee appointed for that county
24 shall so far as possible arrange for the entity designated
25 through the ~~central point of coordination process~~ regional
26 administrator under section 225C.14 to perform a prehearing
27 examination of a respondent required under section 229.8,
28 subsection 3, paragraph "*b*".
29 4. The chief medical officer of a state mental health
30 institute shall promptly submit to the appropriate entity
31 designated through the ~~central point of coordination process~~
32 regional administrator under section 225C.14 a report of the
33 voluntary admission of a patient under the medical emergency
34 clauses of subsections 1 and 2. The report shall explain the
35 nature of the emergency which necessitated the admission of

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1 the patient without a preliminary diagnostic evaluation by the
2 designated entity.
3 Sec. 84. Section 225C.19, subsection 3, paragraph c,
4 subparagraph (4), Code 2011, is amended to read as follows:
5 (4) County ~~central point of coordination processes~~ regional
6 administrators.
7 Sec. 85. Section 226.9C, subsection 1, unnumbered paragraph
8 1, Code Supplement 2011, is amended to read as follows:
9 The state mental health institute at Mount Pleasant shall
10 operate the dual diagnosis mental health and ~~substance~~
11 ~~abuse~~ substance-related disorder treatment program on a net
12 budgeting basis in which fifty percent of the actual per diem
13 and ancillary services costs are chargeable to the patient's
14 county of ~~legal settlement or as a state case, as appropriate~~
15 residence. Subject to the approval of the department, revenues
16 attributable to the dual diagnosis program for each fiscal year
17 shall be deposited in the mental health institute's account
18 and are appropriated to the department for the dual diagnosis
19 program, including but not limited to all of the following
20 revenues:
21 Sec. 86. Section 226.9C, subsection 2, Code Supplement
22 2011, is amended to read as follows:
23 2. The following additional provisions are applicable in
24 regard to the dual diagnosis program:
25 *a.* A county may split the charges between the county's
26 mental health, mental retardation, and developmental
27 disabilities services fund created pursuant to section 331.424A
28 and the county's budget for ~~substance abuse~~ substance-related
29 disorder expenditures.
30 *b.* If an individual is committed to the custody of the
31 department of corrections at the time the individual is
32 referred for dual diagnosis treatment, the department of
33 corrections shall be charged for the costs of treatment.
34 *c.* Prior to an individual's admission for dual diagnosis
35 treatment, the individual shall have been screened through a

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county's ~~central point of coordination process implemented pursuant to section 331.440~~ regional administrator to determine the appropriateness of the treatment.

*d.* A county shall not be chargeable for the costs of treatment for an individual enrolled in and authorized by or decertified by a managed behavioral care plan under the medical assistance program.

*e.* Notwithstanding section 8.33, state mental health institute revenues related to the dual diagnosis program that remain unencumbered or unobligated at the close of the fiscal year shall not revert but shall remain available up to the amount which would allow the state mental health institute to meet credit obligations owed to counties as a result of year-end per diem adjustments for the dual diagnosis program.

Sec. 87. 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 or the state in a case where no legal settlement exists~~ residence 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~~ residence.

Sec. 88. Section 227.10, Code 2011, is amended to read as follows:

**227.10 Transfers from county or private institutions.**

Patients who have been admitted at public expense to any institution to which this chapter is applicable may be involuntarily transferred to the proper state hospital for persons with mental illness in the manner prescribed by sections 229.6 to 229.13. The application required by section

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229.6 may be filed by the administrator of the division or the administrator's designee, or by the administrator of the institution where the patient is then being maintained or treated. If the patient was admitted to that institution involuntarily, the administrator of the division may arrange and complete the transfer, and shall report it as required of a chief medical officer under section 229.15, subsection 5. The transfer shall be made at county expense, and the expense recovered, as provided in section 227.7. However, transfer under this section of a patient whose expenses are payable in whole or in part by a county is subject to an authorization for the transfer through the ~~central point of coordination process~~ county's regional administrator as defined in chapter 331.

Sec. 89. Section 229.1, subsection 3, Code Supplement 2011, is amended by striking the subsection.

Sec. 90. Section 229.1, Code Supplement 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. *"Regional administrator"* means the same as defined in section 331.438A.

Sec. 91. Section 229.1B, Code 2011, is amended to read as follows:

**229.1B ~~Central point of coordination process~~ Regional administrator authorization.**

Notwithstanding any provision of this chapter to the contrary, any person whose hospitalization expenses are payable in whole or in part by a county shall be subject to all requirements of the ~~central point of coordination process~~ county's regional administrator.

Sec. 92. 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

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1 hospitalization hearing of any respondent for whom the advocate
2 has received notice of a hospitalization hearing.
3 Sec. 93. Section 229.11, subsection 1, unnumbered paragraph
4 1, Code 2011, is amended to read as follows:
5 If the applicant requests that the respondent be taken into
6 immediate custody and the judge, upon reviewing the application
7 and accompanying documentation, finds probable cause to believe
8 that the respondent has a serious mental impairment and is
9 likely to injure the respondent or other persons if allowed
10 to remain at liberty, the judge may enter a written order
11 directing that the respondent be taken into immediate custody
12 by the sheriff or the sheriff's deputy and be detained until
13 the hospitalization hearing. The hospitalization hearing shall
14 be held no more than five days after the date of the order,
15 except that if the fifth day after the date of the order is
16 a Saturday, Sunday, or a holiday, the hearing may be held
17 on the next succeeding business day. If the expenses of a
18 respondent are payable in whole or in part by a county, for a
19 placement in accordance with paragraph "a", the judge shall give
20 notice of the placement to the ~~central point of coordination~~
21 ~~process~~ county's regional administrator, and for a placement
22 in accordance with paragraph "b" or "c", the judge shall order
23 the placement in a hospital or facility designated through
24 the ~~central point of coordination process~~ county's regional
25 administrator. The judge may order the respondent detained for
26 the period of time until the hearing is held, and no longer,
27 in accordance with paragraph "a", if possible, and if not then
28 in accordance with paragraph "b", or, only if neither of these
29 alternatives is available, in accordance with paragraph "c".
30 Detention may be:
31 Sec. 94. Section 229.12, subsection 2, Code 2011, is amended
32 to read as follows:
33 2. All persons not necessary for the conduct of the
34 proceeding shall be excluded, except that the court may admit
35 persons having a legitimate interest in the proceeding and

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1 shall permit the advocate from the respondent's county of ~~legal~~
2 ~~settlement~~ residence to attend the hearing. Upon motion of the
3 county attorney, the judge may exclude the respondent from the
4 hearing during the testimony of any particular witness if the
5 judge determines that witness's testimony is likely to cause
6 the respondent severe emotional trauma.
7 Sec. 95. Section 229.13, subsection 1, paragraph a, Code
8 2011, is amended to read as follows:
9 *a.* The court shall order a respondent whose expenses are
10 payable in whole or in part by a county placed under the care
11 of an appropriate hospital or facility designated through the
12 ~~central point of coordination process~~ regional administrator
13 of the respondent's county of residence on an inpatient or
14 outpatient basis.
15 Sec. 96. Section 229.14, subsection 2, paragraph a, Code
16 2011, is amended to read as follows:
17 *a.* For a respondent whose expenses are payable in whole
18 or in part by a county, placement as designated through the
19 ~~central point of coordination process~~ regional administrator
20 of the respondent's county of residence in the care of an
21 appropriate hospital or facility on an inpatient or outpatient
22 basis, or other appropriate treatment, or in an appropriate
23 alternative placement.
24 Sec. 97. Section 229.14A, subsections 7 and 9, Code 2011,
25 are amended to read as follows:
26 7. If a respondent's expenses are payable in whole or in
27 part by a county through the ~~central point of coordination~~
28 ~~process~~ regional administrator of the respondent's county of
29 residence, notice of a placement hearing shall be provided
30 to the county attorney and the county's ~~central point of~~
31 ~~coordination process~~ regional administrator. At the hearing,
32 the county may present evidence regarding appropriate
33 placement.
34 9. A placement made pursuant to an order entered under
35 section 229.13 or 229.14 or this section shall be considered to

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be authorized through the ~~central point of coordination process~~ regional administrator.

Sec. 98. 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's residence is unknown, 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. 99. 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~~ regional administrator of the respondent's county of residence and to the regional administrator of the county in which the hospitalization order is entered the following information pertaining to the individual which would be confidential under subsection 1:

Sec. 100. 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

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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. 101. 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~~ regional administrator 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~~ county's regional administrator and if the admission is approved through the ~~central point of coordination process~~ regional administrator, 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~~ county's regional administrator. 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.

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1 2. All the provisions of chapter 230 shall apply to such
2 voluntary patients so far as is applicable.
3 3. The provisions of this section and of section 229.41
4 shall apply to all voluntary inpatients or outpatients
5 receiving mental health services either away from or at the
6 institution.
7 4. If a county fails to pay the billed charges within
8 forty-five days from the date the county auditor received the
9 certification statement from the superintendent, the department
10 of human services shall charge the delinquent county the
11 penalty of one percent per month on and after forty-five days
12 from the date the county received the certification statement
13 until paid. The penalties received shall be credited to the
14 general fund of the state.
15 Sec. 102. Section 229.43, Code 2011, is amended to read as
16 follows:
17 **229.43 ~~Nonresidents or no-settlement~~ Nonresident patients.**
18 The administrator may place patients of mental health
19 institutes ~~who have no county of legal settlement,~~ who
20 are nonresidents~~, or whose legal settlement is unknown~~ on
21 convalescent leave to a private sponsor or in a health care
22 facility licensed under chapter 135C, when in the opinion
23 of the administrator the placement is in the best interests
24 of the patient and the state of Iowa. If the patient was
25 involuntarily hospitalized, the district court which ordered
26 hospitalization of the patient must be informed when the
27 patient is placed on convalescent leave, as required by section
28 229.15, subsection 5.
29 Sec. 103. Section 230.1, Code 2011, is amended to read as
30 follows:
31 **230.1 Liability of county and state.**
32 1. The necessary and legal costs and expenses attending
33 the taking into custody, care, investigation, admission,
34 commitment, and support of a person with mental illness
35 admitted or committed to a state hospital shall be paid by a

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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 unless the costs and expenses are covered by the medical assistance program under chapter 249A or the person is described by paragraph *"b"*.

*b.* By the state ~~when~~ if such person has no ~~legal settlement~~ residence in this state, ~~when~~ if the person's ~~legal settlement~~ residence is unknown, ~~or~~ if the costs and expenses are covered by the medical assistance program under chapter 249A, 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~~ county's regional administrator. For the purposes of this chapter, ~~*"central point of coordination process"*~~ *"regional administrator"* means the same as defined in section ~~331.440~~ 331.438A.

Sec. 104. 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:

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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~~.

4. Unknown.

Sec. 105. Section 230.3, Code 2011, is amended to read as follows:

**230.3 Certification of settlement.**

If a person's ~~legal settlement~~ county of residence is determined ~~through~~ by the county's ~~central point of coordination process~~ regional administrator to be in another county of this state, the ~~county making the determination~~ regional administrator 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. 106. 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. 107. Section 230.5, Code 2011, is amended to read as

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1 follows:
2 **230.5 Nonresidents.**
3 If a person's ~~legal settlement~~ residence is determined in
4 accordance with section 230.2 or 230.3 to be in a foreign state
5 or country, or is unknown, the court or the ~~county~~ regional
6 administrator shall immediately certify the determination
7 to the department's administrator. The certification shall
8 be accompanied by a copy of the evidence supporting the
9 determination. A court order issued pursuant to section
10 229.13 shall direct that the patient be hospitalized at the
11 appropriate state hospital for persons with mental illness.
12 Sec. 108. Section 230.8, Code 2011, is amended to read as
13 follows:
14 **230.8 Transfers of persons with mental illness — expenses.**
15 The transfer to any state hospitals or to the places of
16 their ~~legal settlement~~ residence of persons with mental illness
17 who have no ~~legal settlement~~ residence in this state or whose
18 ~~legal settlement~~ residence is unknown, shall be made according
19 to the directions of the administrator, and when practicable
20 by employees of the state hospitals~~, and the~~. The actual
21 and necessary expenses of such transfers shall be paid on
22 itemized vouchers sworn to by the claimants and approved by the
23 administrator, and the amount of the expenses is appropriated
24 to the department from any funds in the state treasury not
25 otherwise appropriated.
26 Sec. 109. Section 230.9, Code 2011, is amended to read as
27 follows:
28 **230.9 Subsequent discovery of residence.**
29 If, after a person has been received by a state hospital for
30 persons with mental illness as a ~~state case~~ patient whose ~~legal~~
31 ~~settlement~~ residence is supposed to be outside this state ~~or~~
32 ~~unknown~~, the administrator determines that the ~~legal settlement~~
33 residence of the person was, at the time of admission or
34 commitment, in a county of this state, the administrator shall
35 certify the determination and charge all legal costs and

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1 expenses pertaining to the admission or commitment and support
2 of the person to the county of ~~legal settlement~~ residence. The
3 certification shall be sent to the county of ~~legal settlement~~
4 residence. The certification shall be accompanied by a copy
5 of the evidence supporting the determination. The costs and
6 expenses shall be collected as provided by law in other cases.
7 If the person's ~~legal settlement~~ residency status has been
8 determined in accordance with section ~~225C.8~~ 331.438F, the
9 legal costs and expenses shall be charged to the county ~~or as a~~
10 ~~state case~~ of residence in accordance with that determination.
11 Sec. 110. Section 230.10, Code 2011, is amended to read as
12 follows:
13 **230.10 Payment of costs.**
14 All legal costs and expenses attending the taking into
15 custody, care, investigation, and admission or commitment of
16 a person to a state hospital for persons with mental illness
17 under a finding that ~~such~~ the person has ~~a legal settlement~~
18 residency in another county of this state shall be charged
19 against the county of ~~legal settlement~~ residence.
20 Sec. 111. Section 230.11, Code 2011, is amended to read as
21 follows:
22 **230.11 Recovery of costs from state.**
23 Costs and expenses attending the taking into custody,
24 care, and investigation of a person who has been admitted
25 or committed to a state hospital, United States department
26 of veterans affairs hospital, or other agency of the United
27 States government, for persons with mental illness and who
28 has no ~~legal settlement~~ residence in this state or whose
29 ~~legal settlement~~ residence is unknown, including cost of
30 commitment, if any, shall be paid ~~out of~~ as approved by the
31 administrator. The amount of the costs and expenses approved
32 by the administrator is appropriated to the department from
33 any money in the state treasury not otherwise appropriated, on
34 itemized vouchers executed by the auditor of the county which
35 has paid them, and approved by the administrator.

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1 Sec. 112. Section 230.12, Code 2011, is amended to read as
2 follows:
3 **230.12 ~~Legal settlement~~ Residency disputes.**
4 If a dispute arises between different counties or between
5 the administrator and a county as to the ~~legal settlement~~
6 residence of a person admitted or committed to a state hospital
7 for persons with mental illness, the dispute shall be resolved
8 as provided in section ~~225C.8~~ 331.438F.
9 Sec. 113. Section 230.20, subsection 2, paragraph b, Code
10 2011, is amended to read as follows:
11 *b.* The per diem costs billed to each county shall not exceed
12 the per diem costs billed to the county in the fiscal year
13 beginning July 1, 1996. However, the per diem costs billed
14 to a county may be adjusted annually to reflect increased
15 costs to the extent of the percentage increase in the total
16 of county fixed budgets pursuant to the allowed growth factor
17 adjustment authorized by the general assembly for the fiscal
18 year in accordance with section 331.439, Code 2011, and annual
19 percentage increases in state support provided to the regional
20 mental health and disability service system under chapter 331.
21 Sec. 114. Section 230.32, Code 2011, is amended to read as
22 follows:
23 **230.32 Support of nonresident patients on leave.**
24 The cost of support of patients without ~~legal settlement~~
25 residence in this state, who are placed on convalescent
26 leave or removed from a state mental institute to any health
27 care facility licensed under chapter 135C for rehabilitation
28 purposes, shall be paid from the hospital support fund
29 and shall be charged on abstract in the same manner as
30 state inpatients, until such time as the patient becomes
31 self-supporting or qualifies for support under existing
32 statutes.
33 Sec. 115. Section 231.56A, subsection 2, Code 2011, is
34 amended to read as follows:
35 2. The target population of the projects shall be any

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1 older individual residing in Iowa who is at risk of or who is
2 experiencing abuse, neglect, or exploitation which may include
3 but is not limited to an older individual who is the subject of
4 a report of suspected dependent adult abuse pursuant to chapter
5 235B. This subsection shall not apply to an older individual
6 who is receiving assistance under a ~~county management plan~~
7 ~~approved pursuant to section 331.439~~ regional mental health and
8 disability services system under chapter 331.
9 Sec. 116. Section 232.2, subsection 4, paragraph f,
10 subparagraph (3), Code 2011, is amended to read as follows:
11 (3) The transition plan shall be developed and reviewed
12 by the department in collaboration with a child-centered
13 transition team. The transition team shall be comprised of
14 the child's caseworker and persons selected by the child,
15 persons who have knowledge of services available to the child,
16 and any person who may reasonably be expected to be a service
17 provider for the child when the child becomes an adult or to
18 become responsible for the costs of services at that time.
19 If the child is reasonably likely to need or be eligible for
20 adult services, the transition team membership shall include
21 representatives from the adult services system. The adult
22 services system representatives may include but are not
23 limited to the administrator of county general relief under
24 chapter 251 or 252 or ~~of~~ the ~~central point of coordination~~
25 ~~process implemented under section 331.440~~ county's regional
26 administrator under chapter 331. The membership of the
27 transition team and the meeting dates for the team shall be
28 documented in the transition plan.
29 Sec. 117. Section 235.7, subsection 2, Code 2011, is amended
30 to read as follows:
31 2. *Membership.* The department may authorize the governance
32 boards of decategorization of child welfare and juvenile
33 justice funding projects established under section 232.188 to
34 appoint the transition committee membership and may utilize
35 the boundaries of decategorization projects to establish

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1 the service areas for transition committees. The committee
2 membership may include but is not limited to department of
3 human services staff involved with foster care, child welfare,
4 and adult services, juvenile court services staff, staff
5 involved with county general relief under chapter 251 or 252,
6 or ~~of~~ the ~~central point of coordination process~~ regional
7 mental health and disability services implemented under
8 ~~section 331.440~~ chapter 331, school district and area education
9 agency staff involved with special education, and a child's
10 court appointed special advocate, guardian ad litem, service
11 providers, and other persons knowledgeable about the child.
12 Sec. 118. Section 235A.15, subsection 2, paragraph c,
13 subparagraph (9), Code Supplement 2011, is amended to read as
14 follows:
15 (9) To the administrator of an agency providing mental
16 health, mental retardation, or developmental disability
17 services under a ~~county~~ regional mental health and disability
18 services management plan developed pursuant to ~~section 331.439~~
19 chapter 331, if the data concerns a person employed by or being
20 considered by the agency for employment.
21 Sec. 119. Section 235B.6, subsection 2, paragraph c,
22 subparagraph (6), Code Supplement 2011, is amended to read as
23 follows:
24 (6) To the administrator of an agency providing mental
25 health, mental retardation, or developmental disability
26 services under a ~~county~~ regional mental health and disability
27 services management plan developed pursuant to ~~section 331.439~~
28 chapter 331, if the information concerns a person employed by
29 or being considered by the agency for employment.
30 Sec. 120. Section 249A.12, Code 2011, is amended to read as
31 follows:
32 **249A.12 Assistance to persons with mental retardation —**
33 **state cases.**
34 1. Assistance may be furnished under this chapter to an
35 otherwise eligible recipient who is a resident of a health

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1 care facility licensed under chapter 135C and certified as an
2 intermediate care facility for persons with mental retardation.
3 ~~2. A county shall reimburse the department on a monthly~~
4 ~~basis for that portion of the cost of assistance provided~~
5 ~~under this section to a recipient with legal settlement in~~
6 ~~the county, which is not paid from federal funds, if the~~
7 ~~recipient's placement has been approved by the appropriate~~
8 ~~review organization as medically necessary and appropriate.~~
9 ~~The department's goal for the maximum time period for~~
10 ~~submission of a claim to a county is not more than sixty~~
11 ~~days following the submission of the claim by the provider~~
12 ~~of the service to the department. The department's goal for~~
13 ~~completion and crediting of a county for cost settlement for~~
14 ~~the actual costs of a service under a home and community-based~~
15 ~~services waiver is within two hundred seventy days of the close~~
16 ~~of a fiscal year for which cost reports are due from providers.~~
17 ~~The department shall place all reimbursements from counties~~
18 ~~in the appropriation for medical assistance, and may use the~~
19 ~~reimbursed funds in the same manner and for any purpose for~~
20 ~~which the appropriation for medical assistance may be used.~~
21 ~~3.~~ 2. If a county ~~reimburses~~ reimbursed the department for
22 medical assistance provided under this section, Code 2011, and
23 the amount of medical assistance is subsequently repaid through
24 a medical assistance income trust or a medical assistance
25 special needs trust as defined in section 633C.1, the
26 department shall reimburse the county on a proportionate basis.
27 The department shall adopt rules to implement this subsection.
28 ~~4.~~ 3. *a.* Effective July 1, 1995, the state shall be
29 responsible for all of the nonfederal share of the costs of
30 intermediate care facility for persons with mental retardation
31 services provided under medical assistance to minors.
32 Notwithstanding ~~subsection 2 and~~ contrary provisions of section
33 222.73, Code 2011, effective July 1, 1995, a county is not
34 required to reimburse the department and shall not be billed
35 for the nonfederal share of the costs of such services provided

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1 to minors.
2 *b.* The state shall be responsible for all of the nonfederal
3 share of medical assistance home and community-based services
4 waivers for persons with intellectual disabilities services
5 provided to minors, and a county is not required to reimburse
6 the department and shall not be billed for the nonfederal share
7 of the costs of the services.
8 *c.* Effective February 1, 2002, the state shall be
9 responsible for all of the nonfederal share of the costs of
10 intermediate care facility for persons with mental retardation
11 services provided under medical assistance attributable to the
12 assessment fee for intermediate care facilities for individuals
13 with mental retardation imposed pursuant to section 249A.21.
14 ~~Notwithstanding subsection 2, effective~~ Effective February 1,
15 2003, a county is not required to reimburse the department and
16 shall not be billed for the nonfederal share of the costs of
17 such services attributable to the assessment fee.
18 ~~5.~~ 4. *a.* The mental health and disability services
19 commission shall recommend to the department the actions
20 necessary to assist in the transition of individuals being
21 served in an intermediate care facility for persons with
22 mental retardation, who are appropriate for the transition,
23 to services funded under a medical assistance home and
24 community-based services waiver for persons with intellectual
25 disabilities in a manner which maximizes the use of existing
26 public and private facilities. The actions may include but are
27 not limited to submitting any of the following or a combination
28 of any of the following as a request for a revision of the
29 medical assistance home and community-based services waiver for
30 persons with intellectual disabilities:
31 (1) Allow for the transition of intermediate care
32 facilities for persons with mental retardation licensed under
33 chapter 135C, to services funded under the medical assistance
34 home and community-based services waiver for persons with
35 intellectual disabilities. The request shall be for inclusion

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1 of additional persons under the waiver associated with the
2 transition.
3 (2) Allow for reimbursement under the waiver for day program
4 or other service costs.
5 (3) Allow for exception provisions in which an intermediate
6 care facility for persons with mental retardation which does
7 not meet size and other facility-related requirements under
8 the waiver in effect on June 30, 1996, may convert to a waiver
9 service for a set period of time such as five years. Following
10 the set period of time, the facility would be subject to the
11 waiver requirements applicable to services which were not
12 operating under the exception provisions.
13 *b.* In implementing the provisions of this subsection, the
14 mental health and disability services commission shall consult
15 with other states. The waiver revision request or other action
16 necessary to assist in the transition of service provision
17 from intermediate care facilities for persons with mental
18 retardation to alternative programs shall be implemented by
19 the department in a manner that can appropriately meet the
20 needs of individuals at an overall lower cost to counties, the
21 federal government, and the state. In addition, the department
22 shall take into consideration significant federal changes to
23 the medical assistance program in formulating the department's
24 actions under this subsection. The department shall consult
25 with the mental health and disability services commission in
26 adopting rules for oversight of facilities converted pursuant
27 to this subsection. A transition approach described in
28 paragraph *"a"* may be modified as necessary to obtain federal
29 waiver approval.
30 ~~6.~~ 5. *a.* The provisions of the home and community-based
31 services waiver for persons with intellectual disabilities
32 shall include adult day care, prevocational, and transportation
33 services. Transportation shall be included as a separately
34 payable service.
35 *b.* The department of human services shall seek federal

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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.

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Sec. 121. 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. 122. 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~~

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~~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~~ 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

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1 nonfederal share ~~is~~ was payable in whole or in part by a county
2 of legal settlement in accordance with Code 2011, and cannot
3 be resolved by the parties, the dispute shall be resolved as
4 provided in section 225C.8, Code 2011.
5 Sec. 123. Section 252.6, Code 2011, is amended to read as
6 follows:
7 **252.6 Enforcement of liability.**
8 1. Upon the failure of such relatives to assist or maintain
9 a poor person who has made application for assistance, the
10 county board of supervisors, service area advisory board
11 created under section 217.43, or state division of child and
12 family services of the department of human services may apply
13 to the district court of the county where the poor person
14 resides or may be found for an order to compel the assistance
15 or maintenance.
16 2. If the assistance or maintenance needed is provided by
17 a county through the regional mental health and disability
18 services system implemented under chapter 331, application
19 for the assistance and maintenance shall be made through the
20 regional administrator of the person's county of residence.
21 For the purposes of this subsection, "*regional administrator*"
22 means the same as defined in section 331.438A.
23 Sec. 124. Section 252.23, Code 2011, is amended to read as
24 follows:
25 **252.23 Legal settlement disputes.**
26 If the alleged settlement is disputed, then, within thirty
27 days after notice as provided in section 252.22, a copy of
28 the notices sent and received shall be filed in the office of
29 the clerk of the district court of the county against which
30 claim is made, and a cause docketed without other pleadings,
31 and tried as an ordinary action, in which the county granting
32 the assistance shall be plaintiff, and the other defendant,
33 and the burden of proof shall be upon the county granting the
34 assistance. However, a ~~legal settlement~~ dispute concerning
35 the liability of a person's county of residence for assistance

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1 provided through the regional mental health and disability
2 services system implemented under chapter 331 in connection
3 with services initiated under chapter 222, 230, or 249A shall
4 be resolved as provided in section ~~225C.8~~ 331.438F.
5 Sec. 125. Section 252.24, Code 2011, is amended to read as
6 follows:
7 **252.24 County of settlement liable.**
8 1. The county where the settlement is shall be liable to
9 the county granting assistance for all reasonable charges and
10 expenses incurred in the assistance and care of a poor person.
11 2. When assistance is furnished by any governmental agency
12 of the county, township, or city, the assistance shall be
13 deemed to have been furnished by the county in which the
14 agency is located and the agency furnishing the assistance
15 shall certify the correctness of the costs of the assistance
16 to the board of supervisors of that county and that county
17 shall collect from the county of the person's settlement. The
18 amounts collected by the county where the agency is located
19 shall be paid to the agency furnishing the assistance. This
20 statute applies to services and supplies furnished as provided
21 in section 139A.18.
22 3. Notwithstanding subsection 2, if assistance or
23 maintenance is provided by a county through the regional mental
24 health and disability services system implemented under chapter
25 331, liability for the assistance and maintenance is the
26 responsibility of the person's county of residence.
27 Sec. 126. Section 331.502, subsection 11, Code 2011, is
28 amended to read as follows:
29 11. Carry out duties relating to ~~the determination of legal~~
30 ~~settlement,~~ collection of funds due the county~~,~~ and support
31 of persons with mental retardation as provided in sections
32 222.13, 222.50, ~~222.61 to 222.66,~~ 222.63, 222.64, and 222.69~~,~~
33 ~~and 222.74~~.
34 Sec. 127. Section 347.16, subsection 3, Code 2011, is
35 amended to read as follows:

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1 3. Care and treatment may be furnished in a county public
2 hospital to any sick or injured person who has legal settlement
3 outside the county which maintains the hospital, subject to
4 such policies and rules as the board of hospital trustees may
5 adopt. If care and treatment is provided under this subsection
6 to a person who is indigent, the county in which that person
7 has legal settlement shall pay to the board of hospital
8 trustees the fair and reasonable cost of the care and treatment
9 provided by the county public hospital unless the cost of the
10 indigent person's care and treatment is otherwise provided for.
11 If care and treatment is provided to an indigent person under
12 this subsection, the county public hospital furnishing the
13 care and treatment shall immediately notify, by regular mail,
14 the auditor of the county of legal settlement of the indigent
15 person of the provision of care and treatment to the indigent
16 person. <u>However, if the care and treatment is provided by</u>
17 <u>a county through the regional mental health and disability</u>
18 <u>services system implemented under chapter 331, liability for</u>
19 <u>the assistance and maintenance is the responsibility of the</u>
20 <u>person's county of residence.</u>
21 Sec. 128. REPEAL. Sections 222.73, 222.74, 222.75, and
22 225C.8, Code 2011, are repealed.
23 Sec. 129. EFFECTIVE DATE. This division of this Act takes
24 effect July 1, 2013.
25 DIVISION VII
26 FUNDING PROVISIONS
27 Sec. 130. Section 331.424A, subsection 6, Code Supplement
28 2011, is amended to read as follows:
29 6. This section is repealed July 1, ~~2013~~ <u>2017</u>.
30 Sec. 131. Section 426B.1, Code 2011, is amended by adding
31 the following new subsection:
32 <u>NEW SUBSECTION</u>. 3. In addition to the appropriation made
33 pursuant to subsection 2, there is appropriated from the
34 general fund of the state to the property tax relief fund for
35 the indicated fiscal years the following amounts:

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1 *a.* For the fiscal year beginning July 1, 2013, thirty-one
2 million five hundred thousand dollars.
3 *b.* For the fiscal year beginning July 1, 2014, sixty-three
4 million dollars.
5 *c.* For the fiscal year beginning July 1, 2015, ninety-four
6 million five hundred thousand dollars.
7 *d.* For the fiscal year beginning July 1, 2016, one hundred
8 twenty-six million dollars.
9 Sec. 132. Section 426B.2, subsection 2, Code 2011, is
10 amended by striking the subsection.
11 Sec. 133. Section 426B.3, subsection 1, Code 2011, is
12 amended to read as follows:
13 1. The county auditor shall reduce the certified budget
14 amount received from the board of supervisors for the
15 succeeding fiscal year for the county mental health, mental
16 retardation, and developmental disabilities services fund
17 created in section 331.424A by an amount equal to the amount
18 the county will receive from the property tax relief fund
19 pursuant to section 426B.2, for the succeeding fiscal year and
20 the auditor shall determine the rate of taxation necessary to
21 raise the reduced amount. On the tax list, the county auditor
22 shall compute the amount of taxes due and payable on each
23 parcel before and after the amount received from the property
24 tax relief fund is used to reduce the county budget. The
25 director of human services shall notify the county auditor of
26 each county of the amount of moneys the county will receive
27 from the property tax relief fund pursuant to section 426B.2,
28 for the succeeding fiscal year. <u>If the amount the county will</u>
29 <u>receive is changed after the county has certified its budget,</u>
30 <u>the county board of supervisors shall amend the certified</u>
31 <u>budget to reflect the change and the county auditor shall</u>
32 <u>revise the levy rate and amount of taxes due and payable on</u>
33 <u>each parcel accordingly. Such an amendment to the budget shall</u>
34 <u>be made without public hearing and without being subject to</u>
35 <u>protest.</u>

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1 Sec. 134. Section 426B.6, Code Supplement 2011, is amended
2 to read as follows:
3 **426B.6 Future repeal.**
4 This chapter is repealed July 1, ~~2013~~ 2017.
5 Sec. 135. EFFECTIVE DATE. The following provision of this
6 division of this Act takes effect July 1, 2014:
7 1. The section of this Act amending section 426B.2.
8 EXPLANATION
9 This bill relates to redesign of publicly funded mental
10 health and disability services by requiring certain core
11 services and addressing other services and providing for
12 establishment of regions. The bill is organized into
13 divisions.
14 CORE SERVICES. This division specifies core services and
15 service management requirements applicable to the regional
16 service system required by the bill.
17 Code section 331.439, relating to the requirements under
18 existing law for a county to receive state payments for mental
19 health and disability services and specifying inclusion of
20 various provisions in service system management plans, is
21 amended to require the use of certain functional assessments or
22 other standardized functional assessment methodologies approved
23 by the mental health and disability services commission. For
24 mental health services, the level of care utilization system
25 (LOCUS) is specified; for intellectual disabilities services,
26 the supports intensity scale (SIS) is specified; and for brain
27 injury services, the commission is required to approve a
28 methodology. The use of the methodologies is required to begin
29 July 1, 2012. This Code section is repealed on July 1, 2013.
30 New Code section 331.439A requires MH/DS provided by
31 counties to be delivered in accordance with a regional service
32 system management plan approved by the region's governing board
33 and implemented by the regional administrator. The plans are
34 required to include a policies and procedures manual for the
35 funding administered by the region, submission of an annual

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1 management plan review, submission of three-year strategic
2 plans addressing the effort to achieve various purposes
3 identified in Code section 225C.1, and authorizing a region to
4 either directly implement a system of service management or to
5 contract with a private entity for service management. The
6 plan is required to include various elements and the commission
7 is directed to specify the elements in administrative rules.
8 New Code section 331.439A also authorizes a region to
9 provide assistance to other disability service populations
10 subject to availability of funding and to implement waiting
11 lists for services as a financial management tool.
12 New Code section 331.439B provides financial eligibility
13 requirements to be used in the regional system. Income
14 eligibility is set at 150 percent of the federal poverty
15 level and a region or service provider may apply a copayment
16 requirement to persons who meet this requirement. Persons with
17 higher incomes may also be eligible subject to a copayment or
18 other cost-sharing arrangement; however, a service provider may
19 waive copayments or cost-sharing if able to fully absorb the
20 cost. A person who is eligible for federally funded services
21 must apply for the services. The commission is required to
22 adopt rules for resource limitations eligibility derived from
23 the federal supplemental security income program resource
24 limitations. If a person does not qualify for federally funded
25 support, but meets income, resource, and functional eligibility
26 requirements, retirement accounts in the accumulation stage and
27 burial, medical savings, or assistive technology accounts are
28 to be disregarded.
29 New Code section 331.439C specifies requirements for
30 diagnoses, functional assessments, and other requirements for
31 eligibility in the regional system. Other requirements include
32 an age of at least 18 years and compliance with financial
33 eligibility provisions and determination of eligibility for
34 individualized services to be made by the functional assessment
35 provisions specified in the bill's amendment to Code section

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1 331.439. For mental health services, a person must have had a
2 diagnosable mental health, behavioral, or emotional disorder
3 during the preceding 12-month period. For intellectual
4 disability services, an intellectual disability diagnosis or
5 an intelligence quotient of 70 or less is required. For brain
6 injury services, a diagnosis of brain injury is required.
7 New Code section 331.439D addresses mental health core
8 services and core service domains to be provided in the
9 regional system, subject to the availability of funding. The
10 domains are defined to mean a range of services that can be
11 provided depending upon an individual's service needs. A
12 region may also provide funding for other services or support
13 not listed based on optional criteria that may be considered.
14 New Code section 331.439E addresses core services for
15 persons with an intellectual disability or other developmental
16 disability, provides a list of core services, and requires
17 inclusion of all services covered by all of the service system
18 management plans of the counties comprising a region as of June
19 30, 2012, other than services funded by the Medicaid program.
20 The provision of core services is subject to availability of
21 funding. The region is required to transition from and replace
22 the current services with services that expand and support the
23 community support and integration principles outlined in the
24 federal Olmstead v. L.C. ruling and the purposes identified in
25 Code section 225C.1. Certain best practice efforts must also
26 be included.
27 New Code section 331.440B addresses regional service system
28 financing. The financing of each regional service system is
29 limited to a fixed budget amount subject to an allowed growth
30 adjustment to be recommended by the commission and the governor
31 two years prior to application. The region is required to
32 implement the region's service system management plan by
33 budgeting for 99 percent of the funding anticipated to be
34 available for the plan for a fiscal year.
35 The bill may include a state mandate as defined in Code

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1 section 25B.3. The bill makes inapplicable Code section 25B.2,
2 subsection 3, which would relieve a political subdivision from
3 complying with a state mandate if funding for the cost of
4 the state mandate is not provided or specified. Therefore,
5 political subdivisions are required to comply with any state
6 mandate included in the bill.
7 The Code editor is authorized to codify the division as a new
8 part of Code chapter 331, division III.
9 The new Code provisions of the Code chapter are applicable
10 beginning July 1, 2013.
11 WORKFORCE DEVELOPMENT AND REGULATION. This division relates
12 to workforce development and regulation applicable to the
13 administration and service providers for the regional service
14 system.
15 New Code section 225C.6C establishes a mental health and
16 disability services workforce development workgroup to be
17 convened and staffed by the department of human services to
18 address issues connected with assuring there is an adequate
19 workforce to provide mental health and disability services in
20 the state. Various stakeholders and legislator members are
21 specified.
22 New Code section 225C.6D requires the department of
23 human services to establish an outcomes and performance
24 measures committee for the regional service system. Various
25 stakeholders are specified for the committee membership.
26 New Code section 225C.6E requires the departments of
27 human services, inspections and appeals, and public health
28 to comply with various provisions in efforts to improve the
29 regulatory requirements applied to the regional service system
30 administration and service providers.
31 COMMUNITY MENTAL HEALTH CENTER AMENDMENTS. This division
32 amends Acts provisions relating to community mental health
33 centers that were enacted in 2011 Iowa Acts, chapter 121 (SF
34 525) that have a delayed effective date of July 1, 2012.
35 Provisionally numbered Code section 230A.106, specifying the

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1 core service required to be offered by a center, is amended
2 to allow a center to provide an assertive community treatment
3 program in lieu of day treatment, partial hospitalization, or
4 psychosocial rehabilitation services.
5 Provisionally numbered Code section 230A.110, relating to
6 the standards adopted for centers by the commission, is amended
7 to allow the standards to be in substantial conformity with
8 either applicable behavioral health standards adopted by the
9 joint commission or other recognized national standards for
10 evaluation of psychiatric facilities rather than requiring
11 conformity with both sets of standards.
12 REGIONAL SERVICE SYSTEM. This division provides the
13 requirements for counties to form mental health and disability
14 services (MH/DS) regions.
15 New Code section 331.438A defines terms utilized, including
16 "department" for the department of human services, "disability
17 services" as defined in Code section 225C.2 (services and
18 other support available to a person with mental illness,
19 mental retardation or other developmental disability, or brain
20 injury), "population" to mean the latest federal census or the
21 latest applicable population estimate issued by the U.S. census
22 bureau, "regional administrator" as provided by the bill, and
23 "state commission" as the mental health and disability services
24 commission.
25 New Code section 331.438B requires counties to form regions
26 to provide local access to MH/DS for children and adults.
27 Minimum criteria for formation of a group of counties are
28 included along with a schedule for voluntary formation until
29 the period of November 2, 2012, through January 1, 2013,
30 during which the department is required to assign unaffiliated
31 counties to a region.
32 New Code section 331.438C requires the counties comprising
33 a region to enter into a Code chapter 28E agreement for the
34 joint exercise of governmental powers to form a regional
35 administrator entity to function on behalf of the counties.

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1 The regional administrator is required to enter into
2 performance-based contracts with the department to manage for
3 the counties the MH/DS not funded by the medical assistance
4 (Medicaid) program and for coordinating with the department
5 such services that are funded by the Medicaid program. The
6 regional administrator is under the control of a governing
7 board. Elected county supervisors of the participating
8 counties and at least three individuals who utilize MH/DS or
9 actively involved relatives of such individuals are required
10 slots for each governing board. The membership cannot include
11 representatives of the department or service providers. A
12 regional advisory committee for each board is required to
13 include individuals who utilize services or actively involved
14 relatives, service providers, governing board members, and
15 others.
16 New Code section 331.438D addresses regional finances.
17 The funding administered under the authority of a governing
18 board is required to be in a combined account, separate
19 county accounts that are administered under the authority of
20 the governing board, or pursuant to other arrangement. The
21 regional administrator's administrative costs, as this term
22 is determined in accordance with law, is limited to 5 percent
23 of expenditures. The funding received from performance-based
24 contracts with the department is required to be credited to the
25 account or accounts administered by the regional administrator.
26 New Code section 331.438E requires the counties comprising
27 a MH/DS region to enter into a Code chapter 28E agreement.
28 The agreement is required to address various specific
29 organizational provisions, administrative provisions, and
30 financial provisions.
31 New Code section 331.438F requires a county to pay for the
32 public costs of the MH/DS for the county's residents that
33 are not covered by the Medicaid program and are provided
34 in accordance with the county's approved regional services
35 management plan. If the county is part of a region that has

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1 agreed to pool funding and liability for services, the regional
2 administrator performs the county's responsibilities on behalf
3 of the county. A dispute resolution process is provided to
4 address disputes between counties or regions or the department,
5 as applicable.
6 The provisions of this division enacting new Code sections
7 in Code chapter 331, except as specifically provided by the
8 provisions, are applicable beginning July 1, 2013.
9 SUBACUTE CARE FACILITIES FOR PERSONS WITH SERIOUS AND
10 PERSISTENT MENTAL ILLNESS. This division creates a new health
11 care facility licensure chapter in Code chapter 135P to be
12 regulated by the department of inspections and appeals. The
13 new type of facility is called a "subacute care facility
14 for persons with serious and persistent mental illness"
15 and provides physical facilities with restricted egress to
16 provide accommodation, board, and the services of a licensed
17 psychiatrist for periods exceeding 24 consecutive hours to
18 three or more individuals with serious and persistent mental
19 illness and who may have a diagnosis of another disorder. The
20 facility cannot be used by individuals related to the owner
21 within the third degree of consanguinity.
22 New Code sections 135P.1 and 135P.2 define the terms
23 utilized and state the purpose of the new Code chapter.
24 New Code section 135P.3 describes the nature of care
25 to be utilized and the duties of the facility's licensed
26 psychiatrist, authorizes the use of a seclusion room that meets
27 the conditions specified under federal regulations for the use
28 of seclusion in psychiatric residential treatment facilities
29 providing inpatient psychiatric services for individuals under
30 age 21, and specifies requirements for admission.
31 New Code section 135P.4 prohibits establishing, operating,
32 or maintaining a subacute care facility without a license and
33 allows a licensed intermediate care facility for persons with
34 mental illness to convert to a licensed subacute care facility.
35 New Code section 135P.5 requires an application for a

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1 license and sets the annual licensure fee at $25.
2 New Code section 135P.6 requires the department of
3 inspections and appeals to ascertain the adequacy of the
4 facility before issuing a license and requires the applicant
5 to have been awarded a certificate of need for the facility
6 through the department of public health under Code chapter 135.
7 New Code section 135P.7 authorizes the department to deny
8 an application or suspend or revoke a license for failure or
9 inability to comply with requirements under the Code chapter
10 and provides a list of specific infractions.
11 New Code section 135P.8 authorizes the department to issue a
12 provisional license and addresses compliance plans.
13 New Code section 135P.9 requires the notice and hearing
14 process for licensure issues to be performed in compliance with
15 the Iowa administrative procedure Act, Code chapter 17A.
16 New Code section 135P.10 requires the department of
17 inspections and appeals to adopt rules for the facilities in
18 consultation with the department of human services and for the
19 department to coordinate its rules adoption and enforcement
20 efforts.
21 New Code section 135P.11 addresses complaints alleging
22 violations. Any person may file a complaint and the person's
23 name is required to be kept confidential. The department is
24 required to make a preliminary review of the complaint and
25 under most circumstances an on-site inspection is required
26 within 20 working days. The complainant may accompany the
27 inspector upon request of the complainant or the department.
28 New Code section 135P.12 requires the department's
29 findings regarding licensure to be made public but other
30 information relating to a facility is to be kept confidential.
31 Disclosure of information regarding residents is prohibited
32 except as provided in Code section 217.30, relating to the
33 confidentiality of records pertaining to individuals receiving
34 services or assistance from the department of human services.
35 New Code section 135P.13 provides for judicial review of

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1 departmental action in accordance with Code chapter 17A and for
2 a petition for the review to be filed in the court of the county
3 in which the subacute care facility is located or proposed to
4 be located.
5 New Code section 135P.14 provides that establishing,
6 operating, or managing a subacute care facility without a
7 license is a serious misdemeanor offense.
8 New Code section 135P.15 authorizes the department to
9 maintain an action for an injunction to prevent establishing,
10 operating, or managing a subacute care facility without a
11 license.
12 Code section 249A.26, relating to state and county
13 participation in funding for services to persons with
14 disabilities in the medical assistance (Medicaid) program
15 chapter, is amended to provide that the daily reimbursement
16 rate for subacute care facilities is the sum of the
17 direct care Medicare-certified hospital-based nursing
18 facility patient-day-weighted median and the nondirect
19 care Medicare-certified hospital-based nursing facility
20 patient-day-weighted median.
21 The division may include a state mandate as defined in
22 Code section 25B.3. The division makes inapplicable Code
23 section 25B.2, subsection 3, which would relieve a political
24 subdivision from complying with a state mandate if funding for
25 the cost of the state mandate is not provided or specified.
26 Therefore, political subdivisions are required to comply with
27 any state mandate included in the division.
28 CONFORMING AMENDMENTS —— CENTRAL POINT OF COORDINATION AND
29 LEGAL SETTLEMENT. This division provides conforming amendments
30 to change references to county central point of coordination
31 administrators to regional administrators, county of legal
32 settlement to county of residence, and county mental health,
33 mental retardation, and developmental disabilities services
34 funds under Code section 331.424A to generally apply to the
35 provisions for MH/DS regions. The Code provisions for the

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1 affected Code sections are repealed on July 1, 2013, pursuant
2 to 2011 Iowa Acts, chapter 123 (SF 209).
3 References to the "central point of coordination process"
4 (CPC process) are amended to instead refer to the "regional
5 administrator" of the county of residence in the following Code
6 sections: section 218.99, requiring counties to be notified of
7 patient personal accounts in DHS state institutions; section
8 222.2, providing a definition of CPC process; section 222.13,
9 relating to voluntary admissions to a state resource center;
10 section 222.13A, relating to voluntary admission of a minor
11 to a state resource center; section 222.28, authorizing the
12 court to appoint a commission of inquiry to examine a person
13 to determine the person's mental condition; section 222.59,
14 requiring the superintendent of a state resource center
15 to coordinate in assisting location of a community-based
16 placement instead of a state resource center; section 222.60,
17 relating to the costs paid by county and state and requiring a
18 diagnosis; section 222.61, relating to determination of legal
19 settlement; section 222.62, relating to legal settlement in
20 another county; section 222.63, relating to an objection to
21 a finding of legal settlement; section 222.64, relating to
22 state financial responsibility when a person is in a foreign
23 state or is unknown; section 225.11, relating to initiation
24 of commitment proceedings for the state psychiatric hospital
25 connected to the state university of Iowa; section 225.15,
26 relating to examination and treatment of a respondent at
27 the state psychiatric hospital; section 225.17, relating to
28 payment for the cost of treatment at the state psychiatric
29 hospital; section 225C.2, relating to definitions, is amended
30 to strike the CPC definition; section 225C.5, relating to
31 the MH-DS commission membership; section 225C.6A, relating
32 to data requirements addressed in the disability services
33 system redesign enacted in 2004; section 225C.14, providing
34 requirements for a preliminary diagnostic evaluation for
35 admission to a state mental health institute; section 225C.16,

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1 providing for referrals for evaluations for persons applying
2 for voluntary admission to a state mental health institute;
3 section 225C.19, relating to an emergency mental health
4 crisis system; section 226.9C, authorizing a net general
5 fund appropriation for the dual diagnosis program at the
6 Mount Pleasant state mental health institute; section 227.10,
7 relating to transfers from a county or private institution
8 to a state hospital for persons with mental illness; section
9 229.1, relating to definitions; section 229.1B, specifying that
10 a person is subject to the CPC process, notwithstanding any
11 provision of Code chapter 229 to the contrary; section 229.11,
12 authorizing a judge to order immediate custody of a person
13 alleged to have a serious mental impairment; section 229.13,
14 relating to evaluation orders for psychiatric treatment;
15 section 229.14, relating to the report of a psychiatric
16 evaluation; section 229.14A, relating to the notice and hearing
17 for a placement order; section 229.42, relating to costs
18 paid by a county for a voluntary admission to a state mental
19 health institute; section 230.1, relating to the liability of
20 counties and the state for costs associated with admission of a
21 person with mental illness to a state hospital; section 230.3,
22 providing for certification of legal settlement of a person
23 with mental illness admitted to a hospital; section 232.2,
24 relating to involvement of the CPC process in the transition
25 team of a specific child aging to adulthood while in foster
26 care; section 235.7, relating to appointment of transition
27 committees for children in an area who are aging to adulthood
28 while in child welfare services; and section 249A.26, relating
29 to state and county participation in funding for services to
30 persons with disabilities.
31 Code chapter 252 provisions regarding determinations of
32 county of legal settlement (Code sections 252.6, 252.23, and
33 252.24) are amended to provide that in provisions involving the
34 MH/DS administered through the regional system, the county of
35 residence is responsible and any disputes are to be settled in

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accordance with new Code section 331.438F.

References to "county of legal settlement" are amended to be "county of residence" or the state in the following Code sections: section 218.99, requiring counties to be notified of patient personal accounts in DHS state institutions; section 222.10, relating to the duty of a peace officer to detain a person with mental retardation who departs from an institution in another state without proper authority; section 222.13, relating to voluntary admissions to a state resource center; section 222.13A, relating to voluntary admission of a minor to a state resource center; section 222.31, relating to liability for charges at a state resource center; section 222.49, relating to payment for costs of proceedings; section 222.50, requiring the county of legal settlement to pay charges; section 222.60, relating to the costs paid by county and state and requiring a diagnosis; section 222.61, relating to determination of legal settlement; section 222.62, relating to legal settlement in another county; section 222.63, relating to an objection to a finding of legal settlement; section 222.64, providing for state financial responsibility when a person is in a foreign state or is unknown; section 222.65, requiring the state administrator to investigate a person's residency when placed in a state resource center; section 222.66, providing a standing appropriation for the transfer expenses of state cases to a state resource center; section 222.67, relating to charges when legal settlement was initially unknown; section 222.68, requiring the county of legal settlement to reimburse the county that initially paid the charges; section 222.69, providing a standing appropriation for the admission or commitment expenses of state cases; section 222.70, requiring a dispute resolution process to be used for legal settlement disputes; section 222.77, providing for the county of legal settlement to pay the costs of support of patients placed on leave from a state resources center; section 222.78, relating to parents and other persons liable for the support of a

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1 patient in a state resource center; section 222.79, relating
2 to the certification of statements of charges for purposes of
3 Code section 222.78; section 222.80, providing for liability
4 for the costs of persons admitted or committed to a private
5 facility; section 222.82, relating to collection of claims
6 under Code section 222.78 or other provisions of Code chapter
7 222; section 222.86, relating to payment of excess amounts from
8 resource center patient personal deposit funds to the county
9 of legal settlement; section 222.92, relating to operation of
10 the state resource center on the basis of a net general fund
11 appropriation; section 226.9C, relating to the net general
12 fund appropriations provisions for the dual diagnosis program
13 at the Mount Pleasant state mental health institute; section
14 226.45, relating to payment of excess amounts from state mental
15 health institute patient personal deposit funds to the county
16 of legal settlement; section 229.9A, relating to the mental
17 health advocate of the county of legal settlement; section
18 229.12, relating to the presence of the mental health advocate
19 at civil commitment hearings; section 229.19, relating to the
20 duties of the patient advocate; section 229.24, relating to
21 the provision of civil commitment court records to the county
22 of legal settlement; section 229.31, relating to a commission
23 of inquiry; section 229.42, relating to hospitalization costs
24 paid on voluntary cases by the county of legal settlement;
25 section 229.43, relating to nonresidents on convalescent leave;
26 section 230.1, relating to the liability of counties and the
27 state for costs associated with admission of a person with
28 mental illness to a state hospital; section 230.2, relating to
29 finding of legal settlement for persons with mental illness;
30 section 230.3, providing for certification of legal settlement
31 of a person with mental illness admitted to a hospital; section
32 230.4, providing for evidence to accompany the certification
33 of legal settlement for a person with mental illness; section
34 230.5, relating to legal settlement of nonresidents; section
35 230.8, relating to transfer expenses of persons with mental

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1 illness with no legal settlement; section 230.9, relating to
2 charges when legal settlement was initially unknown; section
3 230.10, requiring all costs attending the taking into custody,
4 care, investigation, and admission or commitment of a person
5 to a state hospital for persons with mental illness to be paid
6 by the county of legal settlement; section 230.11, relating
7 to recovery of costs from the state for state cases; section
8 230.12, relating to settlement of legal settlement disputes
9 for support of persons with mental illness; section 230.32,
10 relating to support of persons who are nonresidents of this
11 state; section 249A.12, relating to assistance to persons with
12 mental retardation paid under the Medicaid program; section
13 249A.26, addressing state and county participation in funding
14 for services to persons with disabilities, including case
15 management; section 331.502, relating to the duties of the
16 county auditor; and section 347.16, relating to the cost of
17 care provided in county hospitals.
18 Miscellaneous provisions are also amended. Code section
19 222.22, relating to representation for a person with mental
20 retardation in commitment proceedings, is amended to shift
21 the responsibility to pay for counsel from the county to the
22 state. Code section 225.23, requiring counties to collect
23 claims paid by the state on behalf of committed or voluntary
24 private patients at the state psychiatric hospital, is
25 amended to shift this responsibility to the department of
26 administrative services. Code section 225C.6, relating to the
27 duties of the mental health and disability services commission,
28 is amended to include a requirement to adopt rules for core
29 disability services. Code section 230.20, relating to the
30 billing to counties for patient charges at the state mental
31 health institutes, is amended to change the cap on inflation
32 increases from current law's percentage increase in the allowed
33 growth factor adjustment to the annual percentage increase
34 in the state support provided to the regional service system
35 under Code chapter 331. Code section 231.56A, relating to

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1 the elder abuse initiative, emergency shelter, and support
2 services projects involving the department on aging, is amended
3 to eliminate a reference to county MH/MR/DD management plans.
4 Code sections 235A.15 and 235B.6, relating to the child abuse
5 and elder abuse registries and allowing employment record
6 checks for the administrator of an MH/MR/DD agency providing
7 services under a county management plan is amended to refer
8 instead to regional management plans.
9 Code section 222.49, relating to the costs of proceedings
10 for involuntary commitment of persons with mental retardation,
11 is amended to provide that the responsibility to pay costs is
12 with either the county or the state.
13 The bill repeals these Code sections: section 222.73,
14 relating to billing of charges to counties for services
15 provided at the state resource centers; section 222.74,
16 relating to sending of duplicate statements to counties of the
17 billing statements under Code section 222.73; section 222.75,
18 relating to penalties for failure to pay the charges billed
19 under Code section 222.73; and section 225C.8, relating to the
20 legal settlement dispute resolution process replaced by the
21 bill.
22 FUNDING PROVISIONS. This division relates to state property
23 tax relief funding and county property taxes for mental health
24 and disability services.
25 Under current law enacted by 2011 Iowa Acts, chapter 123
26 (SF 209), the provisions for property tax relief under Code
27 chapter 426B and for county mental health, mental retardation,
28 and developmental disabilities services funds and the county
29 property tax levies for the services in Code section 331.424A
30 are repealed on July 1, 2013. The bill extends the repeal
31 dates in those Code provisions to July 1, 2017.
32 Under current law, each county's property tax levies for
33 the services are limited to a dollar amount established in the
34 mid-1990s that the county expended for the services at that
35 time. The state provides property tax relief funding from a

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1 standing appropriation in Code chapter 426B and the county
2 property taxes for the services are reduced dollar-for-dollar
3 by the amount received under that Code chapter. The bill
4 provides additional standing appropriations, increasing over
5 the four-year period so that in FY 2016-2017 the appropriation
6 is equal to the maximum county property tax levies for the
7 services authorized for FY 2011-2012.
8 The bill also provides that during the four-year period if
9 the amount that a county will receive under Code chapter 426B
10 is changed after the county has certified its levy, the board
11 of supervisors is required to amend the certified budget to
12 reflect the change and the county auditor must revise the levy
13 rate and amount of taxes due on each parcel accordingly. The
14 amendment is not subject to public hearing and without being
15 subject to protest.

**House File 2432 - Introduced**

HOUSE FILE 2432
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HF 2219)

## A BILL FOR

1 An Act requiring diabetes management care in public schools.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5762HV (3) 84
je/rj

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1 Section 1. NEW SECTION. **280.30 Diabetes care.**
2 1. *Definitions.* For purposes of this section:
3 *a. "Diabetes medical management plan"* means a document
4 developed by a student's personal health care team that sets
5 out the health services needed by the student at school and
6 that is signed by the student's personal health care team and
7 parent or guardian.
8 *b. "School employee"* means a person employed by a public
9 school, any person employed by a local health department who is
10 assigned to a public school, or a subcontractor designated for
11 this function.
12 *c. "Trained diabetes personnel"* means a school employee who
13 volunteers to be trained in accordance with subsection 2. Such
14 an employee need not be a health care professional.
15 2. *Training of designated school employees.*
16 *a.* The department of education, in coordination with the
17 department of public health, the American diabetes association,
18 and individuals licensed under chapter 148 and designated by
19 the department of public health, shall by January 1, 2013,
20 develop guidelines for the training of volunteer school
21 employees as provided in paragraph *"c"* in the care needed for
22 students with diabetes. The department shall make available to
23 public schools information on training guidelines for diabetes
24 management. Training guidelines shall include instruction in
25 all of the following:
26 (1) Recognition and treatment of hypoglycemia and
27 hyperglycemia.
28 (2) Understanding the appropriate actions to take when
29 blood glucose levels are outside of the target ranges indicated
30 by a student's diabetes medical management plan.
31 (3) Understanding physician instructions concerning
32 diabetes medication dosage, frequency, and manner of
33 administration.
34 (4) Performance of finger-stick blood glucose checking,
35 ketone checking, and recording the results.

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1 (5) The administration of glucagon and insulin and the
2 recording of results.
3 (6) Recognizing complications that require emergency
4 assistance.
5 (7) Recommended schedules and food intake for meals and
6 snacks, the effect of physical activity upon blood glucose
7 levels, and actions to be implemented in the case of schedule
8 disruption.
9 (8) Understanding of universal precautions regarding bodily
10 fluids as they apply to the management of diabetes in a school
11 setting.
12 *b.* A public school shall incorporate training in the
13 recognition of hypoglycemia and hyperglycemia and actions to
14 take in response to emergency situations as part of the overall
15 training provided to all school personnel.
16 *c.* The board of directors of a public school district
17 may ensure that the training outlined in paragraph *"a"* is
18 available to school employees at a school attended by a student
19 with diabetes. The principal or school administrator at such
20 a school shall distribute written notice that training is
21 available for employees who volunteer to be trained.
22 *d.* The board of directors of a public school district shall
23 not subject a school employee to any penalty or disciplinary
24 action for refusing to serve as trained diabetes personnel or
25 prohibit or restrict a school employee from volunteering for
26 training.
27 *e.* The training outlined in paragraph *"a"* may be coordinated
28 by a school nurse and provided by a school nurse or other
29 health care professional with expertise in diabetes.
30 3. *Diabetes medical management plan.* The parent or guardian
31 of each student who seeks diabetes care while at school shall
32 submit to the student's school a diabetes medical management
33 plan. The student's school shall review and implement the
34 diabetes medical management plan upon receipt.
35 4. *Required care.*

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1 *a.* In accordance with the request of a parent or guardian
2 of a student with diabetes and the student's diabetes medical
3 management plan, a school nurse, or, in the absence of a school
4 nurse, trained diabetes personnel shall perform functions
5 including but not limited to responding to blood glucose levels
6 that are outside of the student's target range; administering
7 glucagon; administering insulin or assisting a student in
8 administering insulin through the insulin delivery system the
9 student uses; providing oral diabetes medications; checking and
10 recording blood glucose levels and ketone levels or assisting
11 a student with such checking and recording; and following
12 instructions regarding meals, snacks, and physical activity.
13 *b.* A student's school choice shall not be restricted because
14 the student has diabetes.
15 5. *Independent monitoring and treatment.* A student with
16 diabetes, upon written request of the student's parent or
17 guardian and as authorized by the student's diabetes medical
18 management plan, shall be permitted to perform blood glucose
19 checks, administer insulin through the insulin delivery system
20 the student uses, treat hypoglycemia and hyperglycemia, and
21 otherwise attend to the care and management of the student's
22 diabetes in the classroom and in any area of the school or
23 school grounds, and to possess on the student's person at all
24 times all necessary supplies and equipment to perform these
25 monitoring and treatment functions.
26 EXPLANATION
27 This bill directs the department of education, in
28 coordination with the department of public health, the American
29 diabetes association, and individuals licensed under Code
30 chapter 148 and designed by the department of public health,
31 to develop guidelines by January 1, 2013, for the training of
32 public school employees in the care needed for students with
33 diabetes. The bill provides that the department of education
34 shall make available to public schools information on training
35 guidelines including instruction in a variety of functions

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1 necessary for the monitoring and treatment of diabetes. The
2 bill requires public schools to incorporate training in the
3 recognition of hypoglycemia and hyperglycemia and actions to
4 take in response to emergency situations as part of the overall
5 training provided to all school personnel.
6 The bill provides that the board of directors of a public
7 school district may ensure that the training is available to
8 school employees at each school attended by a student with
9 diabetes. A school employee who has received such training is
10 defined as a "trained diabetes personnel". The principal or
11 school administrator at such a school must distribute written
12 notice that training is available to volunteering employees.
13 The bill provides that the board of directors of a public
14 school district cannot penalize an employee for refusing to
15 volunteer or restrict an employee from volunteering. The bill
16 provides that the training may be coordinated by a school
17 nurse and provided by a school nurse or other health care
18 professional with expertise in diabetes.
19 The bill requires the parent or guardian of a public school
20 student who seeks diabetes care while at school to submit
21 to the student's school a diabetes medical management plan.
22 The student's school is required to review and implement the
23 diabetes medical management plan upon receipt. A "diabetes
24 medical management plan" means a document developed by a
25 student's personal health care team that sets out the health
26 services needed by the student at school and that is signed by
27 the student's personal health care team and parent or guardian.
28 The bill provides that in accordance with the request of a
29 parent or guardian of a public school student with diabetes
30 and the student's diabetes medical management plan, a school
31 nurse, or, in the absence of a school nurse, trained diabetes
32 personnel shall perform various functions necessary for the
33 monitoring and treatment of diabetes. The bill provides that
34 a student's school choice shall not be restricted because the
35 student has diabetes.

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The bill provides that upon written request of the student's parent or guardian and as authorized by the student's diabetes medical management plan, a student with diabetes shall be permitted to perform various functions necessary for care and management of the student's diabetes in the classroom and in any area of the school or school grounds, and to possess at all times all necessary supplies and equipment to perform such functions.

**House File 2433 - Introduced**

HOUSE FILE 2433
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 2257)

## A BILL FOR

1 An Act relating to state agency decision making.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5031HV (3) 84
jr/rj

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Section 1. Section 9A.105, subsection 1, paragraph h, Code 2011, is amended to read as follows:

*h.* Whether the applicant or any person named pursuant to paragraph *"g"* has been convicted of a ~~crime~~ felony that, if committed in this state, would be a crime involving moral turpitude ~~or which is a felony~~, and identify the ~~crime~~ felony.

Sec. 2. Section 9A.106, subsection 2, paragraph a, Code 2011, is amended to read as follows:

*a.* Been convicted of a ~~crime~~ felony that, if committed in this state, would be a crime involving moral turpitude ~~or a felony~~.

Sec. 3. Section 17A.3, subsection 1, paragraph a, Code 2011, is amended to read as follows:

*a.* (1) Adopt as a rule a description of the organization of the agency which states the general course and method of its operations, the administrative subdivisions of the agency and the programs implemented by each of them, a statement of the mission of the agency, and the methods by which and location where the public may obtain information or make submissions or requests.

(2) Each board, commission, or other multimember agency shall follow Robert's rules of order, eleventh edition, in governing the conduct of agency meetings.

Sec. 4. Section 17A.4, subsection 3, Code 2011, is amended to read as follows:

3. *a.* ~~When an agency for good cause finds that notice and public participation would be unnecessary, impracticable, or contrary to the public interest~~ When the statute so provides, or with the approval of the administrative rules review committee, the provisions of subsection 1 shall be inapplicable. ~~The agency shall incorporate in each rule issued in reliance upon this provision either the finding and a brief statement of the reasons for the finding, or a statement that the rule is within a very narrowly tailored category of rules whose issuance has previously been exempted from subsection 1~~

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~~by a special rule relying on this provision and including such a finding and statement of reasons for the entire category.~~

*b.* (1) If the administrative rules review committee by a two-thirds vote, the governor, or the attorney general files with the administrative code editor an objection to the adoption of ~~any~~ a rule or portion of a rule pursuant to this subsection, ~~that~~ the rule or portion of the rule shall cease to be effective one hundred eighty days after the date the objection was filed. ~~A~~

(2) If the administrative rules review committee files with the administrative code editor an objection to the adoption of a rule or portion of a rule pursuant to this subsection, the administrative rules review committee, by a separate two-thirds vote, may suspend the applicability of the rule or portion of the rule until the rule ceases to be effective under this paragraph "*b*". The determination to suspend the applicability of the rule or portion of the rule shall be included in the copy of the objection to be forwarded to the agency.

*c.* If an objection to a rule is filed under this subsection, a copy of the objection, properly dated, shall be forwarded to the agency at the time of filing the objection. In any action contesting a rule or portion of a rule adopted pursuant to this subsection, the burden of proof shall be on the agency to show that the procedures of subsection 1 were impracticable, unnecessary, or contrary to the public interest and that, if a category of rules was involved, the category was very narrowly tailored.

Sec. 5. Section 17A.4, subsection 7, Code 2011, is amended to read as follows:

7. *a.* Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule or portion of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "*b*". ~~This provision shall be utilized by the committee only if further~~

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1 ~~time is necessary to study and examine the rule.~~ If the
2 rule was promulgated under section 17A.5, subsection 2,
3 paragraph "*b*", the administrative rules review committee,
4 within thirty-five days of the effective date of the rule and
5 upon the vote of two-thirds of its members, may suspend the
6 applicability of the rule or portion of the rule for seventy
7 days.
8 *b.* Notice of an effective date that was delayed under this
9 provision shall be published in the Iowa administrative code
10 and bulletin.
11 Sec. 6. Section 17A.4, Code 2011, is amended by adding the
12 following new subsection:
13 NEW SUBSECTION. 9. Upon the vote of two-thirds of its
14 members, the administrative rules review committee, following
15 notice of intended action as provided in subsection 1 and prior
16 to adoption of a rule pursuant to that notice, may suspend
17 further action relating to that notice for seventy days.
18 Notice of a notice of intended action that was suspended under
19 this provision shall be published in the Iowa administrative
20 code and bulletin.
21 Sec. 7. Section 17A.8, subsection 4, Code 2011, is amended
22 to read as follows:
23 4. *a.* The committee shall ~~choose a chairperson from its~~
24 ~~membership and~~ prescribe its rules of procedure. The committee
25 may employ a secretary or may appoint the administrative code
26 editor or a designee to act as secretary.
27 *b.* The chairperson of the committee shall be chosen as
28 provided in this paragraph. For the term commencing with the
29 convening of the first regular session of each general assembly
30 and ending upon the convening of the second regular session
31 of that general assembly, the chairperson shall be chosen by
32 the committee from its members who are members of the house of
33 representatives. For the term commencing with the convening
34 of the second regular session of each general assembly and
35 ending upon the convening of the first regular session of the

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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. 8. Section 17A.8, subsection 9, Code 2011, is amended to read as follows:

9. *a.* Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule or portion of a rule until the adjournment of the next regular session of the general assembly, unless the rule was promulgated under section 17A.5, subsection 2, paragraph *"b"*. If the rule was promulgated under section 17A.5, subsection 2, paragraph *"b"*, the administrative rules review committee, within thirty-five days of the effective date of the rule and upon the vote of two-thirds of its members, may suspend the applicability of the rule or portion of the rule until the adjournment of the next regular session of the general assembly.

*b.* The committee shall refer a rule or portion of a rule whose effective date has been delayed or applicability has been suspended to the speaker of the house of representatives and the president of the senate who shall refer the delayed or suspended rule or portion of the rule to the appropriate standing committees of the general assembly. A standing committee shall review ~~a~~ the rule within twenty-one days after the rule is referred to the committee by the speaker of the house of representatives or the president of the senate and shall take formal committee action by sponsoring a joint resolution to disapprove the rule, by proposing legislation relating to the rule, or by refusing to propose a joint resolution or legislation concerning the rule. The standing committee shall inform the administrative rules review committee of the committee action taken concerning the rule. If the general assembly has not disapproved of the rule by a

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joint resolution, the rule shall become effective. The speaker of the house of representatives and the president of the senate shall notify the administrative code editor of the final disposition of each rule or portion of a rule whose effective date has been delayed or whose applicability has been suspended pursuant to this subsection. If ~~a~~ the rule is disapproved, ~~it~~ the rule shall not ~~become~~ be effective and the agency shall rescind the rule. ~~This section shall not apply to rules made effective under section 17A.5, subsection 2, paragraph "b".~~

Sec. 9. Section 80A.4, subsection 1, paragraph g, Code 2011, is amended to read as follows:

*g.* Has not been convicted of a ~~crime described in section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9~~ felony.

Sec. 10. Section 99G.24, subsection 7, paragraph a, Code 2011, is amended to read as follows:

*a.* Has been convicted of ~~a criminal offense~~ an aggravated misdemeanor or felony related to the security or integrity of the lottery in this or any other jurisdiction.

Sec. 11. Section 135C.33, subsection 1, paragraph a, Code 2011, is amended to read as follows:

*a.* For the purposes of this section, ~~the term~~ *"crime"* ~~does not include offenses under chapter 321 classified as a simple misdemeanor or equivalent simple misdemeanor offenses from another jurisdiction~~ means an aggravated misdemeanor or felony.

Sec. 12. Section 147.55, subsection 5, Code 2011, is amended to read as follows:

5. Conviction of ~~a crime~~ an aggravated misdemeanor or felony related to the profession or occupation of the licensee or the conviction of ~~any crime~~ an aggravated misdemeanor or felony that would directly affect the licensee's ability to practice within a profession. A copy of the record of conviction ~~or plea of guilty~~ shall be conclusive evidence of the conviction.

Sec. 13. Section 148.6, subsection 2, paragraph b, Code 2011, is amended to read as follows:

*b.* Being convicted of a felony in the courts of this state

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or another state, territory, or country. Conviction as used in this paragraph shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere~~, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication of guilt is either withheld or not entered~~. A certified copy of the final order or judgment of conviction ~~or plea of guilty~~ in this state or in another state shall be conclusive evidence of the conviction.

Sec. 14. Section 153.34, subsection 9, Code 2011, is amended to read as follows:

9. For the conviction of a felony in the courts of this state or another state, territory, or country. Conviction as used in this subsection includes a conviction of an offense which if committed in this state would be a felony without regard to its designation elsewhere~~, and includes a finding or verdict of guilt made or returned in a criminal proceeding even if the adjudication of guilt is withheld or not entered~~. A certified copy of the final order or judgment of conviction ~~or plea of guilty~~ in this state or in another state constitutes conclusive evidence of the conviction.

Sec. 15. Section 156.9, subsection 2, paragraph e, Code 2011, is amended to read as follows:

*e.* Conviction of ~~any crime~~ an aggravated misdemeanor or felony related to the practice of mortuary science or implicating the licensee's competence to safely perform mortuary science services, including but not limited to ~~a crime~~ an aggravated misdemeanor or felony involving moral character, dishonesty, fraud, theft, embezzlement, extortion, or controlled substances, in a court of competent jurisdiction in this state, or in another state, territory, or district of the United States, or in a foreign jurisdiction. ~~For purposes of this paragraph, "*conviction*" includes a guilty plea, deferred judgment, or other finding of guilt.~~ A certified copy of the judgment is ~~prima facie~~ conclusive evidence of the conviction.

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Sec. 16. Section 169.13, subsection 1, paragraph b, Code 2011, is amended to read as follows:

*b.* Being convicted of a felony in the courts of this state or another state, territory, or country. Conviction as used in this paragraph includes a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere~~, or a criminal proceeding in which a finding or verdict of guilt is made or returned, but the adjudication or guilt is either withheld or not entered~~. A certified copy of the final order or judgment of conviction ~~or plea of guilty~~ in this state or in another state is conclusive evidence of the conviction.

Sec. 17. Section 272C.1, subsection 6, Code 2011, is amended by adding the following new paragraph:

NEW PARAGRAPH. *ag.* The state racing and gaming commission created pursuant to section 99D.5.

Sec. 18. Section 272C.3, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding any other provision of law to the contrary, a licensing board shall not treat a deferred judgment or a final order resulting in a deferred judgment, as deferred judgment is defined in section 907.1, as a conviction in determining whether there are grounds for licensee discipline or license denial, unless the deferred judgment is withdrawn and judgment is entered as provided in section 907.3, subsection 1.

Sec. 19. Section 523A.503, subsection 1, paragraph f, Code 2011, is amended to read as follows:

*f.* Conviction of ~~a criminal offense~~ an aggravated misdemeanor or felony involving dishonesty or a false statement including but not limited to fraud, theft, misappropriation of funds, falsification of documents, deceptive acts or practices, or other related offenses.

Sec. 20. Section 543B.15, subsection 3, paragraph c, Code 2011, is amended by striking the paragraph.

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1 Sec. 21. Section 543B.29, subsection 1, paragraph f,
2 unnumbered paragraph 1, Code Supplement 2011, is amended by
3 striking the unnumbered paragraph.
4 EXPLANATION
5 This bill relates to the rulemaking process and more
6 generally to agency decision making.
7 The bill concerns the administrative rules review committee
8 (ARRC) relative to its powers concerning the rulemaking process
9 and the process of selecting a chairperson of the committee.
10 As it relates to the rulemaking process, the bill provides
11 that a rule can be adopted without notice only if the statute
12 so provides or with the approval of the ARRC.
13 Code section 17A.4(3) relates to so-called "emergency"
14 rulemaking. This section is amended to empower the ARRC to
15 object to an emergency adopted rule and suspend its effect.
16 Code section 17A.4(7), concerning the 70-day delay authority
17 of the ARRC, is amended to provide that the ARRC may, upon
18 a two-thirds vote, suspend the applicability of a rule
19 promulgated under Code section 17A.5(2)(b) (so-called emergency
20 rulemaking) for 70 days. The bill provides that action to
21 suspend the applicability of a rule under this new provision
22 must be taken within 35 days of the effective date of the
23 rule. In addition, the bill provides that the ARRC may utilize
24 the 70-day delay authority regardless of the reason for the
25 delay and for a portion of a rule. Under current law, rules
26 promulgated under Code section 17A.5(2)(b) take effect upon
27 filing and are not subject to the 70-day delay authority of the
28 ARRC.
29 Code section 17A.4, new subsection 9, provides that the
30 ARRC, upon a two-thirds vote, may suspend for 70 days further
31 action relating to a notice of intended action filed by an
32 agency. Under current law, the ARRC has no authority relating
33 to a notice of intended action filed with the ARRC until the
34 adopted rule is filed with the ARRC following this notice.
35 Code section 17A.8(4), concerning the selection of the

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1 chairperson of the ARRC, is amended. The bill provides that
2 the chairperson for the term commencing with the convening
3 of the first regular session of each general assembly and
4 ending upon the convening of the second regular session of that
5 general assembly shall be chosen by the committee from its
6 members who are members of the house of representatives. The
7 chairperson for the term commencing with the convening of the
8 second regular session of each general assembly and ending upon
9 the convening of the first regular session of the next general
10 assembly shall be chosen by the committee from its members
11 who are members of the senate. Current law provides that the
12 chairperson shall be selected by the ARRC from the membership
13 of the ARRC.
14 Code section 17A.8(9), concerning the session delay
15 authority of the ARRC, is amended to provide that the ARRC,
16 upon a two-thirds vote, may suspend the applicability of
17 a rule promulgated under Code section 17A.5(2)(b), until
18 the adjournment of the next regular session of the general
19 assembly. The bill also provides that action to suspend the
20 applicability of a rule under this new provision must be taken
21 within 35 days of the effective date of the rule. In addition,
22 the bill provides that the ARRC may utilize the session delay
23 authority for a portion of a rule. Under current law, rules
24 promulgated under Code section 17A.5(2)(b) take effect upon
25 filing and are not subject to the session delay authority of
26 the ARRC.
27 As it relates to agency decision making generally, the bill
28 requires that boards and commissions operate under Roberts
29 rules of order, revised.
30 The bill also relates to agency action concerning
31 professional or occupational licensing. The bill restricts the
32 ability of a licensing board to consider a deferred judgment
33 when deciding whether to suspend or revoke a license or impose
34 some other licensee discipline. The bill also generally limits
35 offenses which may be considered to aggravated misdemeanors or

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1 felonies.

Senate File 2218

S-5038

1 Amend Senate File 2218 as follows:
2 1. Page 1, before line 1 by inserting:
3 <Section 1. Section 321.372, Code 2011, is amended
4 by adding the following new unnumbered paragraph before
5 subsection 1:
6 NEW UNNUMBERED PARAGRAPH. This section shall be
7 known and may be cited as the *"Keep Aware Driving —*
8 *Youth Need School Safety Act"*.>
9 2. By renumbering as necessary.

MERLIN BARTZ

Senate File 2314

S-5039

1 Amend Senate File 2314 as follows:
2 1. Page 7, after line 28 by inserting:
3 <Sec. ___. NEW SECTION. **613.22 Secondary road**
4 **improvements — liability.**
5 A person who, without compensation, performs
6 necessary improvements to a secondary road as defined
7 in section 306.3, shall not be liable for civil damages
8 for acts or omissions resulting from the necessary
9 improvements. *"Necessary improvements"* includes but is
10 not limited to maintenance and repair.>
11 2. By renumbering as necessary.

_____
MARK CHELGREN

Senate File 2255

S-5040

1 Amend Senate File 2255 as follows:
2 1. Page 3, by striking lines 16 and 17 and
3 inserting <center associated with Iowa state
4 university of science and technology, business
5 accelerators, business incubators, and the John
6 Pappajohn entrepreneurial centers. In adopting rules
7 to administer this section, the>

_____
JACK HATCH

**Senate File 2315 - Introduced**

SENATE FILE 2315
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SSB 3152)

## A BILL FOR

1 An Act relating to redesign of publicly funded mental
2 health and disability services by requiring certain core
3 services and addressing other services and providing for
4 establishment of regions and including effective date and
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5488SV (9) 84
jp/rj

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1 DIVISION I
2 CORE SERVICES
3 Section 1. Section 225C.2, Code 2011, is amended by adding
4 the following new subsections:
5 NEW SUBSECTION. 7A. *"Mental health and disability services*
6 *region"* means a mental health and disability services region
7 formed in accordance with section 331.438B.
8 NEW SUBSECTION. 7B. *"Mental health and disability services*
9 *regional service system"* means the mental health and disability
10 service system for a mental health and disability services
11 region.
12 NEW SUBSECTION. 9. *"Regional administrator"* means the same
13 as defined in section 331.438A.
14 Sec. 2. Section 225C.4, subsection 1, paragraphs a, b, c, f,
15 h, j, q, and s, Code 2011, are amended to read as follows:
16 *a.* Prepare and administer the comprehensive mental health
17 and disability services plan as provided in section 225C.6B,
18 including state mental health and mental retardation plans for
19 the provision of disability services within the state and the
20 state developmental disabilities plan. The administrator shall
21 consult with the Iowa department of public health, the state
22 board of regents or a body designated by the board for that
23 purpose, the department of management or a body designated by
24 the director of the department for that purpose, the department
25 of education, the department of workforce development and any
26 other appropriate governmental body, in order to facilitate
27 coordination of disability services provided in this state.
28 The state mental health and mental retardation plans shall be
29 consistent with the state health plan, and shall incorporate
30 ~~county disability services~~ mental health and disability
31 services regional service system management plans.
32 *b.* Assist ~~county boards of supervisors and mental health~~
33 ~~and developmental disabilities regional planning councils~~
34 mental health and disability services region governing boards
35 and regional administrators in planning for community-based

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1 disability services.
2 *c.* Emphasize the provision of evidence-based outpatient
3 and community support services by community mental health
4 centers and local mental retardation providers as a preferable
5 alternative to inpatient hospital services.
6 *f.* ~~Promote coordination~~ Coordinate of community-based
7 services with those of the state mental health institutes and
8 state resource centers.
9 *h.* Administer and distribute state appropriations to
10 the mental health and ~~developmental disabilities community~~
11 disability regional services fund established by section ~~225C.7~~
12 225C.7A.
13 *j.* Establish and maintain a data collection and management
14 information system oriented to the needs of patients,
15 providers, the department, and other programs or facilities.
16 The system shall be used to identify, collect, and analyze
17 service outcome data in order to assess the effects of
18 the services on the persons utilizing the services. The
19 administrator shall annually submit to the commission
20 information collected by the department indicating the
21 changes and trends in the disability services system. The
22 administrator shall make the outcome data available to the
23 public.
24 *q.* In cooperation with the department of inspections and
25 appeals, recommend minimum standards under section 227.4 for
26 the care of and services to persons with mental illness ~~and~~ or
27 mental retardation residing in county care facilities. The
28 administrator shall also cooperate with the department of
29 inspections and appeals in recommending minimum standards for
30 care of and services provided to persons with mental illness
31 or an intellectual disability living in a residential care
32 facility regulated under chapter 135C.
33 *s.* Provide technical assistance concerning disability
34 services and funding to ~~counties and mental health and~~
35 ~~developmental disabilities regional planning councils~~ mental

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1 health and disability services region governing boards and
2 regional administrators.
3 Sec. 3. Section 225C.4, subsection 1, Code 2011, is amended
4 by adding the following new paragraphs:
5 NEW PARAGRAPH. *u.* Enter into performance-based contracts
6 with regional administrators pursuant to section 331.440B.
7 NEW PARAGRAPH. *v.* Provide information through the internet
8 concerning waiting lists for services implemented by mental
9 health and disability services regions.
10 Sec. 4. Section 225C.6, subsection 1, paragraph b, Code
11 Supplement 2011, is amended to read as follows:
12 *b.* ~~Adopt~~ Pursuant to recommendations made for this purpose
13 by the administrator, adopt necessary rules pursuant to
14 chapter 17A which relate to disability programs and services,
15 including but not limited to definitions of each disability
16 included within the term *"disability services"* as necessary for
17 purposes of state, county, and regional planning, programs, and
18 services.
19 Sec. 5. Section 225C.6, subsection 1, paragraph l, Code
20 Supplement 2011, is amended by striking the paragraph and
21 inserting in lieu thereof the following:
22 *l.* Pursuant to a recommendation made by the administrator,
23 identify basic financial eligibility standards for the
24 disability services provided by a mental health and disability
25 services region. The initial standards shall be as specified
26 in chapter 331.
27 Sec. 6. Section 225C.6A, Code 2011, is amended to read as
28 follows:
29 **225C.6A Disability services data system ~~redesign~~.**
30 The ~~commission~~ department shall do the following relating to
31 ~~redesign of the~~ data concerning the disability services system
32 in the state:
33 ~~1. Identify sources of revenue to support statewide~~
34 ~~delivery of core disability services to eligible disability~~
35 ~~populations.~~

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~~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.*~~ 1. 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.*~~ 2. In implementing a system under this ~~subsection~~ section for collecting and analyzing state, county, 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.

~~*c.*~~ 3. 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.

~~4. Work with county representatives and other qualified persons to develop an implementation plan for replacing the county of legal settlement approach to determining service system funding responsibilities with an approach based upon residency. The plan shall address a statewide standard for~~

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1 ~~proof of residency, outline a plan for establishing a data~~
2 ~~system for identifying residency of eligible individuals,~~
3 ~~address residency issues for individuals who began residing in~~
4 ~~a county due to a court order or criminal sentence or to obtain~~
5 ~~services in that county, recommend an approach for contesting~~
6 ~~a residency determination, and address other implementation~~
7 ~~issues.~~
8 Sec. 7. NEW SECTION. **225C.7A Mental health and disability**
9 **regional services fund.**
10 1. A mental health and disability regional services fund
11 is created in the office of the treasurer of state under the
12 authority of the department, which shall consist of the amounts
13 appropriated to the fund by the general assembly for each
14 fiscal year. Before completion of the department's budget
15 estimate as required by section 8.23, the department shall
16 determine and include in the estimate the amount which in order
17 to address allowed growth should be appropriated to the fund
18 for the succeeding fiscal year.
19 2. The department shall allocate the moneys appropriated
20 from the fund to mental health and disability services
21 regions for funding of disability services in accordance with
22 performance-based contracts with the regions and in the manner
23 provided in the appropriations. If the allocation methodology
24 includes a population factor, the definition of *"population"* in
25 section 331.438A shall be applied.
26 Sec. 8. Section 226.10, Code 2011, is amended to read as
27 follows:
28 **226.10 Equal treatment.**
29 The ~~several~~ patients of the state mental health institutes,
30 according to their different conditions of mind and body, and
31 their respective needs, shall be provided for and treated
32 with equal care. The care provided for patients with two
33 or more co-occurring mental health, intellectual disability,
34 brain injury, or substance abuse disorders shall address the
35 co-occurring needs.

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1 Sec. 9. Section 331.439, subsection 1, paragraph a, Code
2 Supplement 2011, is amended to read as follows:
3 *a.* The county accurately reported by December 1 the
4 county's expenditures for mental health, mental retardation,
5 and developmental disabilities services and the information
6 required under section 225C.6A, subsection 3, paragraph *"c"*,
7 for the previous fiscal year in accordance with rules adopted
8 by the state commission. The information reported shall
9 segregate expenditures for administration, purchase of service,
10 and enterprise costs. If the department determines good
11 cause exists, the department may extend a deadline otherwise
12 imposed under this chapter, chapter 225C, or chapter 426B
13 for a county's reporting concerning mental health, mental
14 retardation, or developmental disabilities services or related
15 revenues and expenditures.
16 Sec. 10. Section 331.439, Code Supplement 2011, is amended
17 by adding the following new subsection:
18 NEW SUBSECTION. 9A. *a.* Commencing during the fiscal
19 year beginning July 1, 2012, the county management plan for
20 mental health services shall provide that an individual's
21 eligibility for individualized services shall be determined by
22 a standardized functional assessment methodology approved for
23 this purpose by the director of human services.
24 *b.* Commencing during the fiscal year beginning July 1,
25 2012, the county management plan for intellectual disability
26 services shall provide that an individual's eligibility for
27 individualized services shall be determined by a standardized
28 functional assessment methodology approved for this purpose by
29 the director of human services.
30 *c.* Commencing during the fiscal year beginning July 1, 2012,
31 if a county management plan provides for brain injury services
32 the plan shall provide that an individual's eligibility for
33 individualized services shall be determined by a standardized
34 functional assessment methodology approved for this purpose by
35 the director of human services.

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1 Sec. 11. NEW SECTION. **331.439A Regional service system**
2 **management plan.**
3 1. *a.* The mental health and disability services provided
4 by counties operating as a region shall be delivered in
5 accordance with a regional service system management plan
6 approved by the region's governing board and implemented by the
7 regional administrator in accordance with this section. The
8 requirements for a regional service system management plan and
9 plan format shall be specified in rule adopted by the state
10 commission. A regional service system management plan is
11 subject to the approval of the regional governing board and the
12 director of human services pursuant to a recommendation made
13 by the state commission.
14 *b.* A regional service system management plan shall address
15 a three-year period. The initial plan shall be submitted to
16 the department by April 1, 2014, and by April 1 of every third
17 year thereafter. The initial plan is subject to approval by
18 the director of human services.
19 *c.* Each region shall submit an annual update of the region's
20 management plan to the department of human services each year
21 on or before December 1. The annual update shall include any
22 changes to the elements of the management plan as well as
23 actual numbers of persons served, moneys expended, and outcomes
24 achieved. An annual update is subject to approval by the state
25 commission pursuant to a recommendation by the director of
26 human services.
27 *d.* An amendment to an approved management plan shall
28 be submitted to the department of human services at least
29 forty-five calendar days prior to the amendment implementation.
30 The amendment is subject to approval by the state commission
31 pursuant to a recommendation by the director of human services.
32 2. The provisions of a regional service system management
33 plan shall include but are not limited to all of the following:
34 Measures to address the needs of individuals who have two
35 or more co-occurring mental health, intellectual disability,

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1 brain injury, or substance-related disorders and individuals
2 with specialized needs. Implementation of measures to meet the
3 needs of individuals with brain injury or substance-related
4 disorders is contingent upon identification of a funding source
5 to meet those needs and implementation of provisions to engage
6 the entity under contract with the state to provide services to
7 address substance-related disorders within the regional service
8 system.
9 3. The region may either directly implement a system
10 of service management and contract with service providers,
11 or contract with a private entity to manage the regional
12 service system, provided all requirements of this section
13 are met by the private entity. The regional service system
14 shall incorporate service management and clinical assessment
15 processes developed in accordance with applicable requirements.
16 4. The regional service system management plan for a region
17 shall include but is not limited to all of the following
18 elements, which shall be specified in administrative rules
19 adopted by the state commission:
20 *a.* A description of the region's policies and procedures for
21 financing the services included in the plan. The description
22 shall also address how county, regional, state, and other
23 funding sources will be used to meet the service needs within
24 the region.
25 *b.* The enrollment and eligibility process.
26 *c.* The scope of services included in addition to the core
27 services required by this part of this chapter. Each service
28 included shall be described and projections of need and the
29 funding necessary to meet the need shall be included.
30 *d.* The method of plan administration.
31 *e.* The process for managing utilization and access to
32 services and other assistance. The process shall also describe
33 how coordination between the services included in the plan and
34 the disability services administered by the state and others
35 will be managed.

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1 *f.* The quality management and improvement processes.
2 *g.* The risk management provisions and fiscal viability of
3 the plan, if the region contracts with a private entity.
4 *h.* The access points for services.
5 *i.* The requirements for designation of targeted case
6 management providers and for implementation of evidence-based
7 models of case management for persons with chronic mental
8 illness. The requirements shall be designed to provide the
9 individual receiving the case management with a choice of
10 providers, allow a service provider to be the case manager but
11 prohibit the provider from referring an individual receiving
12 the case management only to services administered by the
13 provider, and include other provisions to ensure compliance
14 with but not exceed federal requirements for conflict-free case
15 management.
16 *j.* A plan for a systems of care approach in which multiple
17 public and private agencies partner with families and
18 communities to address the multiple needs of the individuals
19 and their families involved with the regional service system.
20 *k.* A plan to assure effective crisis prevention, response,
21 and resolution.
22 *l.* A plan for provider network formation and management.
23 *m.* A plan for provider reimbursement approaches that
24 includes approaches in addition to fee-for-service and to
25 compensate the providers engaged in a systems of care approach
26 and other nontraditional providers. A region shall be
27 encouraged to use, and the department shall approve, blended
28 funding approaches or coordinated funding approaches known as
29 braided funding, which incorporate all services and funding
30 streams used by persons receiving services, including medical
31 assistance program funding.
32 *n.* If the region applies any provider licensing,
33 certification, or accreditation requirements in addition to
34 those required by the state, the procedures for implementing
35 the requirements.

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1 *o.* Service provider payment provisions.
2 *p.* Financial forecasting measures.
3 *q.* A process for resolving grievances.
4 *r.* Measures for implementing interagency and multisystem
5 collaboration and care coordination.
6 5. A region may provide assistance to service populations
7 with disabilities to which the counties comprising the region
8 have historically provided assistance but who are not included
9 in the service management provisions required under subsection
10 2, subject to the availability of funding.
11 6. If a region determines that the region cannot provide
12 services for the fiscal year in accordance with the regional
13 plan and remain in compliance with applicable budgeting
14 requirements, the region may implement a waiting list for
15 the services. The procedures for establishing and applying
16 a waiting list shall be specified in the regional plan. If
17 a region implements a waiting list for services, the region
18 shall notify the department of human services. The department
19 shall maintain on the department's internet site an up-to-date
20 listing of the regions that have implemented a waiting list and
21 the services affected by each waiting list.
22 7. The director's approval of a regional plan shall not be
23 construed to constitute certification of the respective county
24 budgets or of the region's budget.
25 Sec. 12. NEW SECTION. **331.439B Financial eligibility**
26 **requirements.**
27 A person must comply with all of the following financial
28 eligibility requirements to be eligible for services under the
29 regional service system:
30 1. The person must have an income equal to or less than
31 one hundred fifty percent of the federal poverty level, as
32 defined by the most recently revised poverty income guidelines
33 published by the United States department of health and
34 human services, to be eligible for disability services
35 public funding. It is the intent of the general assembly to

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1 consider increasing this income eligibility provision to two
2 hundred percent of the federal poverty level, contingent upon
3 implementation of the federal Patient Protection and Affordable
4 Care Act beginning in January 2014.
5 2. *a.* A region or a service provider contracting with the
6 region shall not apply a copayment, sliding fee scale, or other
7 cost sharing requirement for a particular service to a person
8 with an income equal to or less than one hundred fifty percent
9 of the federal poverty level.
10 *b.* A person with an income above one hundred fifty
11 percent of the federal poverty level may be eligible for
12 services subject to a copayment, sliding fee scale, or other
13 cost-sharing requirement approved by the department.
14 *c.* A provider under the regional service system of a service
15 that is not funded by the medical assistance program under
16 chapter 249A may waive the copayment or other cost-sharing
17 arrangement if the provider is fully able to absorb the cost.
18 3. A person who is eligible for federally funded services
19 and other support must apply for such services and support.
20 However, if a person is requesting services or other support
21 that is expected to be needed for less than two years in
22 duration, the person shall be exempt from this requirement.
23 4. The person is in compliance with resource limitations
24 identified in rule adopted by the state commission. The
25 limitation shall be derived from the federal supplemental
26 security income program resource limitations. A person with
27 resources above the federal supplemental security income
28 program resource limitations may be eligible subject to
29 limitations adopted in rule by the state commission. If a
30 person does not qualify for federally funded services and other
31 support but meets income, resource, and functional eligibility
32 requirements for regional services, the following types of
33 resources shall be disregarded:
34 *a.* A retirement account that is in the accumulation stage.
35 *b.* A burial, medical savings, or assistive technology

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1 account.
2 Sec. 13. NEW SECTION. **331.439C Diagnosis — functional**
3 **assessment.**
4 1. A person must comply with all of the following
5 requirements to be eligible for mental health services under
6 the regional service system:
7 *a.* The person complies with financial eligibility
8 requirements under section 331.439B.
9 *b.* The person is at least eighteen years of age and is a
10 resident of this state. However, a person who is seventeen
11 years of age, is a resident of this state, and is receiving
12 publicly funded children's services may be considered eligible
13 for services through the regional service system during the
14 three-month period preceding the person's eighteenth birthday
15 in order to provide a smooth transition from children's to
16 adult services.
17 *c.* The person has had at any time during the preceding
18 twelve-month period a diagnosable mental health, behavioral, or
19 emotional disorder. The diagnosis shall be made in accordance
20 with the criteria provided in the diagnostic and statistical
21 manual of mental disorders, fourth edition text revised,
22 published by the American psychiatric association, and shall
23 not include the manual's "V" codes identifying conditions other
24 than a disease or injury. The diagnosis shall also not include
25 substance-related disorders, dementia, antisocial personality,
26 or developmental disabilities, unless co-occurring with another
27 diagnosable mental illness.
28 *d.* The person's eligibility for individualized services
29 shall be determined in accordance with the standardized
30 functional assessment methodology approved for mental health
31 services by the director of human services.
32 2. A person must comply with all of the following
33 requirements to be eligible for intellectual disability or
34 other developmental disability services under the regional
35 service system:

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1 *a.* The person complies with financial eligibility
2 requirements under section 331.439B.
3 *b.* The person is at least eighteen years of age and is a
4 resident of this state. However, a person who is seventeen
5 years of age, is a resident of this state, and is receiving
6 publicly funded children's services may be considered eligible
7 for services through the regional service system during the
8 three-month period preceding the person's eighteenth birthday
9 in order to provide a smooth transition from children's to
10 adult services.
11 *c.* The person has a diagnosis of intellectual disability or
12 a diagnosis of developmental disability other than intellectual
13 disability.
14 *d.* The person's eligibility for individualized services
15 shall be determined in accordance with the standardized
16 functional assessment methodology approved for intellectual
17 disability and developmental disability services by the
18 director of human services.
19 3. A person must comply with all of the following
20 requirements to be eligible for brain injury services under the
21 regional service system:
22 *a.* The person complies with financial eligibility
23 requirements under section 331.439B.
24 *b.* The person is at least eighteen years of age and is a
25 resident of this state. However, a person who is seventeen
26 years of age, is a resident of this state, and is receiving
27 publicly funded children's services may be considered eligible
28 for services through the regional service system during the
29 three-month period preceding the person's eighteenth birthday
30 in order to provide a smooth transition from children's to
31 adult services.
32 *c.* The person has a diagnosis of brain injury.
33 *d.* The person's eligibility for individualized services
34 shall be determined in accordance with a standardized
35 functional assessment methodology approved for this purpose by

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1 the director of human services.
2 Sec. 14. NEW SECTION. **331.439D Regional core services.**
3 1. For the purposes of this section, unless the context
4 otherwise requires:
5 *a. "Crisis stabilization facility"* means an institution,
6 place, building, or agency with restricted means of egress
7 designed to provide accommodation, board, and the services
8 of a mental health professional on a short-term basis of no
9 more than five days to three or more individuals who present
10 in the facility with acute psychiatric needs. The goal of a
11 crisis stabilization facility is to decrease the severity of an
12 individual's condition to allow transition of the individual
13 to a less restrictive facility.
14 *b. "Domain"* means a set of similar, discrete services that
15 can be provided depending upon an individual's service needs.
16 2. *a.* A region shall ensure that services within the
17 core service domains listed in subsection 3 are available for
18 eligible persons who are not enrolled in the medical assistance
19 program under chapter 249A or receiving other third-party
20 payment for the services. Until funding is designated for
21 other service populations, eligibility for the service domains
22 listed in this section shall be limited to such persons who are
23 in need of mental health or intellectual disability services.
24 However, if a county in a region was providing services to a
25 person with brain injury prior to formation of the region, the
26 person shall remain eligible for the services provided when the
27 region is formed.
28 *b.* It is the intent of the general assembly to address
29 the need for funding so that the availability of the service
30 domains listed in this section may be expanded to include such
31 persons who are in need of developmental disability or brain
32 injury services.
33 3. Pursuant to recommendations made by the director of human
34 services, the state commission shall adopt rules as required by
35 section 225C.6 to define the services included in the initial

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1 and additional core service domains listed in this section.
2 The rules shall provide consistency, to the extent possible,
3 with similar service definitions under the medical assistance
4 program.
5 4. The initial core service domains shall include the
6 following:
7 *a.* Treatment designed to ameliorate a person's condition,
8 including but not limited to all of the following:
9 (1) Assessment and evaluation.
10 (2) Mental health outpatient therapy.
11 (3) Medication prescribing and management.
12 (4) Mental health inpatient treatment.
13 *b.* Basic crisis response provisions, including but not
14 limited to all of the following:
15 (1) Twenty-four-hour access to crisis response.
16 (2) Evaluation.
17 (3) Personal emergency response system.
18 *c.* Support for community living, including but not limited
19 to all of the following:
20 (1) Home health aide.
21 (2) Home and vehicle modifications.
22 (3) Respite.
23 (4) Supportive community living.
24 *d.* Support for employment, including but not limited to all
25 of the following:
26 (1) Day habilitation.
27 (2) Job development.
28 (3) Supported employment.
29 (4) Prevocational services.
30 *e.* Recovery services, including but not limited to all of
31 the following:
32 (1) Family support.
33 (2) Peer support.
34 *f.* Service coordination including coordinating physical
35 health and primary care, including but not limited to all of

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1 the following:
2 (1) Case management.
3 (2) Health homes.
4 5. A region shall ensure that providers of core services
5 demonstrate competencies necessary for all of the following:
6 *a.* Serving persons with co-occurring conditions.
7 *b.* Providing evidence-based services.
8 *c.* Providing trauma-informed care that recognizes the
9 presence of trauma symptoms in persons receiving services.
10 6. A region shall ensure that services within the following
11 additional core service domains are available to persons not
12 eligible for the medical assistance program under chapter 249A
13 or receiving other third-party payment for the services, when
14 public funds are made available for such services:
15 *a.* Comprehensive crisis services, including but not limited
16 to all of the following:
17 (1) Twenty-four-hour crisis hotline.
18 (2) Mobile response.
19 (3) Twenty-three-hour crisis observation and holding, and
20 crisis stabilization facility services.
21 (4) Crisis residential services.
22 *b.* Subacute services.
23 *c.* Justice system-involved services, including but not
24 limited to all of the following:
25 (1) Jail diversion.
26 (2) Crisis intervention training.
27 (3) Civil commitment prescreening.
28 *d.* Advances in the use of evidence-based treatment,
29 including but not limited to all of the following:
30 (1) Positive behavior support.
31 (2) Assertive community treatment.
32 (3) Peer support services.
33 7. A regional service system may provide funding for other
34 appropriate services or other support. In considering whether
35 to provide such funding, a region may consider the following

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1 criteria:
2 *a.* Applying a person-centered planning process to identify
3 the need for the services or other support.
4 *b.* The efficacy of the services or other support is
5 substantiated by an evidence base.
6 *c.* A determination that the services or other support
7 provides an effective alternative to existing services that
8 have been shown by the evidence base to be ineffective, to not
9 yield the desired outcome, or to not support the principles
10 outlined in Olmstead v. L.C., 527 U.S. 581 (1999).
11 Sec. 15. NEW SECTION. **331.440B Regional service system**
12 **financing.**
13 1. *a.* The financing of a regional mental health and
14 disability service system is limited to a fixed budget amount.
15 The fixed budget amount shall be the amount identified in
16 a regional service system management plan and budget for
17 the fiscal year. A region shall receive state funding for
18 growth in non-Medicaid expenditures through the mental health
19 and disability regional services fund created in section
20 225C.7A to address increased service costs, additional service
21 populations, additional core service domains, and increased
22 numbers of persons receiving services.
23 *b.* The state commission shall recommend a non-Medicaid
24 expenditures growth funding amount to the department, the
25 council on human services, and the governor annually by July
26 15 for the fiscal year which commences two years from the
27 beginning date of the fiscal year in progress at the time
28 the recommendation is made. The director of human service
29 shall consider the state commission's recommendation in the
30 director's budget recommendations to the council on human
31 services and the council shall consider the recommendation in
32 approving the department's budget submitted to the governor in
33 accordance with section 217.3. The governor shall consider the
34 state commission's recommendation in developing the governor's
35 recommendation for a non-Medicaid expenditures growth funding

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1 amount for such fiscal year. The governor's recommendation
2 shall be submitted at the time the governor's proposed budget
3 for the succeeding fiscal year is submitted in accordance with
4 chapter 8.
5 2. A region shall implement its regional service system
6 management plan in a manner so as to provide adequate funding
7 of services for the entire fiscal year by budgeting for
8 ninety-nine percent of the funding anticipated to be available
9 for the regional plan for the fiscal year. A region may expend
10 all of the funding anticipated to be available for the regional
11 plan.
12 Sec. 16. IMPLEMENTATION OF ACT. Section 25B.2, subsection
13 3, shall not apply to this division of this Act.
14 Sec. 17. CODE EDITOR. The Code editor may codify the
15 provisions of this division of this Act and any other
16 provisions of this Act involving chapter 331 as one or more new
17 parts of chapter 331, division III.
18 Sec. 18. APPLICABILITY. The provisions of this division of
19 this Act enacting new Code sections 331.439A through 331.439E,
20 and section 331.440B apply beginning on July 1, 2013.
21 DIVISION II
22 WORKFORCE DEVELOPMENT AND REGULATION
23 Sec. 19. NEW SECTION. **225C.6C Mental health and disability**
24 **services workforce development workgroup.**
25 1. The department of human services shall convene and
26 provide support to a mental health and disability services
27 workforce development workgroup to address issues connected
28 with assuring that an adequate workforce is available in the
29 state to provide mental health and disability services. The
30 workgroup shall report at least annually to the governor
31 and general assembly providing findings, recommendations,
32 and financing information concerning the findings and
33 recommendations.
34 2. The membership of the workgroup shall include all of the
35 following:

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1 *a.* The director of the department of aging or the director's
2 designee.
3 *b.* The director of the department of corrections or the
4 director's designee.
5 *c.* The director of the department of education or the
6 director's designee.
7 *d.* The director of human services or the director's
8 designee.
9 *e.* The director of the department of public health or the
10 director's designee.
11 *f.* The director of the department of workforce development
12 or the director's designee.
13 *g.* At least three staff of regional administrators
14 appointed by the community services affiliate of the Iowa state
15 association of counties.
16 *h.* At least three individuals receiving mental health and
17 disability services or involved relatives of such individuals.
18 *i.* At least three providers of mental health and disability
19 services.
20 *j.* A representative of the entity under contract with
21 the department to provide mental health managed care for the
22 medical assistance program.
23 *k.* One or more representatives of the institutions under
24 the control of the state board of regents who are knowledgeable
25 concerning the mental health and disability services workforce.
26 *l.* A provider representative of the Iowa collaborative
27 safety net provider network established pursuant to section
28 135.153.
29 *m.* Other persons identified by the workgroup.
30 3. In addition to the members identified in subsection
31 2, the membership of the workgroup shall include four
32 members of the general assembly serving in a nonvoting, ex
33 officio capacity. One member shall be designated by each
34 of the following: the majority leader of the senate, the
35 minority leader of the senate, the speaker of the house of

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1 representatives, and the minority leader of the house of
2 representatives. A legislative member serves for a term as
3 provided in section 69.16B.
4 4. Except as provided in subsection 3 for legislative
5 appointments, the workgroup shall determine its own rules of
6 procedure, membership terms, and operating provisions.
7 5. The workforce development measures considered for
8 recommendation by the workgroup shall include but are not
9 limited to all of the following:
10 *a.* Provide for the college of direct support or comparable
11 internet-based training to be available at no charge to all
12 service providers.
13 *b.* Require every direct support professional to demonstrate
14 a level of competency in core curricula.
15 *c.* Provide financial incentives for those providers who
16 support direct care staff in securing a voluntary certification
17 from the national alliance for direct support professionals or
18 a comparable certification or accreditation body.
19 *d.* Change the rate reimbursement methodologies to allow
20 providers to bill direct care staff development costs as a
21 direct expense rather than as an indirect cost.
22 *e.* Implement regional service system staffing capability
23 to provide positive behavior supports training and to
24 mount a crisis intervention and prevention response that is
25 evidence-based and utilizes best practices.
26 *f.* Make technical assistance available to service providers
27 for issues such as crisis intervention, sheltered workshop
28 conversion, and other approaches to modernize services.
29 *g.* Implement co-occurring disability cross training
30 for mental health professionals as well as training for
31 primary care practitioners on substance-related disorders,
32 mental health, and intellectual disability and developmental
33 disability behavioral issues.
34 *h.* Study the issues surrounding the shortage of mental
35 health professionals in the state and make recommendations for

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1 addressing the issues.
2 Sec. 20. NEW SECTION. **225C.6D Regional service system —**
3 **outcomes and performance measures committee.**
4 1. The department shall establish an outcomes and
5 performance measures committee to recommend to the department
6 and the commission's specific outcomes and performance measures
7 to be utilized by the regional mental health and disability
8 services system. The membership of the committee shall include
9 regional administrator and departmental staff, individuals
10 receiving mental health and disability services or involved
11 relatives of such individuals, providers of mental health and
12 disability services, a representative of the entity under
13 contract with the department to provide mental health managed
14 care for the medical assistance program, a representative
15 of the institutions under the control of the state board of
16 regents who is knowledgeable concerning mental health and
17 disability services, a representative of the department's task
18 force to address the decision in Olmstead v. L.C., 527 U.S. 581
19 (1999), a provider representative of the Iowa collaborative
20 safety net provider network established pursuant to section
21 135.153, and other stakeholders.
22 2. The committee's recommendations shall incorporate the
23 outcome measurement methodologies previously developed by the
24 mental health and disability services commission. To the
25 extent possible, the committee shall seek to provide outcome
26 and performance measures recommendations that are consistent
27 across the mental health and disability services populations
28 addressed. The committee shall also evaluate data collection
29 requirements utilized in the mental health and disability
30 regional service system to identify the requirements that
31 could be eliminated or revised due to the administrative
32 burden involved or the low degree of relevance to outcomes or
33 other reporting requirements. The committee recommendations
34 shall be submitted to the governor, general assembly, and
35 policymaking bodies. The mental health and disability services

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1 commission and other policymaking bodies shall consider the
2 recommendations in eliminating or otherwise revising data
3 collection requirements.
4 Sec. 21. NEW SECTION. **225C.6E Regional service system —**
5 **regulatory requirements.**
6 1. The departments of inspections and appeals, human
7 services, and public health shall comply with the requirements
8 of this section in their efforts to improve the regulatory
9 requirements applied to the mental health and disability
10 regional service system administration and service providers.
11 2. The three departments shall work together to establish
12 a process to streamline accreditation, certification, and
13 licensing standards applied to the regional service system
14 administration and service providers.
15 3. The departments of human services and inspections and
16 appeals shall jointly review the standards and inspection
17 process applicable to residential care facilities.
18 4. The three departments shall do all of the following in
19 developing regulatory requirements applicable to the regional
20 service system administration and service providers:
21 *a.* Consider the costs to administrators and providers in the
22 development of quality monitoring efforts.
23 *b.* Expand the use of uniform, streamlined, and statewide
24 cost reporting standards and tools.
25 *c.* Make quality monitoring information, including services,
26 quality, and location information, easily available and
27 understandable to all citizens.
28 *d.* Establish standards that are clearly understood and are
29 accompanied by interpretive guidelines to support understanding
30 by those responsible for applying the standards.
31 *e.* Develop a partnership with providers in order to
32 improve the quality of services and develop mechanisms for the
33 provision of technical assistance.
34 *f.* Develop consistent data collection efforts based on
35 statewide standards and make information available to all

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1 providers.
2 *g.* Evaluate existing provider qualification and monitoring
3 efforts to identify duplication and gaps, and align the efforts
4 with valued outcomes.
5 *h.* Streamline and enhance existing standards.
6 *i.* Consider allowing providers to seek accreditation from
7 a national accrediting body in lieu of state accreditation or
8 certification.
9 DIVISION III
10 COMMUNITY MENTAL HEALTH CENTER AMENDMENTS
11 Sec. 22. Section 230A.110, subsection 1, as enacted by
12 2011 Iowa Acts, chapter 121, section 20, is amended to read as
13 follows:
14 1. The division shall recommend and the commission shall
15 adopt standards for designated community mental health
16 centers and comprehensive community mental health programs,
17 with the overall objective of ensuring that each center
18 and each affiliate providing services under contract with a
19 center furnishes high-quality mental health services within
20 a framework of accountability to the community it serves.
21 The standards adopted shall conform with federal standards
22 applicable to community mental health centers and shall be
23 in substantial conformity with the applicable behavioral
24 health standards adopted by the joint commission, formerly
25 known as the joint commission on accreditation of health care
26 organizations, ~~and~~ or other recognized national standards for
27 evaluation of psychiatric facilities unless in the judgment of
28 the division, with approval of the commission, there are sound
29 reasons for departing from the standards.
30 DIVISION IV
31 REGIONAL SERVICE SYSTEM
32 Sec. 23. Section 97B.1A, subsection 9, Code Supplement
33 2011, is amended to read as follows:
34 9. *"Employer"* means the state of Iowa, the counties,
35 municipalities, agencies, public school districts, all

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1 political subdivisions, and all of their departments and
2 instrumentalities, including area agencies on aging, other than
3 those employing persons as specified in subsection 8, paragraph
4 *"b"*, subparagraph (7), regional administrators formed by a
5 chapter 28E agreement as authorized in section 331.438C, and
6 joint planning commissions created under chapter 28E or 28I.
7 If an interstate agency is established under chapter 28E
8 and similar enabling legislation in an adjoining state, and an
9 employer had made contributions to the retirement system for
10 employees performing functions which are transferred to the
11 interstate agency, the employees of the interstate agency who
12 perform those functions shall be considered to be employees
13 of the employer for the sole purpose of membership in the
14 retirement system, although the employer contributions for
15 those employees are made by the interstate agency.
16 Sec. 24. NEW SECTION. **331.438A Definitions.**
17 As used in this part, unless the context otherwise requires:
18 1. *"Department"* means the department of human services.
19 2. *"Disability services"* means the same as defined in
20 section 225C.2.
21 3. *"Population"* means the population shown by the latest
22 preceding certified federal census or the latest applicable
23 population estimate issued by the United States census bureau,
24 whichever is most recent.
25 4. *"Regional administrator"* means the administrative office,
26 organization, or entity formed by agreement of the counties
27 participating in a region to function on behalf of those
28 counties in accordance with this part.
29 5. *"State commission"* means the mental health and disability
30 services commission created in section 225C.5.
31 Sec. 25. NEW SECTION. **331.438B Mental health and disability**
32 **services regions — criteria.**
33 1. Local access to mental health and disability services
34 for adults shall be provided by counties organized in a
35 regional service system. The regional service system shall be

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1 implemented in stages in accordance with this section.
2 2. The director of human services shall approve any region
3 meeting the requirements of subsection 3. However, the
4 director of human services, with the approval of the state
5 commission, may grant a waiver from the requirement relating
6 to the minimum number of counties or the requirement providing
7 population parameters if there is convincing evidence that
8 compliance with such requirement is not workable.
9 3. Each county in the state shall participate in an approved
10 mental health and disability services region. A mental health
11 and disability services region shall comply with all of the
12 following requirements:
13 *a.* The counties comprising the region are contiguous.
14 *b.* The region has at least three counties.
15 *c.* The combined general population of the counties
16 comprising a region shall be at least two hundred thousand
17 persons and not more than seven hundred thousand persons.
18 *d.* The region has the capacity to provide required core
19 services and perform required functions.
20 *e.* At least one community mental health center or a
21 federally qualified health center with providers qualified
22 to provide psychiatric services, either directly or with
23 assistance from psychiatric consultants, is located within the
24 region, has the capacity to provide outpatient services for the
25 region, and is either under contract with the region or has
26 provided documentation of intent to contract with the region
27 to provide the services.
28 *f.* A hospital with an inpatient psychiatric unit or a state
29 mental health institute is located in or within reasonably
30 close proximity to the region, has the capability to provide
31 inpatient services for the region, and is either under contract
32 with the region or has provided documentation of intent to
33 contract with the region to provide the services.
34 *g.* The regional administrator structure proposed for or
35 utilized by the region has clear lines of accountability and

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1 the regional administrator functions as a lead agency utilizing
2 shared county staff or other means of limiting administrative
3 costs.
4 4. County formation of a mental health and disability
5 services region is subject to all of the following:
6 *a.* On or before November 1, 2012, counties voluntarily
7 participating in a region have complied with all of the
8 following formation criteria:
9 (1) The counties forming the region have been identified
10 and the board of supervisors of the counties have approved a
11 written letter of intent to join together to form the region.
12 (2) The proposed region complies with the requirements in
13 subsection 3.
14 (3) The department provides written notice to the boards
15 of supervisors of the counties identified for the region in
16 the letter of intent that the counties have complied with the
17 requirements in subsection 3.
18 *b.* Upon compliance with the provisions of paragraph *"a"*, the
19 participating counties are eligible for technical assistance
20 provided by the department.
21 *c.* During the period of November 2, 2012, through January 1,
22 2013, the department shall work with any county that has not
23 agreed to voluntarily be part of a region in accordance with
24 paragraph *"a"* and with the counties adjoining the county to
25 resolve issues preventing the county from joining a region. By
26 January 1, 2013, a county that has not agreed to be part of a
27 region in accordance with paragraph *"a"* shall be assigned by the
28 department to a region.
29 *d.* On or before June 30, 2013, all counties shall be part of
30 a region that is in compliance with the provisions of paragraph
31 *"a"* other than meeting the November 1, 2012, date.
32 *e.* On or before June 30, 2014, all counties shall be
33 in compliance with all of the following mental health and
34 disability services region implementation criteria:
35 (1) The board of supervisors of each county participating in

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1 the region has voted to approve a chapter 28E agreement.
2 (2) The duly authorized representatives of all the counties
3 participating in the region have signed the chapter 28E
4 agreement that is in compliance with section 331.438C.
5 (3) The county board of supervisors' or supervisors'
6 designee members and other members of the region's governing
7 board have been appointed in accordance with section 331.438C.
8 (4) Executive staff for the region's regional administrator
9 have been identified or engaged.
10 (5) An initial draft of a regional service management
11 transition plan has been developed which identifies the steps
12 to be taken by the region to do all of the following:
13 (a) Designate access points for the disability services
14 administered by the region.
15 (b) Designate the region's targeted case manager providers
16 funded by the medical assistance program.
17 (c) Identify the service provider network for the region.
18 (d) Define the service access and service authorization
19 process to be utilized for the region.
20 (e) Identify the information technology and data management
21 capacity to be employed to support regional functions.
22 (f) Establish business functions, funds accounting
23 procedures, and other administrative processes.
24 (g) Comply with data reporting and other information
25 technology requirements identified by the department.
26 (6) The department has approved the region's chapter 28E
27 agreement and the initial draft of the regional management
28 transition plan.
29 *f.* If the department, with the concurrence of the state
30 commission, determines that a region is in substantial
31 compliance with the implementation criteria in paragraph *"e"*
32 and has sufficient operating capacity to begin operations, the
33 region may commence partial or full operations prior to July
34 2014.
35 Sec. 26. NEW SECTION. **331.438C Regional governance**

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1 **structure.**
2 1. The counties comprising a mental health and disability
3 services region shall enter into an agreement under chapter
4 28E to form a regional administrator under the control of a
5 governing board to function on behalf of those counties.
6 2. The governing board shall comply with all of the
7 following requirements:
8 *a.* The voting membership of the governing board shall
9 consist of one board of supervisors member from each county
10 comprising the region or their designees. On governing board
11 decisions involving finances, collective bargaining, and other
12 finance-related matters identified by these members, any of
13 these members may request a weighted vote. In a weighted vote,
14 each of the counties comprising the region is assigned a number
15 of votes equal to its population within the region and approval
16 of the decision requires at least three-fourths of the total
17 votes cast. The population figures in the federal census or
18 the latest applicable estimate issued by the United States
19 bureau of the census, whichever is more recent, shall be used
20 for purposes of determining population.
21 *b.* The membership of the governing board shall also consist
22 of not more than three individuals who utilize mental health
23 and disability services or actively involved relatives of such
24 individuals. These members shall be designated by the advisory
25 committee or committees formed by the governing board pursuant
26 to this section, in a manner so as to represent the geographic
27 areas of the region and to provide balanced representation for
28 the various disability groups utilizing the services provided
29 through the region. The members designated in accordance with
30 this paragraph shall serve in a nonvoting, ex officio capacity.
31 *c.* The membership of the governing board shall not include
32 employees of the department of human services.
33 *d.* The membership of the governing board shall also
34 consist of not more than three members representing service
35 providers in the region. These members shall be designated by

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1 the advisory committee or committees formed by the governing
2 board pursuant to this section in a manner to represent the
3 various types of service providers. The members designated in
4 accordance with this paragraph shall serve in a nonvoting, ex
5 officio capacity.
6 *e.* The governing board shall have a regional advisory
7 committee consisting of individuals who utilize services or
8 actively involved relatives of such individuals, service
9 providers, and regional governing board members.
10 3. The regional administrator shall be under the control of
11 the governing board. The regional administrator shall enter
12 into performance-based contracts with the department for the
13 regional administrator to manage, on behalf of the counties
14 comprising the region, the mental health and disability
15 services that are not funded by the medical assistance program
16 under chapter 249A and for coordinating with the department the
17 provision of mental health and disability services that are
18 funded under the medical assistance program.
19 Sec. 27. NEW SECTION. **331.438D Regional finances.**
20 1. The funding under the control of the governing board
21 shall be maintained in a combined account, in separate county
22 accounts that are under the control of the governing board, or
23 pursuant to other arrangements authorized by law that limit the
24 administrative burden of such control while facilitating public
25 scrutiny of financial processes.
26 2. The administrative costs of the regional administrator
27 shall be limited to the percentage of expenditures for
28 administrative costs allowed for the entity under contract
29 with the department of human services to provide mental
30 health managed care for the medical assistance program.
31 This limitation shall be subject to regular review by the
32 department. The department may submit recommendations to the
33 governor and general assembly for appropriate changes to the
34 limitation.
35 3. The funding provided pursuant to appropriations from the

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1 mental health and disability regional services fund created in
2 section 225C.7A and from performance-based contracts with the
3 department shall be credited to the account or accounts under
4 the control of the governing board.
5 Sec. 28. NEW SECTION. **331.438E Regional governance**
6 **agreements.**
7 1. In addition to compliance with the applicable provisions
8 of chapter 28E, the chapter 28E agreement entered into by the
9 counties comprising a mental health and disability services
10 region in forming the regional administrator to function on
11 behalf of the counties shall comply with the requirements of
12 this section.
13 2. The organizational provisions of the agreement shall
14 include all of the following:
15 *a.* A statement of purpose, goals, and objectives of entering
16 into the agreement.
17 *b.* Identification of the governing board membership and the
18 terms, methods of appointment, voting procedures, and other
19 provisions applicable to the operation of the governing board.
20 *c.* The identification of the executive staff of the regional
21 administrator serving as the single point of accountability for
22 the region.
23 *d.* The counties participating in the agreement.
24 *e.* The time period of the agreement and terms for
25 termination or renewal of the agreement.
26 *f.* The circumstances under which additional counties may
27 join the region.
28 *g.* Methods for dispute resolution and mediation.
29 *h.* Methods for termination of a county's participation in
30 the region.
31 *i.* Provisions for formation and assigned responsibilities
32 for one or more advisory committees consisting of individuals
33 who utilize services or actively involved relatives of such
34 individuals, service providers, governing board members, and
35 other interests identified in the agreement.

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1 3. The administrative provisions of the agreement shall
2 include all of the following:
3 *a.* Responsibility of the governing board in appointing and
4 evaluating the performance of the chief executive officer of
5 the regional administrator.
6 *b.* A specific list of the functions and responsibilities of
7 the regional administrator's chief executive officer and other
8 administrative staff.
9 *c.* Specification of the functions to be carried out by each
10 party to the agreement and by any subcontractor of a party to
11 the agreement. A contract with a provider network shall be
12 separately addressed.
13 4. The financial provisions of the agreement shall include
14 all of the following:
15 *a.* Methods for pooling, management, and expenditure of the
16 funding under the control of the regional administrator. If
17 the agreement does not provide for pooling of the participating
18 county moneys in a single fund, the agreement shall specify how
19 the participating county moneys will be subject to the control
20 of the regional administrator.
21 *b.* Methods for allocating administrative funding and
22 resources.
23 *c.* Contributions and uses of initial funding or related
24 contributions made by the counties participating in the
25 region for purposes of commencing operations by the regional
26 administrator.
27 *d.* Methods for acquiring or disposing of real property.
28 *e.* A process for determining the use of savings for
29 reinvestment.
30 *f.* A process for performance of an annual independent audit
31 of the regional administrator.
32 5. If implementation of a region's regional administrator
33 results in a change in the employer of county employees
34 assigned to the central point of coordination administrator
35 under section 331.440, Code Supplement 2011, and the employees

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1 were covered under a collective bargaining agreement, such
2 employees shall be retained and the agreement shall be
3 continued by the successor employer as though there had not
4 been a change in employer.
5 Sec. 29. NEW SECTION. **331.438F County of residence —**
6 **services to residents — service authorization appeals —**
7 **disputes between counties or regions and the department.**
8 1. For the purposes of this section, unless the context
9 otherwise requires:
10 *a. "County of residence"* means the county in this state in
11 which, at the time a person applies for or receives services,
12 the person is living in the county and has established an
13 ongoing presence with the declared, good faith intention of
14 living in the county for a permanent or indefinite period of
15 time. The county of residence of a person who is a homeless
16 person is the county where the homeless person usually
17 sleeps. A person maintains residency in the county in which
18 the person last resided while a person is present in another
19 county receiving services in a hospital, a correctional
20 facility, a halfway house for community-based corrections
21 or substance-related treatment, a nursing facility, an
22 intermediate care facility for persons with an intellectual
23 disability, or a residential care facility, or for the purpose
24 of attending a college or university.
25 *b. "Homeless person"* means the same as defined in section
26 48A.2.
27 *c. "Person"* means a person who is a United States citizen or
28 a qualified alien as defined in 8 U.S.C. § 1641.
29 2. If a person appeals a service authorization or
30 other services-related determination made by a regional
31 administrator, the appeal shall be heard in a contested
32 case proceeding by a state administrative law judge. The
33 administrative law judge's decision shall be considered a final
34 agency decision under chapter 17A.
35 3. If a county of residence is part of a mental health and

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1 disability services region that has agreed to pool funding and
2 liability for services, the responsibilities of the county
3 under law regarding such services shall be performed on behalf
4 of the county by the regional administrator. The county of
5 residence or the county's mental health and disability services
6 region, as applicable, is responsible for paying the public
7 costs of the mental health and disability services that are
8 not covered by the medical assistance program under chapter
9 249A and are provided in accordance with the region's approved
10 service management plan to persons who are residents of the
11 county or region.
12 4. *a.* The dispute resolution process implemented in
13 accordance with this subsection applies to residency disputes.
14 The dispute resolution process is not applicable to disputes
15 involving persons committed to a state facility pursuant to
16 chapter 812 or rule of criminal procedure 2.22, Iowa court
17 rules, or to disputes involving service authorization decisions
18 made by a region.
19 *b.* If a county, region, or the department, as applicable,
20 receives a billing for services provided to a resident
21 in another county or region, or objects to a residency
22 determination certified by the department or another county's
23 or region's regional administrator and asserts either that the
24 person has residency in another county or region or the person
25 is not a resident of this state or the person's residency
26 is unknown so that the person is deemed a state case, the
27 person's residency status shall be determined as provided in
28 this section. The county or region shall notify the department
29 of the county's or region's assertion within one hundred
30 twenty days of receiving the billing. If the county or region
31 asserts that the person has residency in another county or
32 region, that county or region shall be notified at the same
33 time as the department. If the department disputes a residency
34 determination certification made by a regional administrator,
35 the department shall notify the affected counties or regions

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1 of the department's assertion.
2 *c.* The department, county, or region that received the
3 notification, as applicable, shall respond to the party that
4 provided the notification within forty-five days of receiving
5 the notification. If the parties cannot agree to a settlement
6 as to the person's residency status within ninety days of the
7 date of notification, on motion of any of the parties, the
8 matter shall be referred to the department of inspections and
9 appeals for a contested case hearing under chapter 17A before
10 an administrative law judge assigned in accordance with section
11 10A.801 to determine the person's residency status.
12 *d.* (1) The administrative law judge's determination
13 of the person's residency status is a final agency action,
14 notwithstanding contrary provisions of section 17A.15.
15 The party that does not prevail in the determination or
16 subsequent judicial review is liable for costs associated with
17 the proceeding, including reimbursement of the department
18 of inspections and appeals' actual costs associated with
19 the administrative proceeding. Judicial review of the
20 determination may be sought in accordance with section 17A.19.
21 (2) If following the determination of a person's residency
22 status in accordance with this section, additional evidence
23 becomes available that merits a change in that determination,
24 the parties affected may change the determination by mutual
25 agreement. Otherwise, a party may move that the matter be
26 reconsidered by the department, county, or region, or by the
27 administrative law judge.
28 *e.* (1) Unless a petition is filed for judicial review,
29 the administrative law judge's determination of the person's
30 residency status shall result in one of the following:
31 (a) If a county or region is determined to be the person's
32 residence, the county or region shall pay the amounts due and
33 shall reimburse any other amounts paid for services provided by
34 the other county or region or the department on the person's
35 behalf prior to the determination.

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1 (b) If it is determined that the person is not a resident
2 of this state or the person's residency is unknown so that the
3 person is deemed to be a state case, the department shall pay
4 the amounts due and shall reimburse the county or region, as
5 applicable, for any payment made on behalf of the person prior
6 to the determination.
7 (2) The payment or reimbursement shall be remitted within
8 forty-five days of the date the decision was issued. After
9 the forty-five-day period, a penalty of not greater than one
10 percent per month may be added to the amount due.
11 Sec. 30. CODE EDITOR. The Code editor may codify the
12 provisions of this division of this Act and any other
13 provisions of this Act involving chapter 331 as one or more new
14 parts of chapter 331, division III.
15 Sec. 31. APPLICABILITY. The provisions of this division
16 of this Act enacting new sections in chapter 331, except
17 as specifically provided by the provisions, are applicable
18 beginning July 1, 2013.
19 DIVISION V
20 SUBACUTE CARE FACILITIES FOR PERSONS WITH SERIOUS AND
21 PERSISTENT MENTAL ILLNESS
22 Sec. 32. NEW SECTION. **135P.1 Definitions.**
23 As used in this chapter, unless the context otherwise
24 requires:
25 1. *"Advanced registered nurse practitioner"* means a person
26 currently licensed as a registered nurse under chapter 152 or
27 152E who is registered with the board of nursing as an advanced
28 registered nurse practitioner.
29 2. *"Department"* means the department of inspections and
30 appeals.
31 3. *"Direction"* means authoritative policy or procedural
32 guidance for the accomplishment of a function or an activity.
33 4. *"Licensee"* means the holder of a license issued to
34 operate a subacute care facility for persons with serious and
35 persistent mental illness.

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1 5. *"Mental health professional"* means the same as defined
2 in section 228.1.
3 6. *"Physician"* means a person licensed under chapter 148.
4 7. *"Physician assistant"* means a person licensed to practice
5 under the supervision of a physician as authorized in chapters
6 147 and 148C.
7 8. *"Psychiatric services"* means services provided under
8 the direction of a physician which address mental, emotional,
9 medical, or behavioral problems. *"Psychiatric services"* also
10 includes such services provided by a physician assistant or an
11 advanced registered nurse practitioner.
12 9. *"Rehabilitative services"* means services to encourage and
13 assist restoration of a resident's optimum mental and physical
14 capabilities.
15 10. *"Resident"* means a person who is eighteen years of age
16 or older and has been admitted by a physician to a subacute
17 care facility for persons with serious and persistent mental
18 illness.
19 11. *"Subacute care facility for persons with serious and*
20 *persistent mental illness"* or *"subacute care facility"* means an
21 institution, place, building, or agency with restricted means
22 of egress designed to provide accommodation, board, and the
23 services of a licensed psychiatrist for a period exceeding
24 twenty-four consecutive hours to three or more individuals who
25 primarily have serious and persistent mental illness, diagnosis
26 of a co-occurring disorder, and are not related to the owner
27 within the third degree of consanguinity.
28 12. *"Supervision"* means direct oversight and inspection of
29 the act of accomplishing a function or activity.
30 13. *"Treatment care plan"* means a plan of care and services
31 designed to eliminate the need for acute care by improving
32 the condition of a person with serious and persistent mental
33 illness. Services must be based upon a diagnostic evaluation,
34 which includes an examination of the medical, psychological,
35 social, behavioral, and developmental aspects of the person's

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1 situation, reflecting the need for inpatient care.
2 Sec. 33. NEW SECTION. **135P.2 Purpose.**
3 The purpose of this chapter is to provide for the
4 development, establishment, and enforcement of basic standards
5 for the operation, construction, and maintenance of a
6 subacute care facility which will ensure the safe and adequate
7 diagnosis, evaluation, and treatment of the residents.
8 Sec. 34. NEW SECTION. **135P.3 Nature of care — seclusion**
9 **room — admissions.**
10 1. A subacute care facility shall utilize a team of
11 professionals to direct an organized program of diagnostic
12 services, psychiatric services, and rehabilitative services
13 to meet the needs of residents in accordance with a treatment
14 care plan developed for each resident under the supervision of
15 a licensed psychiatrist. The goal of a treatment care plan
16 is to transition residents to a less restrictive environment,
17 including a home-based community setting. Social and
18 rehabilitative services shall be provided under the direction
19 of a mental health professional.
20 2. The licensed psychiatrist providing supervision of
21 the subacute care facility shall evaluate the condition of
22 each resident no less than two times each month and shall be
23 available to residents of the facility on an on-call basis
24 at all other times. Additional evaluation and treatment may
25 be provided by or the licensed psychiatrist may delegate
26 evaluation and treatment responsibilities to a physician
27 assistant or advanced registered nurse practitioner. The
28 subacute care facility may employ a seclusion room meeting the
29 conditions described in 42 C.F.R. § 483.364(b) with approval of
30 the licensed psychiatrist of the facility or by order of the
31 resident's physician, a physician assistant, or an advanced
32 registered nurse practitioner.
33 3. An admission to the subacute care facility is subject
34 to a physician's written order certifying that the individual
35 being admitted requires regular oversight by a licensed

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1 psychiatrist and requires no greater degree of care than that
2 which the facility to which the admission is made is licensed
3 to provide and is capable of providing.
4 4. A subacute care facility does not constitute an
5 *"institution for mental diseases"* within the meaning of 42
6 U.S.C. § 1396d(i).
7 Sec. 35. NEW SECTION. **135P.4 Licensure.**
8 1. A person shall not establish, operate, or maintain a
9 subacute care facility unless the person obtains a license for
10 the subacute care facility under this chapter.
11 2. An intermediate care facility for persons with mental
12 illness licensed under chapter 135C may convert to a subacute
13 care facility by providing written notice to the department
14 that the facility has employed a full-time psychiatrist and
15 desires to make the conversion.
16 Sec. 36. NEW SECTION. **135P.5 Application for license.**
17 An application for a license under this chapter shall be
18 submitted on a form requesting information required by the
19 department, which may include affirmative evidence of the
20 applicant's ability to comply with the rules for standards
21 adopted pursuant to this chapter. An application for a license
22 shall be accompanied by the required license fee which shall
23 be credited to the general fund of the state. The initial and
24 annual license fee is twenty-five dollars.
25 Sec. 37. NEW SECTION. **135P.6 Inspection — conditions for**
26 **issuance.**
27 The department shall issue a license to an applicant under
28 this chapter if the department has ascertained that the
29 applicant's facilities and staff are adequate to provide the
30 care and services required of a subacute care facility and if
31 the applicant has been awarded a certificate of need pursuant
32 to chapter 135.
33 Sec. 38. NEW SECTION. **135P.7 Denial, suspension, or**
34 **revocation of license.**
35 The department may deny an application or suspend or revoke

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1 a license if the department finds that an applicant or licensee
2 has failed or is unable to comply with this chapter or the
3 rules establishing minimum standards pursuant to this chapter
4 or if any of the following conditions apply:
5 1. It is shown that a resident is a victim of cruelty or
6 neglect due to the acts or omissions of the licensee.
7 2. The licensee has permitted, aided, or abetted in the
8 commission of an illegal act in the subacute care facility.
9 3. An applicant or licensee acted to obtain or to retain a
10 license by fraudulent means, misrepresentation, or submitting
11 false information.
12 4. The licensee has willfully failed or neglected to
13 maintain a continuing in-service education and training program
14 for persons employed by the subacute care facility.
15 5. The application involves a person who has failed to
16 operate a subacute care facility in compliance with the
17 provisions of this chapter.
18 Sec. 39. NEW SECTION. **135P.8 Provisional license.**
19 The department may issue a provisional license, effective
20 for not more than one year, to a licensee whose subacute care
21 facility does not meet the requirements of this chapter if,
22 prior to issuance of the license, the applicant submits written
23 plans to achieve compliance with the applicable requirements
24 and the plans are approved by the department. The plans shall
25 specify the deadline for achieving compliance.
26 Sec. 40. NEW SECTION. **135P.9 Notice and hearings.**
27 The procedure governing notice and hearing to deny an
28 application or suspend or revoke a license shall be in
29 accordance with rules adopted by the department pursuant to
30 chapter 17A. A full and complete record shall be kept of the
31 proceedings and of any testimony. The record need not be
32 transcribed unless judicial review is sought. A copy or copies
33 of a transcript may be obtained by an interested party upon
34 payment of the cost of preparing the transcript or copies.
35 Sec. 41. NEW SECTION. **135P.10 Rules.**

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1 The department of inspections and appeals, in consultation
2 with the department of human services and affected professional
3 groups, shall adopt and enforce rules setting out the standards
4 for a subacute care facility and the rights of the residents
5 admitted to a subacute care facility. The department of
6 inspections and appeals and the department of human services
7 shall coordinate the adoption of rules and the enforcement of
8 the rules in order to prevent duplication of effort by the
9 departments and of requirements of the licensee.
10 Sec. 42. NEW SECTION. **135P.11 Complaints alleging**
11 **violations — confidentiality.**
12 1. A person may request an inspection of a subacute care
13 facility by filing with the department a complaint of an
14 alleged violation of an applicable requirement of this chapter
15 or a rule adopted pursuant to this chapter. The complaint
16 shall state in a reasonably specific manner the basis of the
17 complaint. A statement of the nature of the complaint shall be
18 delivered to the subacute care facility involved at the time of
19 or prior to the inspection. The name of the person who files a
20 complaint with the department shall be kept confidential and
21 shall not be subject to discovery, subpoena, or other means
22 of legal compulsion for its release to a person other than
23 department employees involved in the investigation of the
24 complaint.
25 2. Upon receipt of a complaint made in accordance with
26 subsection 1, the department shall make a preliminary review
27 of the complaint. Unless the department concludes that the
28 complaint is intended to harass a subacute care facility or a
29 licensee or is without reasonable basis, it shall within twenty
30 working days of receipt of the complaint make or cause to be
31 made an on-site inspection of the subacute care facility which
32 is the subject of the complaint. The department of inspections
33 and appeals may refer to the department of human services
34 any complaint received by the department of inspections and
35 appeals if the complaint applies to rules adopted by the

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1 department of human services. The complainant shall also
2 be notified of the name, address, and telephone number of
3 the designated protection and advocacy agency if the alleged
4 violation involves a facility with one or more residents with a
5 developmental disability or mental illness. In any case, the
6 complainant shall be promptly informed of the result of any
7 action taken by the department in the matter.
8 3. An inspection made pursuant to a complaint filed under
9 subsection 1 need not be limited to the matter or matters
10 referred to in the complaint; however, the inspection shall
11 not be a general inspection unless the complaint inspection
12 coincides with a scheduled general inspection. Upon arrival
13 at the subacute care facility to be inspected, the inspector
14 shall show identification to the person in charge of the
15 subacute care facility and state that an inspection is to
16 be made, before beginning the inspection. Upon request of
17 either the complainant or the department, the complainant or
18 the complainant's representative or both may be allowed the
19 privilege of accompanying the inspector during any on-site
20 inspection made pursuant to this section. The inspector may
21 cancel the privilege at any time if the inspector determines
22 that the privacy of a resident of the subacute care facility to
23 be inspected would be violated. The dignity of the resident
24 shall be given first priority by the inspector and others.
25 Sec. 43. NEW SECTION. **135P.12 Information confidential.**
26 1. The department's final findings regarding licensure
27 shall be made available to the public in a readily available
28 form and place. Other information relating to the subacute
29 care facility is confidential and shall not be made available
30 to the public except in proceedings involving licensure, a
31 civil suit involving a resident, or an administrative action
32 involving a resident.
33 2. The name of a person who files a complaint with the
34 department shall remain confidential and is not subject to
35 discovery, subpoena, or any other means of legal compulsion for

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1 release to a person other than an employee of the department or
2 an agent involved in the investigation of the complaint.
3 3. Information regarding a resident who has received or is
4 receiving care shall not be disclosed directly or indirectly
5 except as authorized under section 217.30.
6 Sec. 44. NEW SECTION. **135P.13 Judicial review.**
7 Judicial review of the action of the department may be sought
8 pursuant to the Iowa administrative procedure Act, chapter 17A.
9 Notwithstanding chapter 17A, a petition for judicial review of
10 the department's actions under this chapter may be filed in the
11 district court of the county in which the related subacute care
12 facility is located or is proposed to be located. The status
13 of the petitioner or the licensee shall be preserved pending
14 final disposition of the judicial review.
15 Sec. 45. NEW SECTION. **135P.14 Penalty.**
16 A person who establishes, operates, or manages a subacute
17 care facility without obtaining a license under this chapter
18 commits a serious misdemeanor. Each day of continuing
19 violation following conviction shall be considered a separate
20 offense.
21 Sec. 46. NEW SECTION. **135P.15 Injunction.**
22 Notwithstanding the existence or pursuit of another remedy,
23 the department may maintain an action for injunction or other
24 process to restrain or prevent the establishment, operation, or
25 management of a subacute care facility without a license.
26 Sec. 47. Section 225.15, unnumbered paragraph 1, Code 2011,
27 is amended to read as follows:
28 When a respondent arrives at the state psychiatric hospital,
29 the admitting physician shall examine the respondent and
30 determine whether or not, in the physician's judgment, the
31 respondent is a fit subject for observation, treatment, and
32 hospital care. If, upon examination, the physician decides
33 that the respondent should be admitted to the hospital, the
34 respondent shall be provided a proper bed in the hospital~~;~~
35 ~~and the~~. The physician who has charge of the respondent

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1 shall proceed with observation, medical treatment, and
2 hospital care as in the physician's judgment are proper and
3 necessary, in compliance with sections 229.13 to 229.16.
4 After the respondent's admission, the physician may delegate
5 the observation, medical treatment, and hospital care of the
6 respondent to a physician assistant licensed to practice under
7 the supervision of a physician as authorized in chapters 147
8 and 148C or to an advanced registered nurse practitioner
9 licensed under chapter 152 or 152E and registered with the
10 board of nursing.
11 Sec. 48. Section 249A.26, subsection 2, Code 2011, is
12 amended by adding the following new paragraph:
13 NEW PARAGRAPH. *d.* Notwithstanding any provision of
14 this chapter to the contrary, for services provided to
15 eligible persons in a subacute care facility for persons
16 with serious and persistent mental illness licensed under
17 chapter 135P, the daily rate shall be equal to the sum of
18 the direct care Medicare-certified hospital-based nursing
19 facility patient-day-weighted median and the nondirect
20 care Medicare-certified hospital-based nursing facility
21 patient-day-weighted median.
22 Sec. 49. STUDY OF SUBACUTE FACILITIES. The department
23 of human services shall conduct a feasibility study and cost
24 analysis of providing institutional subacute services utilizing
25 facilities available at one or more of the state mental health
26 institutes or the Iowa veterans home, and shall submit a report
27 of the study containing findings and recommendations to the
28 governor and general assembly on or before December 1, 2012.
29 Sec. 50. IMPLEMENTATION OF ACT. Section 25B.2, subsection
30 3, shall not apply to this division of this Act.
31 DIVISION VI
32 BRAIN INJURY DEFINITION — CONFORMING AMENDMENTS — LEGAL
33 SETTLEMENT AND DISPUTE RESOLUTION PROCESSES
34 Sec. 51. Section 135.22, subsection 1, paragraph a, Code
35 2011, is amended to read as follows:

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*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. Pursuant to recommendations made by the advisory council on brain injuries, the mental health and disability services commission shall adopt rules specifying the diagnoses of clinically evident damage to the brain used for a diagnosis of brain injury.

Sec. 52. 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.

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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. 53. 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. 54. 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

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1 superintendent of any state resource center for the voluntary
2 admission of the adult person either as an inpatient or an
3 outpatient of the resource center. ~~After determining the legal~~
4 ~~settlement of the adult person as provided by this chapter,~~
5 ~~the~~ The board of supervisors shall, on forms prescribed by
6 the department's administrator, apply to the superintendent
7 of the resource center in the district for the admission of
8 the adult person to the resource center. An application for
9 admission to a special unit of any adult person believed to be
10 in need of any of the services provided by the special unit
11 under section 222.88 may be made in the same manner, upon
12 request of the adult person or the adult person's guardian.
13 The superintendent shall accept the application ~~providing~~ if
14 a preadmission diagnostic evaluation, performed through the
15 central point of coordination process, confirms or establishes
16 the need for admission, except that an application ~~may~~ shall
17 not be accepted if the institution does not have adequate
18 facilities available or if the acceptance will result in an
19 overcrowded condition.
20 Sec. 55. Section 222.31, subsection 1, paragraph b,
21 subparagraph (1), Code 2011, is amended to read as follows:
22 (1) Commit the person to the state resource center
23 designated by the administrator to serve the county in which
24 the hearing is being held, or to a special unit. The court
25 shall, prior to issuing an order of commitment, request
26 that a diagnostic evaluation of the person be made by ~~the~~
27 ~~superintendent of the resource center or the special unit, or~~
28 ~~the superintendent's qualified designee~~ a person qualified to
29 perform the diagnostic evaluation. ~~The evaluation shall be~~
30 ~~conducted at a place as the superintendent may direct.~~ The
31 cost of the evaluation shall be defrayed by the committed
32 person's county of ~~legal settlement~~ residence unless otherwise
33 ordered by the court. The cost of the evaluation to be
34 charged may be equal to but shall not exceed the actual cost
35 of the evaluation. ~~Persons referred by a court to a resource~~

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~~center or the special unit for diagnostic evaluation shall be considered as outpatients of the institution. No order of commitment shall 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. 56. 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. 57. 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. 58. Section 222.60, subsection 1, Code 2011, is amended to read as follows:

1. All necessary and legal expenses for the cost of

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1 admission or commitment or for the treatment, training,
2 instruction, care, habilitation, support and transportation
3 of persons with mental retardation, as provided for in the
4 county management plan provisions implemented pursuant to
5 section 331.439, subsection 1, in a state resource center, or
6 in a special unit, or any public or private facility within or
7 without the state, approved by the director ~~of the department~~
8 of human services, shall be paid by either:
9 *a.* The person's county ~~in which such person has legal~~
10 ~~settlement as defined in section 252.16~~ of residence.
11 *b.* The state when ~~such~~ the person ~~has no legal settlement~~
12 ~~or when such settlement is unknown~~ is a resident in another
13 state or in a foreign country or the residence is unknown. The
14 payment responsibility shall be deemed to be a state case.
15 Sec. 59. Section 222.60, subsection 2, Code 2011, is amended
16 to read as follows:
17 2. *a.* Prior to a county of ~~legal settlement~~ residence
18 approving the payment of expenses for a person under this
19 section, the county may require that the person be diagnosed
20 to determine if the person has mental retardation or that
21 the person be evaluated to determine the appropriate level
22 of services required to meet the person's needs relating to
23 mental retardation. The diagnosis and the evaluation may be
24 performed concurrently and shall be performed by an individual
25 or individuals approved by the county who are qualified
26 to perform the diagnosis or the evaluation. Following the
27 initial approval for payment of expenses, the county ~~of legal~~
28 ~~settlement~~ may require that an evaluation be performed at
29 reasonable time periods.
30 *b.* The cost of a county-required diagnosis and an evaluation
31 is at the county's expense. ~~In the~~ For a state case ~~of a person~~
32 ~~without legal settlement or whose legal settlement is unknown~~,
33 the state may apply the diagnosis and evaluation provisions of
34 this subsection at the state's expense.
35 *c.* A diagnosis or an evaluation under this section may be

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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. 60. 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 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. 61. 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. 62. Section 222.63, Code 2011, is amended to read as follows:

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**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.

Sec. 63. 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. 64. 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~~

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1 ~~settlement~~ residency of the person and proceed as follows:
2 1. If the administrator concurs with a certified
3 determination as to ~~legal settlement~~ residency of the person
4 so that the person is deemed a state case under section
5 222.60, the administrator shall cause the person either to be
6 transferred to a resource center or a special unit or to be
7 transferred to the place of foreign ~~settlement~~ residency.
8 2. If the administrator disputes a certified determination
9 of ~~legal settlement~~ residency, the administrator shall order
10 the person transferred to a state resource center or a special
11 unit until the dispute is resolved.
12 3. If the administrator disputes a certified determination
13 of ~~legal settlement~~ residency, the administrator shall utilize
14 the procedure provided in section 225C.8 to resolve the
15 dispute. A determination of the person's ~~legal settlement~~
16 residency status made pursuant to section 225C.8 is conclusive.
17 Sec. 65. Section 222.66, Code 2011, is amended to read as
18 follows:
19 **222.66 Transfers — state cases — expenses.**
20 1. The transfer to a resource center or a special unit or
21 to the place of ~~legal settlement~~ residency of a person with
22 mental retardation who has no ~~legal settlement~~ residence in
23 this state or whose ~~legal settlement~~ residency is unknown,
24 shall be made in accordance with such directions as shall
25 be prescribed by the administrator and when practicable by
26 employees of the state resource center or the special unit.
27 The actual and necessary expenses of such transfers shall be
28 paid by the department on itemized vouchers sworn to by the
29 claimants and approved by the administrator and the approved
30 amount is appropriated to the department from any funds in the
31 state treasury not otherwise appropriated.
32 2. The case of a person with an intellectual disability
33 who is determined to have no residence in this state or whose
34 residence is unknown shall be considered a state case.
35 Sec. 66. Section 222.67, Code 2011, is amended to read as

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1 follows:
2 **222.67 Charge on finding of ~~settlement~~ residency.**
3 If a person has been received into a resource center or a
4 special unit as a patient whose ~~legal settlement is supposedly~~
5 ~~outside the state or~~ residency is unknown and the administrator
6 determines that the ~~legal settlement~~ residency of the patient
7 was at the time of admission or commitment in a county of this
8 state, the administrator shall certify the determination and
9 charge all legal costs and expenses pertaining to the admission
10 or commitment and support of the patient to the county of ~~legal~~
11 ~~settlement~~ residence. The certification shall be sent to
12 the county of ~~legal settlement~~ residence. The certification
13 shall be accompanied by a copy of the evidence supporting the
14 determination. If the person's ~~legal settlement~~ residency
15 status has been determined in accordance with section 225C.8,
16 the legal costs and expenses shall be charged to the county or
17 as a state case in accordance with that determination. The
18 costs and expenses shall be collected as provided by law in
19 other cases.
20 Sec. 67. Section 222.68, Code 2011, is amended to read as
21 follows:
22 **222.68 Costs paid in first instance.**
23 All necessary and legal expenses for the cost of admission
24 or commitment of a person to a resource center or a special
25 unit when the person's ~~legal settlement~~ residency is found to
26 be in another county of this state shall in the first instance
27 be paid by the county from which the person was admitted or
28 committed. The county of ~~legal settlement~~ residence shall
29 reimburse the county which pays for all such expenses. ~~Where~~
30 ~~any~~ If a county fails to make such reimbursement within
31 forty-five days following submission of a properly itemized
32 bill to the county of ~~legal settlement~~ residence, a penalty of
33 not greater than one percent per month on and after forty-five
34 days from submission of the bill may be added to the amount
35 due.

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Sec. 68. 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. 69. 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.

Sec. 70. 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. 71. Section 222.77, Code 2011, is amended to read as follows:

**222.77 Patients on leave.**

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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. 72. 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

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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. 73. 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. 74. 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. 75. 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

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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. 76. 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. 77. 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. 78. 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

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1 certified copy of the claim for the bills with the ~~auditor of~~
2 ~~the patient's county of residence~~ department of administrative
3 services. The ~~county of residence~~ department shall proceed to
4 collect the claim in the name of the state psychiatric hospital
5 ~~and, when collected, pay the amount collected to the director~~
6 ~~of the department of administrative services~~. ~~The hospital~~
7 ~~shall also, at the same time, forward a duplicate of the claim~~
8 ~~to the director of the department of administrative services.~~
9 Sec. 79. Section 225C.6A, subsection 4, Code 2011, is
10 amended by striking the subsection.
11 Sec. 80. Section 225C.8, Code 2011, is amended to read as
12 follows:
13 **225C.8 ~~Legal settlement~~ Residency dispute resolution.**
14 1. *a.* The dispute resolution process implemented in
15 accordance with this section applies to ~~legal settlement~~
16 residency disputes and is not applicable to disputes involving
17 persons committed to a state facility pursuant to chapter 812
18 or rule of criminal procedure 2.22, Iowa court rules, or to
19 disputes of service authorization decisions made through the
20 county central point of coordination process.
21 *b.* If a county receives a billing for services provided to
22 a person under chapter 222, 230, or 249A, or objects to a ~~legal~~
23 ~~settlement~~ residency determination certified by the department
24 or another county and asserts either that the person has ~~legal~~
25 ~~settlement~~ residency in another county or that the person has
26 no ~~legal settlement~~ residency or the ~~legal settlement~~ person's
27 residency is unknown so that the person is deemed to be a
28 state case, the person's ~~legal settlement~~ residency status
29 shall be determined as provided in this section. The county
30 shall notify the department of the county's assertion within
31 one hundred twenty days of receiving the billing. If the
32 county asserts that the person has ~~legal settlement~~ residency
33 in another county, that county shall be notified at the same
34 time as the department. If the department disputes a ~~legal~~
35 ~~settlement~~ residency determination certification made by a

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county, the department shall notify the affected counties of the department's assertion.

2. The department or the county 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~~ resolution as to the person's ~~legal settlement~~ 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 ~~legal settlement~~ residency status.

3. *a.* The administrative law judge's determination of the person's ~~legal settlement~~ residency status is a 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.

*b.* If following the determination of a person's ~~legal settlement~~ residency status in accordance with this section, 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.

4. Unless a petition is filed for judicial review, the administrative law judge's determination of the person's ~~legal settlement~~ residency status shall result in one of the following:

*a.* If a county is determined to be the person's county of ~~legal settlement~~ residence, the county shall pay the amounts due and shall reimburse any other amounts paid for services

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1 provided under chapter 222, 230, or 249A by the county or the
2 department on the person's behalf prior to issuance of the
3 decision. The payment or reimbursement shall be remitted
4 within forty-five days of the date the decision was issued.
5 After the forty-five-day period, a penalty may be applied as
6 authorized under section 222.68, 222.75, or 230.22.
7 *b.* If it is determined that the person has no ~~legal~~
8 ~~settlement~~ residency in the state or the ~~legal settlement~~
9 person's residency is unknown so that the person is deemed to
10 be a state case, the department shall credit the county for
11 any payment made on behalf of the person by the county prior
12 to issuance of the decision. The credit shall be applied by
13 the department on a county billing no later than the end of
14 the quarter immediately following the date of the decision's
15 issuance.
16 5. This section is repealed July 1, 2013.
17 Sec. 81. Section 225C.16, subsection 2, Code 2011, is
18 amended to read as follows:
19 2. The clerk of the district court in that county shall
20 refer a person applying for authorization for voluntary
21 admission, or for authorization for voluntary admission of
22 another person, in accordance with section 229.42, to the
23 appropriate entity designated through the central point of
24 coordination process of the person's county of residence under
25 section 225C.14 for the preliminary diagnostic evaluation
26 unless the applicant furnishes a written statement from the
27 appropriate entity which indicates that the evaluation has been
28 performed and that the person's admission to a state mental
29 health institute is appropriate. This subsection does not
30 apply when authorization for voluntary admission is sought
31 under circumstances which, in the opinion of the chief medical
32 officer or that officer's physician designee, constitute a
33 medical emergency.
34 Sec. 82. Section 225C.23, subsection 2, Code 2011, is
35 amended to read as follows:

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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.

Sec. 83. 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. 84. 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~~

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1 residence or the state ~~in a case where no legal settlement~~
2 ~~exists~~ for a state case for liability incurred by the county
3 or the state for the payment of care, support and maintenance
4 of the patient, when billed by the county of ~~legal settlement~~
5 residence or by the administrator for a ~~patient having no legal~~
6 ~~settlement~~ state case.
7 Sec. 85. Section 229.9A, Code 2011, is amended to read as
8 follows:
9 **229.9A Advocate informed.**
10 The court shall direct the clerk to furnish the advocate
11 of the respondent's county of ~~legal settlement~~ residence
12 with a copy of application and any order issued pursuant to
13 section 229.8, subsection 3. The advocate may attend the
14 hospitalization hearing of any respondent for whom the advocate
15 has received notice of a hospitalization hearing.
16 Sec. 86. Section 229.12, subsection 2, Code 2011, is amended
17 to read as follows:
18 2. All persons not necessary for the conduct of the
19 proceeding shall be excluded, except that the court may admit
20 persons having a legitimate interest in the proceeding and
21 shall permit the advocate from the respondent's county of ~~legal~~
22 ~~settlement~~ residence to attend the hearing. Upon motion of the
23 county attorney, the judge may exclude the respondent from the
24 hearing during the testimony of any particular witness if the
25 judge determines that witness's testimony is likely to cause
26 the respondent severe emotional trauma.
27 Sec. 87. Section 229.19, subsection 1, paragraph b, Code
28 2011, is amended to read as follows:
29 *b.* The court or, if the advocate is appointed by the county
30 board of supervisors, the board shall assign the advocate
31 appointed from a patient's county of ~~legal settlement~~ residence
32 to represent the interests of the patient. If a patient has no
33 county of ~~legal settlement~~ residence or the patient is a state
34 case, the court or, if the advocate is appointed by the county
35 board of supervisors, the board shall assign the advocate

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appointed from the county where the hospital or facility is located to represent the interests of the patient.

Sec. 88. 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. 89. 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. 90. 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

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1 admission is made to the hospital. The person's county of
2 ~~legal settlement~~ residence shall be determined through the
3 central point of coordination process and if the admission is
4 approved through the central point of coordination process,
5 the person's admission to a mental health hospital shall be
6 authorized as a voluntary case. The authorization shall be
7 issued on forms provided by the administrator. The costs
8 of the hospitalization shall be paid by the county of ~~legal~~
9 ~~settlement~~ residence to the department of human services and
10 credited to the general fund of the state, provided that the
11 mental health hospital rendering the services has certified to
12 the county auditor of the county of ~~legal settlement~~ residence
13 the amount chargeable to the county and has sent a duplicate
14 statement of the charges to the department of human services.
15 A county shall not be billed for the cost of a patient unless
16 the patient's admission is authorized through the central point
17 of coordination process. The mental health institute and the
18 county shall work together to locate appropriate alternative
19 placements and services, and to educate patients and family
20 members of patients regarding such alternatives.
21 2. All the provisions of chapter 230 shall apply to such
22 voluntary patients so far as is applicable.
23 3. The provisions of this section and of section 229.41
24 shall apply to all voluntary inpatients or outpatients
25 receiving mental health services either away from or at the
26 institution.
27 4. If a county fails to pay the billed charges within
28 forty-five days from the date the county auditor received the
29 certification statement from the superintendent, the department
30 of human services shall charge the delinquent county the
31 penalty of one percent per month on and after forty-five days
32 from the date the county received the certification statement
33 until paid. The penalties received shall be credited to the
34 general fund of the state.
35 Sec. 91. Section 229.43, Code 2011, is amended to read as

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1 follows:
2 **229.43 ~~Nonresidents or no-settlement~~ Nonresident patients.**
3 The administrator may place patients of mental health
4 institutes ~~who have no county of legal settlement,~~ who
5 are nonresidents~~, or whose legal settlement is unknown~~ on
6 convalescent leave to a private sponsor or in a health care
7 facility licensed under chapter 135C, when in the opinion
8 of the administrator the placement is in the best interests
9 of the patient and the state of Iowa. If the patient was
10 involuntarily hospitalized, the district court which ordered
11 hospitalization of the patient must be informed when the
12 patient is placed on convalescent leave, as required by section
13 229.15, subsection 5.
14 Sec. 92. Section 230.1, Code 2011, is amended to read as
15 follows:
16 **230.1 Liability of county and state.**
17 1. The necessary and legal costs and expenses attending
18 the taking into custody, care, investigation, admission,
19 commitment, and support of a person with mental illness
20 admitted or committed to a state hospital shall be paid by a
21 county or by the state as follows:
22 *a.* ~~By the county in which such person has a legal~~
23 ~~settlement, if~~ If the person is eighteen years of age or older,
24 by the person's county of residence.
25 *b.* By the state ~~when~~ as a state case if such person has no
26 ~~legal settlement~~ residence in this state, ~~when~~ if the person's
27 ~~legal settlement~~ residence is unknown, or if the person is
28 under eighteen years of age.
29 2. The ~~legal settlement~~ county of residence of any person
30 ~~found mentally ill~~ with mental illness who is a patient of
31 any state institution shall be ~~that~~ the person's county of
32 residence existing at the time of admission ~~thereto~~ to the
33 institution.
34 3. A county of ~~legal settlement~~ residence is not liable
35 for costs and expenses associated with a person with mental

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1 illness unless the costs and expenses are for services and
2 other support authorized for the person through the central
3 point of coordination process. For the purposes of this
4 chapter, *"central point of coordination process"* means the same
5 as defined in section 331.440.
6 Sec. 93. Section 230.2, Code 2011, is amended to read as
7 follows:
8 **230.2 Finding of ~~legal settlement~~ residence.**
9 If a person's ~~legal settlement~~ residency status is
10 disputed, ~~legal settlement~~ the residency shall be determined
11 in accordance with section 225C.8. Otherwise, the district
12 court may, when the person is ordered placed in a hospital
13 for psychiatric examination and appropriate treatment, or as
14 soon thereafter as the court obtains the proper information,
15 determine and enter of record whether the ~~legal settlement~~
16 residence of the person is ~~one of the following~~ in a county or
17 the person is deemed to be a state case, as follows:
18 1. In the county from which the person was placed in the
19 hospital~~;~~.
20 2. In ~~some other~~ another county of the state~~;~~.
21 3. In ~~some~~ a foreign state or country~~; or~~ and deemed to be
22 a state case.
23 4. Unknown and deemed to be a state case.
24 Sec. 94. Section 230.3, Code 2011, is amended to read as
25 follows:
26 **230.3 Certification of ~~settlement~~ residence.**
27 If a person's ~~legal settlement~~ county of residence
28 is determined ~~through~~ by the county's central point of
29 coordination process to be in another county of this state, the
30 county making the determination shall certify the determination
31 to the superintendent of the hospital to which the person is
32 admitted or committed. The certification shall be accompanied
33 by a copy of the evidence supporting the determination. Upon
34 receiving the certification, the superintendent shall charge
35 the expenses already incurred and unadjusted, and all future

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1 expenses of the person, to the county determined to be the
2 county of ~~legal settlement~~ residence.
3 Sec. 95. Section 230.4, Code 2011, is amended to read as
4 follows:
5 **230.4 Certification to debtor county.**
6 A determination of a person's ~~legal settlement~~ county of
7 residence made in accordance with section 230.2 or 230.3 shall
8 be sent by the court or the county to the county auditor of
9 the county of ~~legal settlement~~ residence. The certification
10 shall be accompanied by a copy of the evidence supporting the
11 determination. The auditor shall provide the certification
12 to the board of supervisors of the auditor's county, and it
13 shall be conclusively presumed that the person has ~~a legal~~
14 ~~settlement~~ residence in the notified county unless that county
15 disputes the finding of ~~legal settlement~~ residence as provided
16 in section 225C.8.
17 Sec. 96. Section 230.5, Code 2011, is amended to read as
18 follows:
19 **230.5 Nonresidents.**
20 If a person's ~~legal settlement~~ residence is determined in
21 accordance with section 230.2 or 230.3 to be in a foreign
22 state or country, or is unknown, the court or the county shall
23 immediately certify the determination to the department's
24 administrator. The certification shall be accompanied by a
25 copy of the evidence supporting the determination. A court
26 order issued pursuant to section 229.13 shall direct that the
27 patient be hospitalized at the appropriate state hospital for
28 persons with mental illness.
29 Sec. 97. Section 230.8, Code 2011, is amended to read as
30 follows:
31 **230.8 Transfers of persons with mental illness — expenses.**
32 The transfer to any state hospitals or to the places of their
33 ~~legal settlement~~ residence of persons with mental illness who
34 have no ~~legal settlement~~ residence in this state or whose ~~legal~~
35 ~~settlement~~ residence is unknown and deemed to be a state case,

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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. 98. 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, the legal costs and expenses shall be charged to the county of residence or as a state case in accordance with that determination.

Sec. 99. 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

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against the county of ~~legal settlement~~ residence.

Sec. 100. 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. 101. 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.

Sec. 102. 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

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1 self-supporting or qualifies for support under existing
2 statutes.
3 Sec. 103. Section 249A.12, subsection 2, Code 2011, is
4 amended to read as follows:
5 2. A county shall reimburse the department on a monthly
6 basis for that portion of the cost of assistance provided
7 under this section to a recipient ~~with legal settlement in~~ who
8 is a resident of the county, which is not paid from federal
9 funds, if the recipient's placement has been approved by the
10 appropriate review organization as medically necessary and
11 appropriate. The department's goal for the maximum time period
12 for submission of a claim to a county is not more than sixty
13 days following the submission of the claim by the provider
14 of the service to the department. The department's goal for
15 completion and crediting of a county for cost settlement for
16 the actual costs of a service under a home and community-based
17 services waiver is within two hundred seventy days of the close
18 of a fiscal year for which cost reports are due from providers.
19 The department shall place all reimbursements from counties
20 in the appropriation for medical assistance, and may use the
21 reimbursed funds in the same manner and for any purpose for
22 which the appropriation for medical assistance may be used.
23 Sec. 104. Section 249A.12, subsection 6, paragraphs c and d,
24 Code 2011, are amended to read as follows:
25 *c.* The person's county of ~~legal settlement~~ residence shall
26 pay for the nonfederal share of the cost of services provided
27 under the waiver, and the state shall pay for the nonfederal
28 share of such costs if the person ~~has no legal settlement~~ is
29 not a resident of this state or the ~~legal settlement~~ person's
30 residency is unknown so that the person is deemed to be a state
31 case.
32 *d.* The county of ~~legal settlement~~ residence shall pay
33 for one hundred percent of the nonfederal share of the costs
34 of care provided for adults which is reimbursed under a home
35 and community-based services waiver that would otherwise be

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1 approved for provision in an intermediate care facility for
2 persons with mental retardation provided under the medical
3 assistance program.
4 Sec. 105. Section 249A.12, subsections 7 and 8, Code 2011,
5 are amended to read as follows:
6 7. When paying the necessary and legal expenses for
7 intermediate care facility for persons with mental retardation
8 services, the cost requirements of section 222.60 shall
9 be considered fulfilled when payment is made in accordance
10 with the medical assistance payment rates established by
11 the department for intermediate care facilities for persons
12 with mental retardation, and the state or a county of ~~legal~~
13 ~~settlement~~ residence shall not be obligated for any amount in
14 excess of the rates.
15 8. If a person with mental retardation has no ~~legal~~
16 ~~settlement~~ residence in this state or ~~the legal settlement~~
17 whose residency is unknown so that the person is deemed
18 to be a state case and services associated with the mental
19 retardation can be covered under a medical assistance home and
20 community-based services waiver or other medical assistance
21 program provision, the nonfederal share of the medical
22 assistance program costs for such coverage shall be paid from
23 the appropriation made for the medical assistance program.
24 Sec. 106. Section 249A.26, subsection 2, Code 2011, is
25 amended to read as follows:
26 2. *a.* Except as provided for disallowed costs in section
27 249A.27, the county of ~~legal settlement~~ residence shall pay for
28 fifty percent of the nonfederal share of the cost and the state
29 shall have responsibility for the remaining fifty percent of
30 the nonfederal share of the cost of case management provided
31 to adults, day treatment, and partial hospitalization provided
32 under the medical assistance program for persons with mental
33 retardation, a developmental disability, or chronic mental
34 illness. For purposes of this section, persons with mental
35 disorders resulting from Alzheimer's disease or ~~substance~~

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1 ~~abuse~~ a substance-related disorder shall not be considered
2 ~~chronically mentally ill~~ to be persons with chronic mental
3 illness. To the maximum extent allowed under federal law and
4 regulations, the department shall consult with and inform a
5 person's county of ~~legal settlement's~~ residence's central
6 point of coordination process, as defined in section 331.440,
7 regarding the necessity for and the provision of any service
8 for which the county is required to provide reimbursement under
9 this subsection.
10 *b.* The state shall pay for one hundred percent of the
11 nonfederal share of the costs of case management provided for
12 adults, day treatment, partial hospitalization, and the home
13 and community-based services waiver services for persons who
14 have no ~~legal settlement~~ residence in this state or ~~the legal~~
15 ~~settlement~~ whose residence is unknown so that the persons are
16 deemed to be state cases.
17 *c.* The case management services specified in this subsection
18 shall be paid for by a county only if the services are provided
19 outside of a managed care contract.
20 Sec. 107. Section 249A.26, subsections 3, 4, and 7, Code
21 2011, are amended to read as follows:
22 3. To the maximum extent allowed under federal law and
23 regulations, a person with mental illness or mental retardation
24 shall not be eligible for any service which is funded in
25 whole or in part by a county share of the nonfederal portion
26 of medical assistance funds unless the person is referred
27 through the central point of coordination process, as defined
28 in section 331.440. However, to the extent federal law allows
29 referral of a medical assistance recipient to a service without
30 approval of the central point of coordination process, the
31 county of ~~legal settlement~~ residence shall be billed for the
32 nonfederal share of costs for any adult person for whom the
33 county would otherwise be responsible.
34 4. The county of ~~legal settlement~~ residence shall pay ~~for~~
35 one hundred percent of the nonfederal share of the cost of

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1 services provided to adult persons with chronic mental illness
2 who qualify for habilitation services in accordance with the
3 rules adopted for the services. The state shall pay for one
4 hundred percent of the nonfederal share of the cost of such
5 services provided to such persons who have no ~~legal settlement~~
6 residency in this state or ~~the legal settlement~~ whose residency
7 is unknown so that the persons are deemed to be state cases.
8 7. Unless a county has paid or is paying for the nonfederal
9 share of the costs of a person's home and community-based
10 waiver services or placement in an intermediate care facility
11 for persons with mental retardation under the county's mental
12 health, mental retardation, and developmental disabilities
13 services fund created in section 331.424A, or unless a county
14 of ~~legal settlement~~ residence would become liable for the costs
15 of services for a person at the level of care provided in an
16 intermediate care facility for persons with mental retardation
17 due to the person reaching the age of majority, the state
18 shall pay for the nonfederal share of the costs of an eligible
19 person's services under the home and community-based services
20 waiver for persons with brain injury.
21 Sec. 108. Section 252.23, Code 2011, is amended to read as
22 follows:
23 **252.23 Legal settlement disputes.**
24 If the alleged settlement is disputed, then, within thirty
25 days after notice as provided in section 252.22, a copy of
26 the notices sent and received shall be filed in the office of
27 the clerk of the district court of the county against which
28 claim is made, and a cause docketed without other pleadings,
29 and tried as an ordinary action, in which the county granting
30 the assistance shall be plaintiff, and the other defendant,
31 and the burden of proof shall be upon the county granting the
32 assistance. However, a ~~legal settlement~~ dispute concerning
33 the liability of a person's county of residence for assistance
34 provided through the county's mental health and disability
35 services system implemented under chapter 331 in connection

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1 with services initiated under chapter 222, 230, or 249A shall
2 be resolved as provided in section 225C.8.
3 Sec. 109. Section 252.24, Code 2011, is amended to read as
4 follows:
5 **252.24 County of settlement liable.**
6 1. The county where the settlement is shall be liable to
7 the county granting assistance for all reasonable charges and
8 expenses incurred in the assistance and care of a poor person.
9 2. When assistance is furnished by any governmental agency
10 of the county, township, or city, the assistance shall be
11 deemed to have been furnished by the county in which the
12 agency is located and the agency furnishing the assistance
13 shall certify the correctness of the costs of the assistance
14 to the board of supervisors of that county and that county
15 shall collect from the county of the person's settlement. The
16 amounts collected by the county where the agency is located
17 shall be paid to the agency furnishing the assistance. This
18 statute applies to services and supplies furnished as provided
19 in section 139A.18.
20 3. Notwithstanding subsection 2, if assistance or
21 maintenance is provided by a county through the county's mental
22 health and disability services system implemented under chapter
23 331, liability for the assistance and maintenance is the
24 responsibility of the person's county of residence.
25 Sec. 110. Section 331.424A, subsection 6, Code Supplement
26 2011, is amended by striking the subsection.
27 Sec. 111. Section 331.440, subsection 2, paragraph b, Code
28 Supplement 2011, is amended to read as follows:
29 *b. "County of residence"* means the county in this state in
30 which, at the time an adult person applies for or receives
31 services, the adult person is living and has established an
32 ongoing presence with the declared, good faith intention of
33 living for a permanent or indefinite period of time. The
34 county of residence of an adult person who is a homeless
35 person is the county where the homeless person usually sleeps.

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1 A person maintains residency in the county in which the
2 person last resided while the person is present in another
3 county receiving services in a hospital, a correctional
4 facility, a halfway house for community-based corrections
5 or substance-related treatment, a nursing facility, an
6 intermediate care facility for persons with an intellectual
7 disability, or a residential care facility, or for the purpose
8 of attending a college or university.
9 Sec. 112. Section 331.502, subsection 11, Code 2011, is
10 amended to read as follows:
11 11. Carry out duties relating to the determination of ~~legal~~
12 ~~settlement~~ residency, collection of funds due the county~~,~~ and
13 support of persons with mental retardation as provided in
14 sections 222.13, 222.50, 222.61 to 222.66, 222.69, and 222.74.
15 Sec. 113. Section 347.16, subsection 3, Code 2011, is
16 amended to read as follows:
17 3. Care and treatment may be furnished in a county public
18 hospital to any sick or injured person who has legal settlement
19 outside the county which maintains the hospital, subject to
20 such policies and rules as the board of hospital trustees may
21 adopt. If care and treatment is provided under this subsection
22 to a person who is indigent, the county in which that person
23 has legal settlement shall pay to the board of hospital
24 trustees the fair and reasonable cost of the care and treatment
25 provided by the county public hospital unless the cost of the
26 indigent person's care and treatment is otherwise provided for.
27 If care and treatment is provided to an indigent person under
28 this subsection, the county public hospital furnishing the
29 care and treatment shall immediately notify, by regular mail,
30 the auditor of the county of legal settlement of the indigent
31 person of the provision of care and treatment to the indigent
32 person. However, if the care and treatment is provided by
33 a county through the county's mental health and disability
34 services system implemented under chapter 331, liability for
35 the assistance and maintenance is the responsibility of the

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1 person's county of residence.
2 EXPLANATION
3 This bill relates to redesign of publicly funded mental
4 health and disability services by requiring certain core
5 services and addressing other services and providing for
6 establishment of regions. The bill is organized into
7 divisions.
8 CORE SERVICES. This division specifies core services and
9 service management requirements applicable to the regional
10 service system required by the bill and addresses the
11 responsibilities of the department of human services (DHS)
12 relating to core services.
13 Code section 225C.2, providing definitions for Code
14 chapter 225C pertaining to mental health and disability
15 services, is amended to add definitions for the terms "mental
16 health and disability services region", "mental health and
17 disability services regional service system", and "regional
18 administrator".
19 Code section 225C.4, specifying the duties of the
20 administrator of the department's division of mental health and
21 disability services, is amended to change county references
22 to regions, address data and outcomes, and add responsibility
23 for entering into performance-based contracts with regions and
24 providing internet-based information concerning waiting lists
25 implemented by regions.
26 Code section 225C.6, relating to the duties of the mental
27 health and disability services (MH/DS) commission, is
28 amended to provide that certain responsibilities to adopt
29 rules defining "disability services" are performed after
30 recommendations are made by the administrator. In addition, a
31 listing of the basic financial eligibility standards for county
32 MH/DS services in the current commission responsibilities is
33 replaced with a reference to similar standards in the new
34 regional system provisions in Code chapter 331.
35 Code section 225C.6A, addressing a previous MH/DS system

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1 redesign, is amended to only apply to data systems.
2 New Code section 225C.7A creates a new mental health and
3 disability regional services fund for distribution of moneys
4 through performance-based contracts with regions.
5 Code section 226.10, requiring equal treatment of the
6 patients in the state mental health institutes, is amended to
7 require the institutes to address the needs of persons with two
8 or more co-occurring conditions.
9 Code section 331.439, relating to current county service
10 system management plans, is amended to require the financial
11 information submitted to the state to segregate expenditures
12 for administration, purchase of service, and enterprise costs.
13 In addition, beginning during FY 2012-2013, the management
14 plans are to begin requiring that a person's need for
15 individualized services is to be determined by a standardized
16 functional assessment methodology approved by the director
17 of human services. Under current law, this Code section is
18 repealed on July 1, 2013.
19 New Code section 331.439A requires MH/DS provided by
20 counties to be delivered in accordance with a regional service
21 system management plan approved by the region's governing board
22 and implemented by the regional administrator. The plans apply
23 to three-year periods with the initial plan to be submitted to
24 DHS by April 1, 2014. The plan is required to include various
25 elements and the commission is directed to specify the elements
26 in administrative rules.
27 New Code section 331.439A also authorizes a region to
28 provide assistance to other disability service populations
29 subject to availability of funding and to implement waiting
30 lists for services as a financial management tool.
31 New Code section 331.439B provides financial eligibility
32 requirements to be used in the regional system. Income
33 eligibility is set at 150 percent of the federal poverty
34 level and requirements for cost sharing are prohibited at
35 this income level. Persons with higher incomes may also be

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1 eligible subject to a copayment, sliding fee scale, or other
2 cost-sharing arrangement; however, a service provider may waive
3 copayments or cost-sharing if able to fully absorb the cost. A
4 person who is eligible for federally funded services must apply
5 for the services but if regional services are expected to be
6 needed for less than two years, the person may be exempted.
7 The commission is required to adopt rules for resource
8 limitations eligibility derived from the federal supplemental
9 security income program resource limitations. If a person does
10 not qualify for federally funded support, but meets income,
11 resource, and functional eligibility requirements, retirement
12 accounts in the accumulation stage and burial, medical savings,
13 or assistive technology accounts are to be disregarded.
14 New Code section 331.439C specifies requirements for
15 diagnoses, functional assessments, and other requirements for
16 eligibility in the regional system. Other requirements include
17 an age of at least 18 years and compliance with financial
18 eligibility provisions and determination of eligibility for
19 individualized services to be made by the functional assessment
20 provisions specified in the bill's amendment to Code section
21 331.439. A person who is age 17 and receiving publicly
22 funded services may begin eligibility for services through the
23 regional system during the three-month period preceding the
24 person's 18th birthday. For mental health services, a person
25 must have had a diagnosable mental health, behavioral, or
26 emotional disorder during the preceding 12-month period. For
27 intellectual disability services, an intellectual disability
28 (ID) diagnosis is required. For brain injury services, a
29 diagnosis of brain injury (BI) is required.
30 New Code section 331.439D addresses core service domains to
31 be provided in the regional system, subject to the availability
32 of funding. The domains are defined to mean a set of similar,
33 discrete services that can be provided depending upon an
34 individual's service needs. The services included in the
35 core services domains are to be adopted in rule by the MH/DS

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1 commission pursuant to recommendations by the DHS director.
2 An initial set of core service domains applies to MH and ID
3 services not covered under the Medicaid program and legislative
4 intent is stated to address funding in order to include persons
5 in need of BI or developmental disability (DD) services. The
6 region is required to ensure services providers have the
7 competencies to serve persons with co-occurring conditions,
8 provide evidence-based services, and provide trauma-informed
9 care. A set of additional core services is listed when public
10 funds are made available for the services. A region may also
11 provide funding for other services or support not listed based
12 on optional criteria that may be considered.
13 New Code section 331.440B addresses regional service system
14 financing. The financing of each regional service system is
15 limited to a fixed budget amount. The region is required
16 to implement the region's service system management plan by
17 budgeting for 99 percent of the funding anticipated to be
18 available for the plan for a fiscal year. The MH/DS commission
19 is required to annually by July 15 submit to DHS, council
20 on human services, and the governor a recommendation for a
21 non-Medicaid expenditures growth funding amount for the fiscal
22 year which commences two years from the start date of the
23 fiscal year in progress at the time the recommendation is made.
24 The division may include a state mandate as defined in Code
25 section 25B.3. The bill makes inapplicable Code section 25B.2,
26 subsection 3, which would relieve a political subdivision from
27 complying with a state mandate if funding for the cost of
28 the state mandate is not provided or specified. Therefore,
29 political subdivisions are required to comply with any state
30 mandate included in the bill.
31 The Code editor is authorized to codify the division and
32 other provisions involving Code chapter 331 as a new part of
33 Code chapter 331, division III.
34 The new Code provisions of the Code chapter are applicable
35 beginning July 1, 2013.

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1 WORKFORCE DEVELOPMENT AND REGULATION. This division relates
2 to workforce development and regulation applicable to the
3 administration and service providers for the regional service
4 system.
5 New Code section 225C.6C establishes a mental health and
6 disability services workforce development workgroup to be
7 convened and staffed by DHS to address issues connected with
8 assuring there is an adequate workforce to provide MH/DS in
9 the state. Various stakeholders and legislator members are
10 specified.
11 New Code section 225C.6D requires DHS to establish an
12 outcomes and performance measures committee for the regional
13 service system. Various stakeholders are specified for the
14 committee membership.
15 New Code section 225C.6E requires the departments of
16 human services, inspections and appeals, and public health
17 to comply with various provisions in efforts to improve the
18 regulatory requirements applied to the regional service system
19 administration and service providers.
20 COMMUNITY MENTAL HEALTH CENTER AMENDMENTS. This division
21 amends Acts provisions relating to community mental health
22 centers that were enacted in 2011 Iowa Acts, chapter 121 (SF
23 525) that have a delayed effective date of July 1, 2012.
24 Provisionally numbered Code section 230A.110, relating to
25 the standards adopted for centers by the MH/DS commission, is
26 amended to allow the standards to be in substantial conformity
27 with either applicable behavioral health standards adopted by
28 the joint commission or other recognized national standards
29 for evaluation of psychiatric facilities rather than requiring
30 conformity with both sets of standards.
31 REGIONAL SERVICE SYSTEM. This division provides the
32 requirements for counties to form mental health and disability
33 services (MH/DS) regions.
34 The Code section 97B.1A definition of the term "employer"
35 used for the Iowa public employees' retirement system (IPERS)

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1 is amended to include the regional administrator entities
2 created pursuant to the bill.
3 New Code section 331.438A defines terms utilized, including
4 "department" for the department of human services, "disability
5 services" as defined in Code section 225C.2 (services and other
6 support available to a person with mental illness, intellectual
7 disability or other developmental disability, or brain injury),
8 "population" to mean the latest federal census or the latest
9 applicable population estimate issued by the U.S. census
10 bureau, "regional administrator" as provided by the bill, and
11 "state commission" as the MH/DS commission.
12 New Code section 331.438B requires counties to form regions
13 to provide local access to MH/DS for adults. Minimum criteria
14 for formation of a group of counties are included along with a
15 schedule for voluntary formation until the period of November
16 2, 2012, through January 1, 2013, during which the department
17 is required to assign unaffiliated counties to a region.
18 The director of human services, with approval of the MH/DS
19 commission, is authorized to waive the population range and
20 minimum number of counties criteria.
21 New Code section 331.438C requires the counties comprising
22 a region to enter into a Code chapter 28E agreement for the
23 joint exercise of governmental powers to form a regional
24 administrator entity to function on behalf of the counties.
25 The regional administrator is required to enter into
26 performance-based contracts with the department to manage for
27 the counties the MH/DS not funded by the medical assistance
28 (Medicaid) program and for coordinating with the department
29 such services that are funded by the Medicaid program. The
30 regional administrator is under the control of a governing
31 board. An elected county supervisor or designee of each of
32 the participating counties make up the voting membership of
33 the governing board. Any of the voting members may call
34 for a weighted voting on certain decisions. The weighted
35 vote is based upon the relative population of the respective

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1 counties and requires a three-fourths majority for approval.
2 In addition, not more than three individuals who utilize MH/DS
3 or actively involved relatives of such individuals and not more
4 than three service providers are specified for ex officio,
5 nonvoting slots. A regional advisory committee for each board
6 is required to include individuals who utilize services or
7 actively involved relatives, service providers, governing board
8 members, and others.
9 New Code section 331.438D addresses regional finances.
10 The funding administered under the authority of a governing
11 board is required to be in a combined account, separate
12 county accounts that are administered under the authority of
13 the governing board, or pursuant to other arrangement. The
14 administrative costs of the regional administrator is limited
15 to the same percentage of expenditures allowed for the entity
16 under contract with DHS to provide mental health managed
17 care for the Medicaid program. The funding received from
18 performance-based contracts with the department is required
19 to be credited to the account or accounts administered by the
20 regional administrator.
21 New Code section 331.438E requires the counties comprising
22 a MH/DS region to enter into a Code chapter 28E agreement.
23 The agreement is required to address various specific
24 organizational provisions, administrative provisions, and
25 financial provisions.
26 If the county is part of a region that has agreed to pool
27 funding and liability for services, the regional administrator
28 performs the county's responsibilities on behalf of the county.
29 If implementation of a region's regional administrator entity
30 results in a change in the employer of the county employees
31 assigned to the county central point of coordination entity
32 administering services under current law and the employees were
33 covered under a collective bargaining agreement, the employees
34 are to be retained and the agreement continued.
35 New Code section 331.438F defines terms relating to

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1 residency, requires appeals of service authorizations and
2 other services-related determinations to be heard in a
3 contested case proceeding by an administrative law judge, and
4 also provides for resolution of residency-related disputes
5 by an administrative law judge. The administrative law
6 judge's decision is considered a final agency action so that
7 further appeals go to the district court rather than a state
8 department.
9 The provisions of this division enacting new Code sections
10 in Code chapter 331, except as specifically provided by the
11 provisions, are applicable beginning July 1, 2013.
12 SUBACUTE CARE FACILITIES FOR PERSONS WITH SERIOUS AND
13 PERSISTENT MENTAL ILLNESS. This division creates a new health
14 care facility licensure chapter numbered Code chapter 135P to
15 be regulated by the department of inspections and appeals.
16 The new type of facility is called a "subacute care facility
17 for persons with serious and persistent mental illness"
18 and provides physical facilities with restricted egress to
19 provide accommodation, board, and the services of a licensed
20 psychiatrist for periods exceeding 24 consecutive hours to
21 three or more individuals with serious and persistent mental
22 illness and who may have a diagnosis of another disorder. The
23 facility cannot be used by individuals related to the owner
24 within the third degree of consanguinity.
25 New Code sections 135P.1 and 135P.2 define the terms
26 utilized and state the purpose of the new Code chapter.
27 New Code section 135P.3 describes the nature of care
28 to be utilized and the duties of the facility's licensed
29 psychiatrist, authorizes the use of a seclusion room that meets
30 the conditions specified under federal regulations for the use
31 of seclusion in psychiatric residential treatment facilities
32 providing inpatient psychiatric services for individuals under
33 age 21, and specifies requirements for admission. Various
34 services may be performed by or delegated to a physician
35 assistant or advanced registered nurse practitioner.

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1 New Code section 135P.4 prohibits establishing, operating,
2 or maintaining a subacute care facility without a license and
3 allows a licensed intermediate care facility for persons with
4 mental illness to convert to a licensed subacute care facility.
5 New Code section 135P.5 requires an application for a
6 license and sets the annual licensure fee at $25.
7 New Code section 135P.6 requires the department of
8 inspections and appeals to ascertain the adequacy of the
9 facility before issuing a license and requires the applicant
10 to have been awarded a certificate of need for the facility
11 through the department of public health under Code chapter 135.
12 New Code section 135P.7 authorizes the department to deny
13 an application or suspend or revoke a license for failure or
14 inability to comply with requirements under the Code chapter
15 and provides a list of specific infractions.
16 New Code section 135P.8 authorizes the department to issue a
17 provisional license and addresses compliance plans.
18 New Code section 135P.9 requires the notice and hearing
19 process for licensure issues to be performed in compliance with
20 the Iowa administrative procedure Act, Code chapter 17A.
21 New Code section 135P.10 requires the department of
22 inspections and appeals to adopt rules for the facilities in
23 consultation with the department of human services and for the
24 department to coordinate its rules adoption and enforcement
25 efforts.
26 New Code section 135P.11 addresses complaints alleging
27 violations. Any person may file a complaint and the person's
28 name is required to be kept confidential. The department is
29 required to make a preliminary review of the complaint and
30 under most circumstances an on-site inspection is required
31 within 20 working days. The complainant may accompany the
32 inspector upon request of the complainant or the department.
33 New Code section 135P.12 requires the department's
34 findings regarding licensure to be made public but other
35 information relating to a facility is to be kept confidential.

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1 Disclosure of information regarding residents is prohibited
2 except as provided in Code section 217.30, relating to the
3 confidentiality of records pertaining to individuals receiving
4 services or assistance from the department of human services.
5 New Code section 135P.13 provides for judicial review of
6 departmental action in accordance with Code chapter 17A and for
7 a petition for the review to be filed in the court of the county
8 in which the subacute care facility is located or proposed to
9 be located.
10 New Code section 135P.14 provides that establishing,
11 operating, or managing a subacute care facility without a
12 license is a serious misdemeanor offense.
13 New Code section 135P.15 authorizes the department to
14 maintain an action for an injunction to prevent establishing,
15 operating, or managing a subacute care facility without a
16 license.
17 Code section 225.15 is amended to allow state psychiatric
18 hospital physicians to delegate the performance of certain
19 services to physician assistants and advanced registered nurse
20 practitioners.
21 Code section 249A.26, relating to state and county
22 participation in funding for services to persons with
23 disabilities in the medical assistance (Medicaid) program
24 chapter, is amended to provide that the daily reimbursement
25 rate for subacute care facilities is the sum of the
26 direct care Medicare-certified hospital-based nursing
27 facility patient-day-weighted median and the nondirect
28 care Medicare-certified hospital-based nursing facility
29 patient-day-weighted median.
30 In addition, DHS is required to conduct a feasibility
31 study and cost analysis of providing institutional subacute
32 services using available facilities at the state mental health
33 institutes or the Iowa veterans home.
34 The division may include a state mandate as defined in
35 Code section 25B.3. The division makes inapplicable Code

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1 section 25B.2, subsection 3, which would relieve a political
2 subdivision from complying with a state mandate if funding for
3 the cost of the state mandate is not provided or specified.
4 Therefore, political subdivisions are required to comply with
5 any state mandate included in the division.
6 BRAIN INJURY DEFINITION — CONFORMING AMENDMENTS — LEGAL
7 SETTLEMENT AND DISPUTE RESOLUTION PROCESSES. This division
8 provides conforming amendments to change references to county
9 of legal settlement to county of residence, effective on July
10 1, 2012, amends brain injury definitions, and strikes the
11 future repeal on July 1, 2013, of the county mental health,
12 mental retardation, and developmental disabilities services
13 funds and property tax levies under Code section 331.424A.
14 Code definitions for the term "brain injury" are revised
15 in Code sections 135.22 and 225C.23 to be similar to the
16 definition used for the Medicaid home and community-based
17 services waiver for brain injury. The Code section 135.22
18 definition applies to provisions administered by the department
19 of public health, including the central registry for persons
20 with brain or spinal cord injuries, the advisory council on
21 brain injuries, the department's responsibilities as the
22 state's lead agency for brain injury, and resource facilitation
23 for persons with brain injury and other services under the
24 brain injury services program.
25 The Code section 225C.23 definition applies to recognition
26 of brain injury as a distinct disability. The Code chapter
27 includes a number of references to the term brain injury but
28 this provision provides the only definition of the term.
29 Code chapter 252 provisions regarding determinations of
30 county of legal settlement (Code sections 252.23, and 252.24)
31 are amended to provide that in provisions involving the MH/DS
32 administered through the counties, the county of residence is
33 responsible and any disputes are to be settled in accordance
34 with Code section 225C.8, which is also amended accordingly.
35 References to "county of legal settlement" are amended to

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1 be "county of residence" or the state in the following Code
2 sections: section 218.99, requiring counties to be notified
3 of patient personal accounts in DHS state institutions;
4 section 222.10, relating to the duty of a peace officer to
5 detain a person with mental retardation who departs from an
6 institution in another state without proper authority; section
7 222.13, relating to voluntary admissions to a state resource
8 center; section 222.31, relating to liability for charges at
9 a state resource center; section 222.49, relating to payment
10 for costs of proceedings; section 222.50, requiring the
11 county of legal settlement to pay charges; section 222.60,
12 relating to the costs paid by county and state and requiring
13 a diagnosis; section 222.61, relating to determination of
14 legal settlement; section 222.62, relating to legal settlement
15 in another county; section 222.63, relating to an objection
16 to a finding of legal settlement; section 222.64, providing
17 for state financial responsibility when a person is in a
18 foreign state or is unknown; section 222.65, requiring the
19 state administrator to investigate a person's residency when
20 placed in a state resource center; section 222.66, providing
21 a standing appropriation for the transfer expenses of state
22 cases to a state resource center; section 222.67, relating to
23 charges when legal settlement was initially unknown; section
24 222.68, requiring the county of legal settlement to reimburse
25 the county that initially paid the charges; section 222.69,
26 providing a standing appropriation for the admission or
27 commitment expenses of state cases; section 222.70, requiring
28 a dispute resolution process to be used for legal settlement
29 disputes; section 222.77, providing for the county of legal
30 settlement to pay the costs of support of patients placed on
31 leave from a state resources center; section 222.78, relating
32 to parents and other persons liable for the support of a
33 patient in a state resource center; section 222.79, relating
34 to the certification of statements of charges for purposes of
35 Code section 222.78; section 222.80, providing for liability

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1 for the costs of persons admitted or committed to a private
2 facility; section 222.82, relating to collection of claims
3 under Code section 222.78 or other provisions of Code chapter
4 222; section 222.86, relating to payment of excess amounts from
5 resource center patient personal deposit funds to the county
6 of legal settlement; section 222.92, relating to operation
7 of the state resource center on the basis of a net general
8 fund appropriation; section 225C.16, relating to referrals of
9 persons applying for voluntary admission to a state mental
10 health institute for diagnostic evaluations; section 226.9C,
11 relating to the net general fund appropriations provisions
12 for the dual diagnosis program at the Mount Pleasant state
13 mental health institute; section 226.45, relating to payment
14 of excess amounts from state mental health institute patient
15 personal deposit funds to the county of legal settlement;
16 section 229.9A, relating to the mental health advocate of the
17 county of legal settlement; section 229.12, relating to the
18 presence of the mental health advocate at civil commitment
19 hearings; section 229.19, relating to the duties of the patient
20 advocate; section 229.24, relating to the provision of civil
21 commitment court records to the county of legal settlement;
22 section 229.31, relating to a commission of inquiry; section
23 229.42, relating to hospitalization costs paid on voluntary
24 cases by the county of legal settlement; section 229.43,
25 relating to nonresidents on convalescent leave; section 230.1,
26 relating to the liability of counties and the state for costs
27 associated with admission of a person with mental illness to
28 a state hospital; section 230.2, relating to finding of legal
29 settlement for persons with mental illness; section 230.3,
30 providing for certification of legal settlement of a person
31 with mental illness admitted to a hospital; section 230.4,
32 providing for evidence to accompany the certification of legal
33 settlement for a person with mental illness; section 230.5,
34 relating to legal settlement of nonresidents; section 230.8,
35 relating to transfer expenses of persons with mental illness

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with no legal settlement; section 230.9, relating to charges when legal settlement was initially unknown; section 230.10, requiring all costs attending the taking into custody, care, investigation, and admission or commitment of a person to a state hospital for persons with mental illness to be paid by the county of legal settlement; section 230.11, relating to recovery of costs from the state for state cases; section 230.12, relating to settlement of legal settlement disputes for support of persons with mental illness; section 230.32, relating to support of persons who are nonresidents of this state; section 249A.12, relating to assistance to persons with mental retardation paid under the Medicaid program; section 249A.26, addressing state and county participation in funding for services to persons with disabilities, including case management; section 331.502, relating to the duties of the county auditor; and section 347.16, relating to the cost of care provided in county hospitals.

Miscellaneous provisions are also amended. Code section 225.23, requiring counties to collect claims paid by the state on behalf of committed or voluntary private patients at the state psychiatric hospital, is amended to shift this responsibility to the department of administrative services. Code section 225C.8, relating to legal settlement dispute resolution, is amended to instead refer to residency dispute resolution. This provision is repealed on July 1, 2013, when it is replaced by the bill´s new Code section 331.438F. The county of residence definition in Code section 331.440, relating to the county MH/MR/DD central point of coordination process and state case services, is amended to match the corresponding definition in new Code section 331.439F. Under the terms of current law, Code section 331.440 is repealed on July 1, 2013.

**Senate Study Bill 3191 - Introduced**

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BUDGET BILL)

## A BILL FOR

1 An Act relating to appropriations for health and human services
2 and including other related provisions and appropriations,
3 and including effective, retroactive, and applicability date
4 provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

TLSB 5107XG (62) 84
pf/jp

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DIVISION I

DEPARTMENT ON AGING — FY 2012-2013

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~~
10,302,577
..... FTEs 35.00

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~~ $450,000 for delivery of long-term care services to seniors with low or moderate

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1 incomes.
2 3. Of the funds appropriated in this section, ~~$89,973~~
3 $179,946 shall be transferred to the department of economic
4 development for the Iowa commission on volunteer services to be
5 used for the retired and senior volunteer program.
6 4. a. The department on aging shall establish and enforce
7 procedures relating to expenditure of state and federal funds
8 by area agencies on aging that require compliance with both
9 state and federal laws, rules, and regulations, including but
10 not limited to all of the following:
11 (1) Requiring that expenditures are incurred only for goods
12 or services received or performed prior to the end of the
13 fiscal period designated for use of the funds.
14 (2) Prohibiting prepayment for goods or services not
15 received or performed prior to the end of the fiscal period
16 designated for use of the funds.
17 (3) Prohibiting the prepayment for goods or services
18 not defined specifically by good or service, time period, or
19 recipient.
20 (4) Prohibiting the establishment of accounts from which
21 future goods or services which are not defined specifically by
22 good or service, time period, or recipient, may be purchased.
23 b. The procedures shall provide that if any funds are
24 expended in a manner that is not in compliance with the
25 procedures and applicable federal and state laws, rules, and
26 regulations, and are subsequently subject to repayment, the
27 area agency on aging expending such funds in contravention of
28 such procedures, laws, rules and regulations, not the state,
29 shall be liable for such repayment.
30 DIVISION II
31 DEPARTMENT OF PUBLIC HEALTH — FY 2012-2013
32 Sec. 2. 2011 Iowa Acts, chapter 129, section 114,
33 subsections 1 through 3, are amended to read as follows:
34 1. ADDICTIVE DISORDERS
35 For reducing the prevalence of use of tobacco, alcohol, and

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1 other drugs, and treating individuals affected by addictive
2 behaviors, including gambling, and for not more than the
3 following full-time equivalent positions:
4 ..... $ ~~11,751,595~~
5 23,503,190
6 ..... FTEs 13.00
7 a. (1) Of the funds appropriated in this subsection,
8 ~~$1,626,915~~ $3,253,830 shall be used for the tobacco use
9 prevention and control initiative, including efforts at the
10 state and local levels, as provided in chapter 142A. The
11 commission on tobacco use prevention and control established
12 pursuant to section 142A.3 shall advise the director of
13 public health in prioritizing funding needs and the allocation
14 of moneys appropriated for the programs and activities of
15 the initiative under this subparagraph (1) and shall make
16 recommendations to the director in the development of budget
17 requests relating to the initiative.
18 (2) Of the funds allocated in this paragraph "a", ~~$226,915~~
19 $453,830 shall be transferred to the alcoholic beverages
20 division of the department of commerce for enforcement of
21 tobacco laws, regulations, and ordinances in accordance with
22 2011 Iowa Acts, ~~House File 467, as enacted~~ chapter 63.
23 b. Of the funds appropriated in this subsection,
24 ~~$10,124,680~~ $20,249,360 shall be used for problem gambling and
25 substance abuse prevention, treatment, and recovery services,
26 including a 24-hour helpline, public information resources,
27 professional training, and program evaluation.
28 (1) Of the funds allocated in this paragraph "b", ~~$8,566,254~~
29 $17,132,508 shall be used for substance abuse prevention and
30 treatment.
31 (a) Of the funds allocated in this subparagraph (1),
32 ~~$449,650~~ $899,300 shall be used for the public purpose of a
33 grant program to provide substance abuse prevention programming
34 for children.
35 (i) Of the funds allocated in this subparagraph division

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1 (a), ~~$213,769~~ 427,539 shall be used for grant funding for
2 organizations that provide programming for children by
3 utilizing mentors. Programs approved for such grants shall be
4 certified or will be certified within six months of receiving
5 the grant award by the Iowa commission on volunteer services as
6 utilizing the standards for effective practice for mentoring
7 programs.
8 (ii) Of the funds allocated in this subparagraph division
9 (a), ~~$213,419~~ $426,839 shall be used for grant funding for
10 organizations that provide programming that includes youth
11 development and leadership. The programs shall also be
12 recognized as being programs that are scientifically based with
13 evidence of their effectiveness in reducing substance abuse in
14 children.
15 (iii) The department of public health shall utilize a
16 request for proposals process to implement the grant program.
17 (iv) All grant recipients shall participate in a program
18 evaluation as a requirement for receiving grant funds.
19 (v) Of the funds allocated in this subparagraph division
20 (a), up to ~~$22,461~~ $44,922 may be used to administer substance
21 abuse prevention grants and for program evaluations.
22 (b) Of the funds allocated in this subparagraph (1),
23 ~~$136,531~~ $273,062 shall be used for culturally competent
24 substance abuse treatment pilot projects.
25 (i) The department shall utilize the amount allocated
26 in this subparagraph division (b) for at least three pilot
27 projects to provide culturally competent substance abuse
28 treatment in various areas of the state. Each pilot project
29 shall target a particular ethnic minority population. The
30 populations targeted shall include but are not limited to
31 African American, Asian, and Latino.
32 (ii) The pilot project requirements shall provide for
33 documentation or other means to ensure access to the cultural
34 competence approach used by a pilot project so that such
35 approach can be replicated and improved upon in successor

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1 programs.
2 (2) Of the funds allocated in this paragraph "b", up
3 to ~~$1,558,426~~ $3,116,852 may be used for problem gambling
4 prevention, treatment, and recovery services.
5 (a) Of the funds allocated in this subparagraph (2),
6 ~~$1,289,500~~ $2,579,000 shall be used for problem gambling
7 prevention and treatment.
8 (b) Of the funds allocated in this subparagraph (2), up to
9 ~~$218,926~~ $437,852 may be used for a 24-hour helpline, public
10 information resources, professional training, and program
11 evaluation.
12 (c) Of the funds allocated in this subparagraph (2), up
13 to ~~$50,000~~ $100,000 may be used for the licensing of problem
14 gambling treatment programs.
15 (3) It is the intent of the general assembly that from the
16 moneys allocated in this paragraph "b", persons with a dual
17 diagnosis of substance abuse and gambling addictions shall be
18 given priority in treatment services.
19 c. Notwithstanding any provision of law to the contrary,
20 to standardize the availability, delivery, cost of delivery,
21 and accountability of problem gambling and substance abuse
22 treatment services statewide, the department shall continue
23 implementation of a process to create a system for delivery
24 of treatment services in accordance with the requirements
25 specified in 2008 Iowa Acts, chapter 1187, section 3,
26 subsection 4. To ensure the system provides a continuum of
27 treatment services that best meets the needs of Iowans, the
28 problem gambling and substance abuse treatment services in any
29 area may be provided either by a single agency or by separate
30 agencies submitting a joint proposal.
31 (1) The system for delivery of substance abuse and problem
32 gambling treatment shall include problem gambling prevention.
33 (2) The system for delivery of substance abuse and problem
34 gambling treatment shall include substance abuse prevention by
35 July 1, 2014.

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1 (3) Of the funds allocated in paragraph "b", the department
2 may use up to ~~$50,000~~ $100,000 for administrative costs to
3 continue developing and implementing the process in accordance
4 with this paragraph "c".
5 d. The requirement of section 123.53, subsection 5, is met
6 by the appropriations and allocations made in this Act for
7 purposes of substance abuse treatment and addictive disorders
8 for the fiscal year beginning July 1, 2012.
9 e. The department of public health shall work with all other
10 departments that fund substance abuse prevention and treatment
11 services and all such departments shall, to the extent
12 necessary, collectively meet the state maintenance of effort
13 requirements for expenditures for substance abuse services
14 as required under the federal substance abuse prevention and
15 treatment block grant.
16 f. The department shall amend or otherwise revise
17 departmental policies and contract provisions in order to
18 eliminate free t-shirt distribution, banner production, and
19 other unnecessary promotional expenditures.
20 2. HEALTHY CHILDREN AND FAMILIES
21 For promoting the optimum health status for children,
22 adolescents from birth through 21 years of age, and families,
23 and for not more than the following full-time equivalent
24 positions:
25 ..... $ ~~1,297,135~~
26 2,594,270
27 ..... FTEs 10.00
28 a. Of the funds appropriated in this subsection, not
29 more than ~~$369,659~~ $739,318 shall be used for the healthy
30 opportunities to experience success (HOPES)-healthy families
31 Iowa (HFI) program established pursuant to section 135.106.
32 The funding shall be distributed to renew the grants that were
33 provided to the grantees that operated the program during the
34 fiscal year ending June 30, 2012.
35 b. Of the funds appropriated in this subsection, ~~$164,942~~

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1 $329,885 shall be used to continue to address the healthy
2 mental development of children from birth through five years
3 of age through local evidence-based strategies that engage
4 both the public and private sectors in promoting healthy
5 development, prevention, and treatment for children.
6 c. Of the funds appropriated in this subsection, ~~$15,798~~
7 $31,597 shall be distributed to a statewide dental carrier to
8 provide funds to continue the donated dental services program
9 patterned after the projects developed by the lifeline network
10 to provide dental services to indigent elderly and disabled
11 individuals.
12 d. Of the funds appropriated in this subsection, ~~$56,338~~
13 $112,677 shall be used for childhood obesity prevention.
14 e. Of the funds appropriated in this subsection, ~~$81,880~~
15 $163,760 shall be used to provide audiological services and
16 hearing aids for children. The department may enter into a
17 contract to administer this paragraph.
18 3. CHRONIC CONDITIONS
19 For serving individuals identified as having chronic
20 conditions or special health care needs, and for not more than
21 the following full-time equivalent positions:
22 ..... $ ~~1,680,828~~
23 3,361,656
24 ..... FTEs 4.00
25 a. Of the funds appropriated in this subsection, ~~$80,291~~
26 $160,582 shall be used for grants to individual patients
27 who have phenylketonuria (PKU) to assist with the costs of
28 necessary special foods.
29 b. Of the funds appropriated in this subsection, ~~$241,800~~
30 $483,600 is allocated for continuation of the contracts for
31 resource facilitator services in accordance with section
32 135.22B, subsection 9, and for brain injury training services
33 and recruiting of service providers to increase the capacity
34 within this state to address the needs of individuals with
35 brain injuries and such individuals' families.

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c. Of the funds appropriated in this subsection, ~~$249,437~~ $498,874 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~~ $31,254 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.

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.

COMMUNITY CAPACITY APPROPRIATION

Sec. 3. 2011 Iowa Acts, chapter 129, section 114, subsection 4, unnumbered paragraph 1, is amended to read as follows:

For strengthening the health care delivery system at the local level, and for not more than the following full-time equivalent positions:

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1 ..... $ ~~2,117,583~~
2 4,235,166
3 ..... FTEs 14.00
4 COMMUNITY CAPACITY ALLOCATIONS
5 Sec. 4. 2011 Iowa Acts, chapter 129, section 114, subsection
6 4, paragraphs a through g, are amended to read as follows:
7 a. Of the funds appropriated in this subsection, ~~$50,000~~
8 $100,000 is allocated for a child vision screening program
9 implemented through the university of Iowa hospitals and
10 clinics in collaboration with early childhood Iowa areas.
11 b. Of the funds appropriated in this subsection, ~~$55,654~~
12 $111,308 is allocated for continuation of an initiative
13 implemented at the university of Iowa and ~~$50,246~~ $100,493
14 is allocated for continuation of an initiative at the state
15 mental health institute at Cherokee to expand and improve the
16 workforce engaged in mental health treatment and services.
17 The initiatives shall receive input from the university of
18 Iowa, the department of human services, the department of
19 public health, and the mental health and disability services
20 commission to address the focus of the initiatives.
21 c. Of the funds appropriated in this subsection, ~~$585,745~~
22 $1,171,491 shall be used for essential public health services
23 that promote healthy aging throughout the lifespan, contracted
24 through a formula for local boards of health, to enhance health
25 promotion and disease prevention services.
26 d. Of the funds appropriated in this section, ~~$60,908~~
27 $121,817 shall be deposited in the governmental public health
28 system fund created in section 135A.8 to be used for the
29 purposes of the fund.
30 e. Of the funds appropriated in this subsection, ~~$72,271~~
31 $144,542 shall be used for the mental health professional
32 shortage area program implemented pursuant to section 135.80.
33 f. Of the funds appropriated in this subsection, ~~$19,131~~
34 $38,263 shall be used for a grant to a statewide association
35 of psychologists that is affiliated with the American

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1 psychological association to be used for continuation of a
2 program to rotate intern psychologists in placements in urban
3 and rural mental health professional shortage areas, as defined
4 in section ~~135.80~~ 135.180.
5 g. Of the funds appropriated in this subsection, the
6 following amounts shall be allocated to the Iowa collaborative
7 safety net provider network established pursuant to section
8 135.153 to be used for the purposes designated. The following
9 amounts allocated under this lettered paragraph shall be
10 distributed to the specified provider and shall not be reduced
11 for administrative or other costs prior to distribution:
12 (1) For distribution to the Iowa primary care association
13 for statewide coordination of the Iowa collaborative safety net
14 provider network:
15 ..... $ ~~66,290~~
16 132,580
17 (2) For distribution to the local boards of health that
18 provide direct services for pilot programs in three counties to
19 assist patients in determining an appropriate medical home:
20 ..... $ ~~38,804~~
21 77,609
22 (3) For distribution to maternal and child health centers
23 for pilot programs in three counties to assist patients in
24 determining an appropriate medical home:
25 ..... $ ~~38,804~~
26 77,609
27 (4) For distribution to free clinics for necessary
28 infrastructure, statewide coordination, provider recruitment,
29 service delivery, and provision of assistance to patients in
30 determining an appropriate medical home:
31 ..... $ ~~62,025~~
32 124,050
33 (5) For distribution to rural health clinics for necessary
34 infrastructure, statewide coordination, provider recruitment,
35 service delivery, and provision of assistance to patients in

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1 determining an appropriate medical home:
2 ..... $ ~~55,215~~
3 110,430
4 (6) For continuation of the safety net provider patient
5 access to specialty health care initiative as described in 2007
6 Iowa Acts, chapter 218, section 109:
7 ..... $ ~~130,000~~
8 260,000
9 (7) For continuation of the pharmaceutical infrastructure
10 for safety net providers as described in 2007 Iowa Acts,
11 chapter 218, section 108:
12 ..... $ ~~135,000~~
13 270,000
14 The Iowa collaborative safety net provider network may
15 continue to distribute funds allocated pursuant to this
16 lettered paragraph through existing contracts or renewal of
17 existing contracts.
18 COMMUNITY CAPACITY ALLOCATIONS
19 Sec. 5. 2011 Iowa Acts, chapter 129, section 114, subsection
20 4, paragraph h, subparagraph (1), is amended to read as
21 follows:
22 (1) Of the funds appropriated in this subsection, ~~$74,500~~
23 $149,000 shall be used for continued implementation of
24 the recommendations of the direct care worker task force
25 established pursuant to 2005 Iowa Acts, chapter 88, based upon
26 the report submitted to the governor and the general assembly
27 in December 2006. The department may use a portion of the
28 funds allocated in this lettered paragraph for an additional
29 position to assist in the continued implementation.
30 COMMUNITY CAPACITY ALLOCATIONS
31 Sec. 6. 2011 Iowa Acts, chapter 129, section 114, subsection
32 4, paragraphs i through k, are amended to read as follows:
33 i. (1) Of the funds appropriated in this subsection,
34 ~~$65,050~~ $130,100 shall be used for allocation to an independent
35 statewide direct care worker association under a contract with

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1 terms determined by the director of public health relating
2 to education, outreach, leadership development, mentoring,
3 and other initiatives intended to enhance the recruitment and
4 retention of direct care workers in health care and long-term
5 care settings.
6 (2) Of the funds appropriated in this subsection, ~~$29,000~~
7 $58,000 shall be used to provide scholarships or other forms of
8 subsidization for direct care worker educational conferences,
9 training, or outreach activities.
10 j. Of the funds appropriated in this subsection, the
11 department may use up to ~~$29,259~~ $58,518 for up to one
12 full-time equivalent position to administer the volunteer
13 health care provider program pursuant to section 135.24.
14 k. Of the funds appropriated in this subsection, ~~$25,000~~
15 $50,000 shall be used for a matching dental education loan
16 repayment program to be allocated to a dental nonprofit health
17 service corporation to develop the criteria and implement the
18 loan repayment program.
19 Sec. 7. 2011 Iowa Acts, chapter 129, section 114,
20 subsections 5 through 9, are amended to read as follows:
21 5. HEALTHY AGING
22 To provide public health services that reduce risks and
23 invest in promoting and protecting good health over the
24 course of a lifetime with a priority given to older Iowans and
25 vulnerable populations:
26 ..... $ ~~3,648,571~~
27 7,297,142
28 a. Of the funds appropriated in this subsection, ~~$1,004,593~~
29 $2,009,187 shall be used for local public health nursing
30 services.
31 b. Of the funds appropriated in this subsection, ~~$2,643,977~~
32 $5,287,955 shall be used for home care aide services.
33 6. ENVIRONMENTAL HAZARDS
34 For reducing the public's exposure to hazards in the
35 environment, primarily chemical hazards, and for not more than

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1 the following full-time equivalent positions:
2 ..... $ ~~406,888~~
3 813,777
4 ..... FTEs 4.00
5 Of the funds appropriated in this subsection, ~~$272,188~~
6 $544,377 shall be used for childhood lead poisoning provisions.
7 7. INFECTIOUS DISEASES
8 For reducing the incidence and prevalence of communicable
9 diseases, and for not more than the following full-time
10 equivalent positions:
11 ..... $ ~~672,923~~
12 1,345,847
13 ..... FTEs 4.00
14 8. PUBLIC PROTECTION
15 For protecting the health and safety of the public through
16 establishing standards and enforcing regulations, and for not
17 more than the following full-time equivalent positions:
18 ..... $ ~~1,388,116~~
19 2,776,232
20 ..... FTEs ~~125.00~~
21 127.00
22 a. Of the funds appropriated in this subsection, not more
23 than ~~$235,845~~ $471,690 shall be credited to the emergency
24 medical services fund created in section 135.25. Moneys in
25 the emergency medical services fund are appropriated to the
26 department to be used for the purposes of the fund.
27 b. Of the funds appropriated in this subsection, ~~$105,309~~
28 $210,619 shall be used for sexual violence prevention
29 programming through a statewide organization representing
30 programs serving victims of sexual violence through the
31 department's sexual violence prevention program. The amount
32 allocated in this lettered paragraph shall not be used to
33 supplant funding administered for other sexual violence
34 prevention or victims assistance programs.
35 c. Of the funds appropriated in this subsection, not more

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1 than ~~$218,291~~ $436,582 shall be used for the state poison
2 control center.
3 9. RESOURCE MANAGEMENT
4 For establishing and sustaining the overall ability of the
5 department to deliver services to the public, and for not more
6 than the following full-time equivalent positions:
7 ..... $ ~~409,777~~
8 819,554
9 ..... FTEs 7.00
10 The university of Iowa hospitals and clinics under the
11 control of the state board of regents shall not receive
12 indirect costs from the funds appropriated in this section.
13 The university of Iowa hospitals and clinics billings to the
14 department shall be on at least a quarterly basis.
15 VISION SCREENING
16 Sec. 8. 2011 Iowa Acts, chapter 129, section 114, is amended
17 by adding the following new subsection:
18 NEW SUBSECTION. 10. VISION SCREENING. For continuation of
19 a grant to a nationally affiliated volunteer eye organization
20 that has an established program for children and adults and
21 that is solely dedicated to preserving sight and preventing
22 blindness through education, nationally certified vision
23 screening and training, and community and patient service
24 programs:
25 ..... $ 100,000
26 DIVISION III
27 DEPARTMENT OF VETERANS AFFAIRS — FY 2012-2013
28 Sec. 9. 2011 Iowa Acts, chapter 129, section 115, subsection
29 1, is amended to read as follows:
30 1. DEPARTMENT OF VETERANS AFFAIRS ADMINISTRATION
31 For salaries, support, maintenance, and miscellaneous
32 purposes, including the war orphans educational assistance fund
33 created in section 35.8, and for not more than the following
34 full-time equivalent positions:
35 ..... $ ~~499,416~~

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1 1,010,832
2 ..... FTEs 16.34
3 IOWA VETERANS HOME APPROPRIATION
4 Sec. 10. 2011 Iowa Acts, chapter 129, section 115,
5 subsection 2, unnumbered paragraph 1, is amended to read as
6 follows:
7 For salaries, support, maintenance, and miscellaneous
8 purposes:
9 ..... $ ~~4,476,075~~
10 8,952,151
11 IOWA VETERANS HOME REQUIREMENTS
12 Sec. 11. 2011 Iowa Acts, chapter 129, section 115,
13 subsection 2, paragraphs a through c, are amended to read as
14 follows:
15 a. The Iowa veterans home billings involving the department
16 of human services shall be submitted to the department on at
17 least a monthly basis.
18 b. If there is a change in the employer of employees
19 providing services at the Iowa veterans home under a collective
20 bargaining agreement, such employees and the agreement shall
21 be continued by the successor employer as though there had not
22 been a change in employer.
23 c. Within available resources and in conformance with
24 associated state and federal program eligibility requirements,
25 the Iowa veterans home may implement measures to provide
26 financial assistance to or on behalf of veterans or their
27 spouses who are participating in the community reentry program.
28 Sec. 12. 2011 Iowa Acts, chapter 129, section 115,
29 subsection 3, is amended to read as follows:
30 3. STATE EDUCATIONAL ASSISTANCE —— CHILDREN OF DECEASED
31 VETERANS
32 For provision of educational assistance pursuant to section
33 35.9:
34 ..... $ ~~6,208~~
35 12,416

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1 Sec. 13. 2011 Iowa Acts, chapter 129, section 115, is
2 amended by adding the following new subsection:
3 NEW SUBSECTION. 4. HOME OWNERSHIP ASSISTANCE PROGRAM
4 For transfer to the Iowa finance authority for the
5 continuation of the home ownership assistance program for
6 persons who are or were eligible members of the armed forces of
7 the United States, pursuant to section 16.54:
8 ..... $ 1,600,000
9 Sec. 14. 2011 Iowa Acts, chapter 129, section 116, is
10 amended to read as follows:
11 SEC. 116. LIMITATION OF COUNTY COMMISSION OF VETERANS
12 AFFAIRS FUND STANDING APPROPRIATIONS. Notwithstanding the
13 standing appropriation in the following designated section for
14 the fiscal year beginning July 1, 2012, and ending June 30,
15 2013, the amounts appropriated from the general fund of the
16 state pursuant to that section for the following designated
17 purposes shall not exceed the following amount:
18 For the county commissions of veterans affairs fund under
19 section 35A.16:
20 ..... $ ~~495,000~~
21 990,000
22 DIVISION IV
23 DEPARTMENT OF HUMAN SERVICES — FY 2012-2013
24 Sec. 15. 2011 Iowa Acts, chapter 129, section 117, is
25 amended to read as follows:
26 SEC. 117. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK
27 GRANT. There is appropriated from the fund created in section
28 8.41 to the department of human services for the fiscal year
29 beginning July 1, 2012, and ending June 30, 2013, from moneys
30 received under the federal temporary assistance for needy
31 families (TANF) block grant pursuant to the federal Personal
32 Responsibility and Work Opportunity Reconciliation Act of 1996,
33 Pub. L. No. 104-193, and successor legislation, and from moneys
34 received under the emergency contingency fund for temporary
35 assistance for needy families state program established

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1 pursuant to the federal American Recovery and Reinvestment Act
2 of 2009, Pub. L. No. 111-5 § 2101, and successor legislation,
3 the following amounts, or so much thereof as is necessary, to
4 be used for the purposes designated:
5 1. To be credited to the family investment program account
6 and used for assistance under the family investment program
7 under chapter 239B:
8 ..... $ ~~10,750,369~~
9 19,790,365
10 2. To be credited to the family investment program account
11 and used for the job opportunities and basic skills (JOBS)
12 program and implementing family investment agreements in
13 accordance with chapter 239B:
14 ..... $ ~~6,205,764~~
15 12,411,528
16 3. To be used for the family development and
17 self-sufficiency grant program in accordance with section
18 216A.107:
19 ..... $ ~~1,449,490~~
20 2,898,980
21 Notwithstanding section 8.33, moneys appropriated in this
22 subsection that remain unencumbered or unobligated at the close
23 of the fiscal year shall not revert but shall remain available
24 for expenditure for the purposes designated until the close of
25 the succeeding fiscal year. However, unless such moneys are
26 encumbered or obligated on or before September 30, 2013, the
27 moneys shall revert.
28 4. For field operations:
29 ..... $ ~~15,648,116~~
30 31,296,232
31 5. For general administration:
32 ..... $ ~~1,872,000~~
33 3,744,000
34 6. For state child care assistance:
35 ..... $ ~~8,191,343~~

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1 16,382,687
2 The funds appropriated in this subsection shall be
3 transferred to the child care and development block grant
4 appropriation made by the Eighty-fourth General Assembly, 2012
5 Session, for the federal fiscal year beginning October 1, 2012,
6 and ending September 30, 2013, pursuant to 2011 Iowa Acts,
7 chapter 126, section 32. Of this amount, ~~$100,000~~ $200,000
8 shall be used for provision of educational opportunities to
9 registered child care home providers in order to improve
10 services and programs offered by this category of providers
11 and to increase the number of providers. The department may
12 contract with institutions of higher education or child care
13 resource and referral centers to provide the educational
14 opportunities. Allowable administrative costs under the
15 contracts shall not exceed 5 percent. The application for a
16 grant shall not exceed two pages in length.
17 7. For distribution to counties for state case services
18 for persons with mental ~~health and~~ illness, intellectual
19 disability, or a developmental ~~disabilities community services~~
20 disability in accordance with section 331.440:
21 ..... $ ~~2,447,026~~
22 4,894,052
23 8. For child and family services:
24 ..... $ ~~16,042,215~~
25 32,084,430
26 9. For child abuse prevention grants:
27 ..... $ ~~62,500~~
28 125,000
29 10. For pregnancy prevention grants ~~on the condition that~~
30 ~~family planning services are funded~~:
31 ..... $ ~~965,033~~
32 1,930,067
33 Pregnancy prevention grants shall be awarded to programs
34 in existence on or before July 1, 2012, if the programs have
35 demonstrated positive outcomes. Grants shall be awarded to

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1 pregnancy prevention programs which are developed after July
2 1, 2012, if the programs are based on existing models that
3 have demonstrated positive outcomes. Grants shall comply with
4 the requirements provided in 1997 Iowa Acts, chapter 208,
5 section 14, subsections 1 and 2, including the requirement that
6 grant programs must emphasize sexual abstinence. Priority in
7 the awarding of grants shall be given to programs that serve
8 areas of the state which demonstrate the highest percentage of
9 unplanned pregnancies of females of childbearing age within the
10 geographic area to be served by the grant.
11 11. For technology needs and other resources necessary
12 to meet federal welfare reform reporting, tracking, and case
13 management requirements:
14 ..... $ ~~518,593~~
15 1,037,186
16 12. To be credited to the state child care assistance
17 appropriation made in this section to be used for funding of
18 community-based early childhood programs targeted to children
19 from birth through five years of age developed by early
20 childhood Iowa areas as provided in section 256I.11:
21 ..... $ ~~3,175,000~~
22 6,350,000
23 The department shall transfer TANF block grant funding
24 appropriated and allocated in this subsection to the child care
25 and development block grant appropriation in accordance with
26 federal law as necessary to comply with the provisions of this
27 subsection.
28 13. a. Notwithstanding any provision to the contrary,
29 including but not limited to requirements in section 8.41 or
30 provisions in 2011 or 2012 Iowa Acts regarding the receipt
31 and appropriation of federal block grants, federal funds
32 from the ~~emergency contingency fund for~~ temporary assistance
33 for needy families ~~state program established pursuant to the~~
34 ~~federal American Recovery and Reinvestment Act of 2009, Pub.~~
35 ~~L. No. 111-5 § 2101,~~ block grant received by the state ~~during~~

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1 ~~the fiscal year beginning July 1, 2011, and ending June 30,~~
2 ~~2012,~~ not otherwise appropriated in this section and remaining
3 available ~~as of~~ for the fiscal year beginning July 1, 2012, ~~and~~
4 ~~received by the state during the fiscal year beginning July~~
5 ~~1, 2012, and ending June 30, 2013,~~ are appropriated to the
6 department of human services to the extent as may be necessary
7 to be used in the following priority order: the family
8 investment program for the fiscal year and for state child care
9 assistance program payments for individuals enrolled in the
10 family investment program who are employed. The federal funds
11 appropriated in this paragraph "a" shall be expended only after
12 all other funds appropriated in subsection 1 for the assistance
13 under the family investment program under chapter 239B have
14 been expended.
15 b. The department shall, on a quarterly basis, advise the
16 legislative services agency and department of management of
17 the amount of funds appropriated in this subsection that was
18 expended in the prior quarter.
19 14. Of the amounts appropriated in this section, ~~$6,481,004~~
20 $12,962,008 for the fiscal year beginning July 1, 2012, shall
21 be transferred to the appropriation of the federal social
22 services block grant made for that fiscal year.
23 15. For continuation of the program allowing the department
24 to maintain categorical eligibility for the food assistance
25 program as required under the section of this division relating
26 to the family investment account:
27 ..... $ ~~73,036~~
28 25,000
29 16. The department may transfer funds allocated in this
30 section to the appropriations made in this division of this Act
31 for general administration and field operations for resources
32 necessary to implement and operate the services referred to in
33 this section and those funded in the appropriation made in this
34 division of this Act for the family investment program from the
35 general fund of the state.

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1 Sec. 16. 2011 Iowa Acts, chapter 129, section 118, is
2 amended to read as follows:
3 SEC. 118. FAMILY INVESTMENT PROGRAM ACCOUNT.
4 1. Moneys credited to the family investment program (FIP)
5 account for the fiscal year beginning July 1, 2012, and
6 ending June 30, 2013, shall be used to provide assistance in
7 accordance with chapter 239B.
8 2. The department may use a portion of the moneys credited
9 to the FIP account under this section as necessary for
10 salaries, support, maintenance, and miscellaneous purposes.
11 3. The department may transfer funds allocated in this
12 section to the appropriations in this division of this Act
13 for general administration and field operations for resources
14 necessary to implement and operate the services referred to in
15 this section and those funded in the appropriation made in this
16 division of this Act for the family investment program from the
17 general fund of the state.
18 4. Moneys appropriated in this division of this Act and
19 credited to the FIP account for the fiscal year beginning July
20 1, 2012, and ending June 30, 2013, are allocated as follows:
21 a. To be retained by the department of human services to
22 be used for coordinating with the department of human rights
23 to more effectively serve participants in the FIP program and
24 other shared clients and to meet federal reporting requirements
25 under the federal temporary assistance for needy families block
26 grant:
27 ..... $ ~~10,000~~
28 20,000
29 b. To the department of human rights for staffing,
30 administration, and implementation of the family development
31 and self-sufficiency grant program in accordance with section
32 216A.107:
33 ..... $ ~~2,671,417~~
34 5,342,834
35 (1) Of the funds allocated for the family development and

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1 self-sufficiency grant program in this lettered paragraph,
2 not more than 5 percent of the funds shall be used for the
3 administration of the grant program.
4 (2) The department of human rights may continue to implement
5 the family development and self-sufficiency grant program
6 statewide during fiscal year 2012-2013.
7 c. For the diversion subaccount of the FIP account:
8 ..... $ ~~849,200~~
9 1,698,400
10 A portion of the moneys allocated for the subaccount may
11 be used for field operations salaries, data management system
12 development, and implementation costs and support deemed
13 necessary by the director of human services in order to
14 administer the FIP diversion program.
15 d. For the food stamp employment and training program:
16 ..... $ ~~33,294~~
17 66,588
18 (1) The department shall amend the food stamp employment and
19 training state plan in order to maximize to the fullest extent
20 permitted by federal law the use of the 50-50 match provisions
21 for the claiming of allowable federal matching funds from the
22 United States department of agriculture pursuant to the federal
23 food stamp employment and training program for providing
24 education, employment, and training services for eligible food
25 assistance program participants, including but not limited to
26 related dependent care and transportation expenses.
27 (2) The department shall continue the categorical federal
28 food assistance program eligibility at 160 percent of the
29 federal poverty level and continue to eliminate the asset test
30 from eligibility requirements, consistent with federal food
31 assistance program requirements. The department shall include
32 as many food assistance households as is allowed by federal
33 law. The eligibility provisions shall conform to all federal
34 requirements including requirements addressing individuals who
35 are incarcerated or otherwise ineligible.

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1 e. For the JOBS program:
2 ..... $ ~~10,117,952~~
3 20,235,905
4 5. Of the child support collections assigned under FIP,
5 an amount equal to the federal share of support collections
6 shall be credited to the child support recovery appropriation
7 made in this division of this Act. Of the remainder of the
8 assigned child support collections received by the child
9 support recovery unit, a portion shall be credited to the FIP
10 account, a portion may be used to increase recoveries, and a
11 portion may be used to sustain cash flow in the child support
12 payments account. If as a consequence of the appropriations
13 and allocations made in this section the resulting amounts
14 are insufficient to sustain cash assistance payments and meet
15 federal maintenance of effort requirements, the department
16 shall seek supplemental funding. If child support collections
17 assigned under FIP are greater than estimated or are otherwise
18 determined not to be required for maintenance of effort, the
19 state share of either amount may be transferred to or retained
20 in the child support payment account.
21 6. The department may adopt emergency rules for the family
22 investment, JOBS, food stamp, and medical assistance programs
23 if necessary to comply with federal requirements.
24 Sec. 17. 2011 Iowa Acts, chapter 129, section 119, is
25 amended to read as follows:
26 SEC. 119. FAMILY INVESTMENT PROGRAM GENERAL FUND. There
27 is appropriated from the general fund of the state to the
28 department of human services for the fiscal year beginning July
29 1, 2012, and ending June 30, 2013, the following amount, or
30 so much thereof as is necessary, to be used for the purpose
31 designated:
32 To be credited to the family investment program (FIP)
33 account and used for family investment program assistance under
34 chapter 239B:
35 ..... $ ~~25,085,513~~

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1 51,581,161
2 1. Of the funds appropriated in this section, ~~$3,912,188~~
3 $7,824,377 is allocated for the JOBS program.
4 2. Of the funds appropriated in this section, ~~$1,231,927~~
5 $2,463,854 is allocated for the family development and
6 self-sufficiency grant program.
7 3. Notwithstanding section 8.39, for the fiscal year
8 beginning July 1, 2012, if necessary to meet federal
9 maintenance of effort requirements or to transfer federal
10 temporary assistance for needy families block grant funding
11 to be used for purposes of the federal social services block
12 grant or to meet cash flow needs resulting from delays in
13 receiving federal funding or to implement, in accordance with
14 this division of this Act, activities currently funded with
15 juvenile court services, county, or community moneys and state
16 moneys used in combination with such moneys, the department
17 of human services may transfer funds within or between any
18 of the appropriations made in this division of this Act and
19 appropriations in law for the federal social services block
20 grant to the department for the following purposes, provided
21 that the combined amount of state and federal temporary
22 assistance for needy families block grant funding for each
23 appropriation remains the same before and after the transfer:
24 a. For the family investment program.
25 b. For child care assistance.
26 c. For child and family services.
27 d. For field operations.
28 e. For general administration.
29 f. ~~MH/MR/DD/BI community services (local purchase)~~
30 For distribution to counties for state case services for
31 persons with mental illness, intellectual disability, or a
32 developmental disability in accordance with section 331.440.
33 This subsection shall not be construed to prohibit the use
34 of existing state transfer authority for other purposes. The
35 department shall report any transfers made pursuant to this

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1 subsection to the legislative services agency.
2 4. Of the funds appropriated in this section, ~~$97,839~~
3 $195,678 shall be used for continuation of a grant to an
4 Iowa-based nonprofit organization with a history of providing
5 tax preparation assistance to low-income Iowans in order to
6 expand the usage of the earned income tax credit. The purpose
7 of the grant is to supply this assistance to underserved areas
8 of the state.
9 5. The department may transfer funds appropriated in this
10 section to the appropriations made in this division of this Act
11 for general administration and field operations as necessary
12 to administer this section and the overall family investment
13 program.
14 Sec. 18. 2011 Iowa Acts, chapter 129, section 120, is
15 amended to read as follows:
16 SEC. 120. CHILD SUPPORT RECOVERY. There is appropriated
17 from the general fund of the state to the department of human
18 services for the fiscal year beginning July 1, 2012, and ending
19 June 30, 2013, the following amount, or so much thereof as is
20 necessary, to be used for the purposes designated:
21 For child support recovery, including salaries, support,
22 maintenance, and miscellaneous purposes, and for not more than
23 the following full-time equivalent positions:
24 ..... $ ~~6,559,627~~
25 13,377,993
26 ..... FTEs 475.00
27 1. The department shall expend up to ~~$12,164~~ $24,329,
28 including federal financial participation, for the fiscal year
29 beginning July 1, 2012, for a child support public awareness
30 campaign. The department and the office of the attorney
31 general shall cooperate in continuation of the campaign. The
32 public awareness campaign shall emphasize, through a variety
33 of media activities, the importance of maximum involvement of
34 both parents in the lives of their children as well as the
35 importance of payment of child support obligations.

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1 2. Federal access and visitation grant moneys shall be
2 issued directly to private not-for-profit agencies that provide
3 services designed to increase compliance with the child access
4 provisions of court orders, including but not limited to
5 neutral visitation sites and mediation services.
6 3. The appropriation made to the department for child
7 support recovery may be used throughout the fiscal year in the
8 manner necessary for purposes of cash flow management, and for
9 cash flow management purposes the department may temporarily
10 draw more than the amount appropriated, provided the amount
11 appropriated is not exceeded at the close of the fiscal year.
12 4. With the exception of the funding amount specified, the
13 requirements established under 2001 Iowa Acts, chapter 191,
14 section 3, subsection 5, paragraph "c", subparagraph (3), shall
15 be applicable to parental obligation pilot projects for the
16 fiscal year beginning July 1, 2012, and ending June 30, 2013.
17 Notwithstanding 441 IAC 100.8, providing for termination of
18 rules relating to the pilot projects, the rules shall remain
19 in effect until June 30, 2013.
20 Sec. 19. 2011 Iowa Acts, chapter 129, section 121, is
21 amended to read as follows:
22 SEC. 121. HEALTH CARE TRUST FUND — MEDICAL ASSISTANCE. Any
23 funds remaining in the health care trust fund created in
24 section 453A.35A for the fiscal year beginning July 1, 2012,
25 and ending June 30, 2013, are appropriated to the department
26 of human services to supplement the medical assistance program
27 appropriations made in this Act, for medical assistance
28 reimbursement and associated costs, including program
29 administration and costs associated with implementation.
30 Sec. 20. 2011 Iowa Acts, chapter 129, section 122, is
31 amended to read as follows:
32 SEC. 122. MEDICAL ASSISTANCE. There is appropriated from
33 the general fund of the state to the department of human
34 services for the fiscal year beginning July 1, 2012, and ending
35 June 30, 2013, the following amount, or so much thereof as is

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1 necessary, to be used for the purpose designated:
2 For medical assistance program reimbursement and associated
3 costs as specifically provided in the reimbursement
4 methodologies in effect on June 30, 2012, except as otherwise
5 expressly authorized by law, and consistent with options under
6 federal law and regulations:
7 ..... ~~$914,993,421~~
8 958,750,766
9 1. Iowans support reducing the number of abortions
10 performed in our state. For an abortion covered under the
11 program, except in the case of a medical emergency, as defined
12 in section 135L.1, for any woman, the physician shall certify
13 both of the following:
14 a. That the woman has been given the opportunity to view an
15 ultrasound image of the fetus as part of the standard of care
16 before an abortion is performed.
17 b. That the woman has been provided information regarding
18 the options relative to a pregnancy, including continuing the
19 pregnancy to term and retaining parental rights following the
20 child's birth, continuing the pregnancy to term and placing the
21 child for adoption, and terminating the pregnancy.
22 2. The department shall utilize not more than $60,000 of
23 the funds appropriated in this section to continue the AIDS/HIV
24 health insurance premium payment program as established in 1992
25 Iowa Acts, Second Extraordinary Session, chapter 1001, section
26 409, subsection 6. Of the funds allocated in this subsection,
27 not more than $5,000 may be expended for administrative
28 purposes.
29 3. Of the funds appropriated in this Act to the department
30 of public health for addictive disorders, $950,000 for the
31 fiscal year beginning July 1, 2012, shall be transferred to
32 the department of human services for an integrated substance
33 abuse managed care system. The department shall not assume
34 management of the substance abuse system in place of the
35 managed care contractor unless such a change in approach is

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1 specifically authorized in law. The departments of human
2 services and public health shall work together to maintain
3 the level of mental health and substance abuse services
4 provided by the managed care contractor through the Iowa plan
5 for behavioral health. Each department shall take the steps
6 necessary to continue the federal waivers as necessary to
7 maintain the level of services.
8 4. a. The department shall aggressively pursue options for
9 providing medical assistance or other assistance to individuals
10 with special needs who become ineligible to continue receiving
11 services under the early and periodic screening, diagnostic,
12 and treatment program under the medical assistance program
13 due to becoming 21 years of age who have been approved for
14 additional assistance through the department's exception to
15 policy provisions, but who have health care needs in excess
16 of the funding available through the exception to policy
17 provisions.
18 b. Of the funds appropriated in this section, $100,000
19 shall be used for participation in one or more pilot projects
20 operated by a private provider to allow the individual or
21 individuals to receive service in the community in accordance
22 with principles established in Olmstead v. L.C., 527 U.S. 581
23 (1999), for the purpose of providing medical assistance or
24 other assistance to individuals with special needs who become
25 ineligible to continue receiving services under the early and
26 periodic screening, diagnosis, and treatment program under
27 the medical assistance program due to becoming 21 years of
28 age who have been approved for additional assistance through
29 the department's exception to policy provisions, but who have
30 health care needs in excess of the funding available through
31 the exception to the policy provisions.
32 5. Of the funds appropriated in this section, up to
33 $3,050,082 may be transferred to the field operations
34 or general administration appropriations in this Act for
35 operational costs associated with Part D of the federal

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1 Medicare Prescription Drug Improvement and Modernization Act
2 of 2003, Pub. L. No. 108-173.
3 6. Of the funds appropriated in this section, up to $442,100
4 may be transferred to the appropriation in this division
5 of this Act for medical contracts to be used for clinical
6 assessment services and prior authorization of services.
7 7. A portion of the funds appropriated in this section
8 may be transferred to the appropriations in this division of
9 this Act for general administration, medical contracts, the
10 children's health insurance program, or field operations to be
11 used for the state match cost to comply with the payment error
12 rate measurement (PERM) program for both the medical assistance
13 and children's health insurance programs as developed by the
14 centers for Medicare and Medicaid services of the United States
15 department of health and human services to comply with the
16 federal Improper Payments Information Act of 2002, Pub. L. No.
17 107-300.
18 8. It is the intent of the general assembly that the
19 department continue to implement the recommendations of
20 the assuring better child health and development initiative
21 II (ABCDII) clinical panel to the Iowa early and periodic
22 screening, diagnostic, and treatment services healthy mental
23 development collaborative board regarding changes to billing
24 procedures, codes, and eligible service providers.
25 9. Of the funds appropriated in this section, a sufficient
26 amount is allocated to supplement the incomes of residents of
27 nursing facilities, intermediate care facilities for persons
28 with mental illness, and intermediate care facilities for
29 persons with mental retardation, with incomes of less than $50
30 in the amount necessary for the residents to receive a personal
31 needs allowance of $50 per month pursuant to section 249A.30A.
32 10. Of the funds appropriated in this section, the following
33 amounts shall be transferred to the appropriations made in this
34 division of this Act for the state mental health institutes:
35 a. Cherokee mental health institute ..... $ 9,098,425

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1 b. Clarinda mental health institute ..... $ 1,977,305
2 c. Independence mental health institute ..... $ 9,045,894
3 d. Mount Pleasant mental health institute .... $ 5,752,587
4 11. a. Of the funds appropriated in this section,
5 ~~$7,425,684~~ $7,678,245 is allocated for the state match for
6 a disproportionate share hospital payment of $19,133,430
7 to hospitals that meet both of the conditions specified
8 in subparagraphs (1) and (2). In addition, the hospitals
9 that meet the conditions specified shall either certify
10 public expenditures or transfer to the medical assistance
11 program an amount equal to provide the nonfederal share for a
12 disproportionate share hospital payment of $7,500,000. The
13 hospitals that meet the conditions specified shall receive and
14 retain 100 percent of the total disproportionate share hospital
15 payment of $26,633,430.
16 (1) The hospital qualifies for disproportionate share and
17 graduate medical education payments.
18 (2) The hospital is an Iowa state-owned hospital with more
19 than 500 beds and eight or more distinct residency specialty
20 or subspecialty programs recognized by the American college of
21 graduate medical education.
22 b. Distribution of the disproportionate share payments
23 shall be made on a monthly basis. The total amount of
24 disproportionate share payments including graduate medical
25 education, enhanced disproportionate share, and Iowa
26 state-owned teaching hospital payments shall not exceed the
27 amount of the state's allotment under Pub. L. No. 102-234.
28 In addition, the total amount of all disproportionate
29 share payments shall not exceed the hospital-specific
30 disproportionate share limits under Pub. L. No. 103-66.
31 12. The university of Iowa hospitals and clinics shall
32 either certify public expenditures or transfer to the medical
33 assistance appropriation an amount equal to provide the
34 nonfederal share for increased medical assistance payments for
35 inpatient and outpatient hospital services of $9,900,000. The

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1 university of Iowa hospitals and clinics shall receive and
2 retain 100 percent of the total increase in medical assistance
3 payments.
4 13. Of the funds appropriated in this section, up to
5 ~~$4,480,304~~ $8,684,329 may be transferred to the IowaCare
6 account created in section 249J.24.
7 14. Of the funds appropriated in this section, $200,000
8 shall be used for the Iowa chronic care consortium pursuant to
9 2003 Iowa Acts, chapter 112, section 12, as amended by 2003
10 Iowa Acts, chapter 179, sections 166 and 167.
11 15. One hundred percent of the nonfederal share of payments
12 to area education agencies that are medical assistance
13 providers for medical assistance-covered services provided to
14 medical assistance-covered children, shall be made from the
15 appropriation made in this section.
16 16. Any new or renewed contract entered into by the
17 department with a third party to administer behavioral health
18 services under the medical assistance program shall provide
19 that any interest earned on payments from the state during
20 the state fiscal year shall be remitted to the department
21 and treated as recoveries to offset the costs of the medical
22 assistance program.
23 17. The department shall continue to implement the
24 provisions in 2007 Iowa Acts, chapter 218, section 124 and
25 section 126, as amended by 2008 Iowa Acts, chapter 1188,
26 section 55, relating to eligibility for certain persons with
27 disabilities under the medical assistance program in accordance
28 with the federal Family Opportunity Act.
29 18. A portion of the funds appropriated in this section
30 may be transferred to the appropriation in this division of
31 this Act for medical contracts to be used for administrative
32 activities associated with the money follows the person
33 demonstration project.
34 19. Of the funds appropriated in this section, $349,011
35 shall be used for the administration of the health insurance

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1 premium payment program, including salaries, support,
2 maintenance, and miscellaneous purposes for the fiscal year
3 beginning July 1, 2012.
4 20. a. The department may continue to implement cost
5 containment strategies recommended by the governor~~, and~~ for
6 the fiscal year beginning July 1, 2011, and shall implement
7 new strategies for the fiscal year beginning July 1, 2012, as
8 specified in this division of this 2012 Act. The department
9 may adopt emergency rules for such implementation.
10 b. The department shall not implement the cost containment
11 strategy to require a primary care referral for the provision
12 of chiropractic services.
13 c. The department may increase the amounts allocated for
14 salaries, support, maintenance, and miscellaneous purposes
15 associated with the medical assistance program, as necessary,
16 to implement the cost containment strategies. The department
17 shall report any such increase to the legislative services
18 agency and the department of management.
19 d. If the savings to the medical assistance program for
20 the fiscal year beginning July 1, 2012, exceed the cost, the
21 department may transfer any savings generated for the fiscal
22 year due to medical assistance program cost containment efforts
23 initiated pursuant to 2010 Iowa Acts, chapter 1031, Executive
24 Order No. 20, issued December 16, 2009, or cost containment
25 strategies initiated pursuant to this subsection, to the
26 appropriation made in this division of this Act for medical
27 contracts or general administration to defray the increased
28 contract costs associated with implementing such efforts.
29 e. The department shall report the implementation of
30 any cost containment strategies under this subsection to
31 the individuals specified in this division of this Act for
32 submission of reports on a quarterly basis.
33 21. Notwithstanding any provision of law to the contrary,
34 the department of human services shall continue implementation
35 of the amended section 1915(b) waiver and Iowa plan contract

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1 for inclusion of remedial services under the Iowa plan contract
2 for the fiscal year beginning July 1, 2012.
3 22. a. Of the funds appropriated in this section,
4 $5,000,000 shall be used to continue the reduction in
5 the waiting lists of these medical assistance home and
6 community-based services waivers implemented pursuant to this
7 Act for 2011-2012: the waiver for persons with intellectual
8 disabilities, the waiver for persons with brain injury, and the
9 children's mental health waiver.
10 b. In addition to the funds allocated in paragraph "a",
11 $5,000,000 of the funds appropriated in this section shall
12 be used to implement reductions in the waiting lists of all
13 medical assistance home and community-based services waivers.
14 Sec. 21. 2011 Iowa Acts, chapter 129, section 122, is
15 amended by adding the following new subsections:
16 NEW SUBSECTION. 23. The department shall align
17 reimbursement for prescription drugs administered by a
18 physician to be equivalent to the reimbursement for the same
19 prescription drug when dispensed by a pharmacy.
20 NEW SUBSECTION. 24. The department shall implement a
21 hospital inpatient reimbursement policy to provide for the
22 combining of an original claim for an inpatient stay with a
23 claim for a subsequent inpatient stay when the patient is
24 admitted within seven days of discharge from the original
25 hospital stay for the same condition.
26 NEW SUBSECTION. 25. The department shall implement a
27 policy to ensure that reimbursement for Medicare Part A and
28 Medicare Part B crossover claims is limited to the Medicaid
29 reimbursement rate.
30 NEW SUBSECTION. 26. The department shall transition
31 payment for and administration of services provided by
32 psychiatric medical institutions for children to the Iowa plan.
33 Sec. 22. 2011 Iowa Acts, chapter 129, section 123, is
34 amended to read as follows:
35 SEC. 123. MEDICAL CONTRACTS. There is appropriated from the

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1 general fund of the state to the department of human services
2 for the fiscal year beginning July 1, 2012, and ending June 30,
3 2013, the following amount, or so much thereof as is necessary,
4 to be used for the purpose designated:
5 For medical contracts:
6 ..... $ ~~5,453,728~~
7 8,460,680
8 1. The department of inspections and appeals shall
9 provide all state matching funds for survey and certification
10 activities performed by the department of inspections
11 and appeals. The department of human services is solely
12 responsible for distributing the federal matching funds for
13 such activities.
14 2. Of the funds appropriated in this section, ~~$25,000~~
15 $50,000 shall be used for continuation of home and
16 community-based services waiver quality assurance programs,
17 including the review and streamlining of processes and policies
18 related to oversight and quality management to meet state and
19 federal requirements.
20 3. Of the amount appropriated in this section, up to
21 $200,000 may be transferred to the appropriation for general
22 administration in this division of this Act to be used for
23 additional full-time equivalent positions in the development of
24 key health initiatives such as cost containment, development
25 and oversight of managed care programs, and development of
26 health strategies targeted toward improved quality and reduced
27 costs in the Medicaid program.
28 Sec. 23. 2011 Iowa Acts, chapter 129, section 124, is
29 amended to read as follows:
30 SEC. 124. STATE SUPPLEMENTARY ASSISTANCE.
31 1. There is appropriated from the general fund of the
32 state to the department of human services for the fiscal year
33 beginning July 1, 2012, and ending June 30, 2013, the following
34 amount, or so much thereof as is necessary, to be used for the
35 purpose designated:

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1 For the state supplementary assistance program:
2 ..... $ ~~8,425,373~~
3 16,850,747
4 2. The department shall increase the personal needs
5 allowance for residents of residential care facilities by the
6 same percentage and at the same time as federal supplemental
7 security income and federal social security benefits are
8 increased due to a recognized increase in the cost of living.
9 The department may adopt emergency rules to implement this
10 subsection.
11 3. If during the fiscal year beginning July 1, 2012,
12 the department projects that state supplementary assistance
13 expenditures for a calendar year will not meet the federal
14 pass-through requirement specified in Tit. XVI of the federal
15 Social Security Act, section 1618, as codified in 42 U.S.C.
16 § 1382g, the department may take actions including but not
17 limited to increasing the personal needs allowance for
18 residential care facility residents and making programmatic
19 adjustments or upward adjustments of the residential care
20 facility or in-home health-related care reimbursement rates
21 prescribed in this division of this Act to ensure that federal
22 requirements are met. In addition, the department may make
23 other programmatic and rate adjustments necessary to remain
24 within the amount appropriated in this section while ensuring
25 compliance with federal requirements. The department may adopt
26 emergency rules to implement the provisions of this subsection.
27 Sec. 24. 2011 Iowa Acts, chapter 129, section 125, is
28 amended to read as follows:
29 SEC. 125. CHILDREN'S HEALTH INSURANCE PROGRAM.
30 1. There is appropriated from the general fund of the
31 state to the department of human services for the fiscal year
32 beginning July 1, 2012, and ending June 30, 2013, the following
33 amount, or so much thereof as is necessary, to be used for the
34 purpose designated:
35 For maintenance of the healthy and well kids in Iowa (hawk-i)

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1 program pursuant to chapter 514I, including supplemental dental
2 services, for receipt of federal financial participation under
3 Tit. XXI of the federal Social Security Act, which creates the
4 children's health insurance program:
5 ..... $ ~~16,403,051~~
6 40,400,160
7 2. Of the funds appropriated in this section, ~~$64,475~~
8 $141,450 is allocated for continuation of the contract for
9 outreach with the department of public health.
10 3. Notwithstanding section 514I.11, subsection 2, moneys
11 appropriated in this section that remain unencumbered or
12 unobligated at the close of the fiscal year shall revert to the
13 general fund of the state.
14 Sec. 25. 2011 Iowa Acts, chapter 129, section 126, is
15 amended to read as follows:
16 SEC. 126. CHILD CARE ASSISTANCE. There is appropriated
17 from the general fund of the state to the department of human
18 services for the fiscal year beginning July 1, 2012, and ending
19 June 30, 2013, the following amount, or so much thereof as is
20 necessary, to be used for the purpose designated:
21 For child care programs:
22 ..... $ ~~26,618,831~~
23 53,237,662
24 1. Of the funds appropriated in this section, ~~$25,948,041~~
25 $51,868,235 shall be used for state child care assistance in
26 accordance with section 237A.13.
27 2. Nothing in this section shall be construed or is
28 intended as or shall imply a grant of entitlement for services
29 to persons who are eligible for assistance due to an income
30 level consistent with the waiting list requirements of section
31 237A.13. Any state obligation to provide services pursuant to
32 this section is limited to the extent of the funds appropriated
33 in this section.
34 3. Of the funds appropriated in this section, ~~$216,226~~
35 $432,453 is allocated for the statewide program for child care

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1 resource and referral services under section 237A.26. A list
2 of the registered and licensed child care facilities operating
3 in the area served by a child care resource and referral
4 service shall be made available to the families receiving state
5 child care assistance in that area.
6 4. Of the funds appropriated in this section, ~~$468,487~~
7 $936,974 is allocated for child care quality improvement
8 initiatives including but not limited to the voluntary quality
9 rating system in accordance with section 237A.30.
10 5. The department may use any of the funds appropriated
11 in this section as a match to obtain federal funds for use in
12 expanding child care assistance and related programs. For
13 the purpose of expenditures of state and federal child care
14 funding, funds shall be considered obligated at the time
15 expenditures are projected or are allocated to the department's
16 service areas. Projections shall be based on current and
17 projected caseload growth, current and projected provider
18 rates, staffing requirements for eligibility determination
19 and management of program requirements including data systems
20 management, staffing requirements for administration of the
21 program, contractual and grant obligations and any transfers
22 to other state agencies, and obligations for decategorization
23 or innovation projects.
24 6. A portion of the state match for the federal child care
25 and development block grant shall be provided as necessary to
26 meet federal matching funds requirements through the state
27 general fund appropriation made for child development grants
28 and other programs for at-risk children in section 279.51.
29 7. If a uniform reduction ordered by the governor under
30 section 8.31 or other operation of law, transfer, or federal
31 funding reduction reduces the appropriation made in this
32 section for the fiscal year, the percentage reduction in the
33 amount paid out to or on behalf of the families participating
34 in the state child care assistance program shall be equal to or
35 less than ~~the percentage reduction made for any other purpose~~

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1 ~~payable from the appropriation made in this section and the~~
2 ~~federal funding relating to it. The percentage reduction to~~
3 ~~the other allocations made in this section shall be the same as~~
4 the uniform reduction ordered by the governor or the percentage
5 change of the federal funding reduction, as applicable.
6 If there is an unanticipated increase in federal funding
7 provided for state child care assistance, the entire amount
8 of the increase shall be used for state child care assistance
9 payments. If the appropriations made for purposes of the
10 state child care assistance program for the fiscal year are
11 determined to be insufficient, it is the intent of the general
12 assembly to appropriate sufficient funding for the fiscal year
13 in order to avoid establishment of waiting list requirements.
14 8. Notwithstanding section 8.33, moneys ~~appropriated~~
15 ~~in this section or~~ advanced for purposes of the programs
16 developed by early childhood Iowa areas, advanced for purposes
17 of wraparound child care, or received from the federal
18 appropriations made for the purposes of this section that
19 remain unencumbered or unobligated at the close of the fiscal
20 year shall not revert to any fund but shall remain available
21 for expenditure for the purposes designated until the close of
22 the succeeding fiscal year.
23 Sec. 26. 2011 Iowa Acts, chapter 129, section 127, is
24 amended to read as follows:
25 SEC. 127. JUVENILE INSTITUTIONS. There is appropriated
26 from the general fund of the state to the department of human
27 services for the fiscal year beginning July 1, 2012, and ending
28 June 30, 2013, the following amounts, or so much thereof as is
29 necessary, to be used for the purposes designated:
30 1. For operation of the Iowa juvenile home at Toledo and for
31 salaries, support, maintenance, and miscellaneous purposes, and
32 for not more than the following full-time equivalent positions:
33 ..... $ ~~4,129,125~~
34 8,328,264
35 ..... FTEs 114.00

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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~~
10,740,988

..... FTEs 164.30

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.

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. 27. 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~~
79,941,095

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

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1 division of this Act for child and family services shall be
2 made available for purposes of juvenile delinquent graduated
3 sanction services.
4 3. The department may transfer funds appropriated in this
5 section as necessary to pay the nonfederal costs of services
6 reimbursed under the medical assistance program, state child
7 care assistance program, or the family investment program which
8 are provided to children who would otherwise receive services
9 paid under the appropriation in this section. The department
10 may transfer funds appropriated in this section to the
11 appropriations made in this division of this Act for general
12 administration and for field operations for resources necessary
13 to implement and operate the services funded in this section.
14 4. a. Of the funds appropriated in this section, up
15 to ~~$15,084,564~~ $30,235,574 is allocated as the statewide
16 expenditure target under section 232.143 for group foster care
17 maintenance and services. If the department projects that such
18 expenditures for the fiscal year will be less than the target
19 amount allocated in this lettered paragraph, the department may
20 reallocate the excess to provide additional funding for shelter
21 care or the child welfare emergency services addressed with the
22 allocation for shelter care.
23 b. If at any time after September 30, 2012, annualization
24 of a service area's current expenditures indicates a service
25 area is at risk of exceeding its group foster care expenditure
26 target under section 232.143 by more than 5 percent, the
27 department and juvenile court services shall examine all
28 group foster care placements in that service area in order to
29 identify those which might be appropriate for termination.
30 In addition, any aftercare services believed to be needed
31 for the children whose placements may be terminated shall be
32 identified. The department and juvenile court services shall
33 initiate action to set dispositional review hearings for the
34 placements identified. In such a dispositional review hearing,
35 the juvenile court shall determine whether needed aftercare

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1 services are available and whether termination of the placement
2 is in the best interest of the child and the community.
3 5. In accordance with the provisions of section 232.188,
4 the department shall continue the child welfare and juvenile
5 justice funding initiative during fiscal year 2012-2013. Of
6 the funds appropriated in this section, ~~$858,876~~ $1,717,753
7 is allocated specifically for expenditure for fiscal year
8 2012-2013 through the decategorization service funding pools
9 and governance boards established pursuant to section 232.188.
10 6. A portion of the funds appropriated in this section
11 may be used for emergency family assistance to provide other
12 resources required for a family participating in a family
13 preservation or reunification project or successor project to
14 stay together or to be reunified.
15 7. Notwithstanding section 234.35 or any other provision
16 of law to the contrary, state funding for shelter care and
17 the child welfare emergency services contracting implemented
18 to provide for or prevent the need for shelter care shall be
19 limited to ~~$3,585,058~~ $7,556,372. The department may continue
20 or execute contracts that result from the department's request
21 for proposal, bid number ACFS-11-114, to provide the range of
22 child welfare emergency services described in the request for
23 proposals, and any subsequent amendments to the request for
24 proposals.
25 8. Federal funds received by the state during the fiscal
26 year beginning July 1, 2012, as the result of the expenditure
27 of state funds appropriated during a previous state fiscal
28 year for a service or activity funded under this section are
29 appropriated to the department to be used as additional funding
30 for services and purposes provided for under this section.
31 Notwithstanding section 8.33, moneys received in accordance
32 with this subsection that remain unencumbered or unobligated at
33 the close of the fiscal year shall not revert to any fund but
34 shall remain available for the purposes designated until the
35 close of the succeeding fiscal year.

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1 ~~9. Of the funds appropriated in this section, at least~~
2 ~~$1,848,142 shall be used for protective child care assistance.~~
3 10. a. Of the funds appropriated in this section, up to
4 ~~$1,031,244~~ $2,062,488 is allocated for the payment of the
5 expenses of court-ordered services provided to juveniles who
6 are under the supervision of juvenile court services, which
7 expenses are a charge upon the state pursuant to section
8 232.141, subsection 4. Of the amount allocated in this
9 lettered paragraph, up to ~~$778,143~~ $1,556,287 shall be made
10 available to provide school-based supervision of children
11 adjudicated under chapter 232, of which not more than ~~$7,500~~
12 $15,000 may be used for the purpose of training. A portion of
13 the cost of each school-based liaison officer shall be paid by
14 the school district or other funding source as approved by the
15 chief juvenile court officer.
16 b. Of the funds appropriated in this section, up to ~~$374,492~~
17 $748,985 is allocated for the payment of the expenses of
18 court-ordered services provided to children who are under the
19 supervision of the department, which expenses are a charge upon
20 the state pursuant to section 232.141, subsection 4.
21 c. Notwithstanding section 232.141 or any other provision
22 of law to the contrary, the amounts allocated in this
23 subsection shall be distributed to the judicial districts
24 as determined by the state court administrator and to the
25 department's service areas as determined by the administrator
26 of the department's division of child and family services. The
27 state court administrator and the division administrator shall
28 make the determination of the distribution amounts on or before
29 June 15, 2012.
30 d. Notwithstanding chapter 232 or any other provision of
31 law to the contrary, a district or juvenile court shall not
32 order any service which is a charge upon the state pursuant
33 to section 232.141 if there are insufficient court-ordered
34 services funds available in the district court or departmental
35 service area distribution amounts to pay for the service. The

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1 chief juvenile court officer and the departmental service area
2 manager shall encourage use of the funds allocated in this
3 subsection such that there are sufficient funds to pay for
4 all court-related services during the entire year. The chief
5 juvenile court officers and departmental service area managers
6 shall attempt to anticipate potential surpluses and shortfalls
7 in the distribution amounts and shall cooperatively request the
8 state court administrator or division administrator to transfer
9 funds between the judicial districts' or departmental service
10 areas' distribution amounts as prudent.
11 e. Notwithstanding any provision of law to the contrary,
12 a district or juvenile court shall not order a county to pay
13 for any service provided to a juvenile pursuant to an order
14 entered under chapter 232 which is a charge upon the state
15 under section 232.141, subsection 4.
16 f. Of the funds allocated in this subsection, not more
17 than ~~$41,500~~ $83,000 may be used by the judicial branch for
18 administration of the requirements under this subsection.
19 g. Of the funds allocated in this subsection, ~~$8,500~~ $17,000
20 shall be used by the department of human services to support
21 the interstate commission for juveniles in accordance with
22 the interstate compact for juveniles as provided in section
23 232.173.
24 11. Of the funds appropriated in this section, ~~$2,961,301~~
25 $5,922,602 is allocated for juvenile delinquent graduated
26 sanctions services. Any state funds saved as a result of
27 efforts by juvenile court services to earn federal Tit. IV-E
28 match for juvenile court services administration may be used
29 for the juvenile delinquent graduated sanctions services.
30 12. Of the funds appropriated in this section, ~~$494,142~~
31 $988,285 shall be transferred to the department of public
32 health to be used for the child protection center grant program
33 in accordance with section 135.118.
34 13. If the department receives federal approval to
35 implement a waiver under Tit. IV-E of the federal Social

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1 Security Act to enable providers to serve children who remain
2 in the children's families and communities, for purposes of
3 eligibility under the medical assistance program, children who
4 participate in the waiver shall be considered to be placed in
5 foster care.
6 14. Of the funds appropriated in this section, ~~$1,534,916~~
7 $3,092,375 is allocated for the preparation for adult living
8 program pursuant to section 234.46.
9 15. Of the funds appropriated in this section, ~~$260,075~~
10 $520,150 shall be used for juvenile drug courts. The amount
11 allocated in this subsection shall be distributed as follows:
12 To the judicial branch for salaries to assist with the
13 operation of juvenile drug court programs operated in the
14 following jurisdictions:
15 a. Marshall county:
16 ..... $ ~~31,354~~
17 62,708
18 b. Woodbury county:
19 ..... $ ~~62,841~~
20 125,682
21 c. Polk county:
22 ..... $ ~~97,946~~
23 195,892
24 d. The third judicial district:
25 ..... $ ~~33,967~~
26 67,934
27 e. The eighth judicial district:
28 ..... $ ~~33,967~~
29 67,934
30 16. Of the funds appropriated in this section, ~~$113,668~~
31 $227,337 shall be used for the public purpose of providing a
32 grant to a nonprofit human services organization providing
33 services to individuals and families in multiple locations in
34 southwest Iowa and Nebraska for support of a project providing
35 immediate, sensitive support and forensic interviews, medical

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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~~ $125,590 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~~ $1,200,495 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

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1 with autism spectrum disorder and their families.
2 24. Of the funds appropriated in this section ~~$125,000~~
3 $250,000 shall be used for continuation of the central Iowa
4 system of care program grant through June 30, 2013.
5 25. Of the funds appropriated in this section, ~~$80,000~~
6 $160,000 shall be used for the public purpose of the
7 continuation of a system of care grant implemented in Cerro
8 Gordo and Linn counties in accordance with this Act in FY
9 2011-2012.
10 Sec. 28. 2011 Iowa Acts, chapter 129, is amended by adding
11 the following new section:
12 NEW SECTION. SEC. 128A. CHILDREN AND YOUTH PROGRAMS. There
13 is appropriated from the general fund of the state to the
14 department of human services for the fiscal year beginning July
15 1, 2011, and ending June 30, 2012, the following amounts, or
16 so much thereof as is necessary, to be used for the purposes
17 designated:
18 1. For the community circle of care collaboration for
19 children and youth in northeast Iowa, formerly known as the
20 federal substance abuse and mental health administration
21 (SAMHSA) system of care grant:
22 ..... $ 236,100
23 2. For the central Iowa system of care program grant for
24 children and youth:
25 ..... $ 77,947
26 Sec. 29. 2011 Iowa Acts, chapter 129, section 129, is
27 amended to read as follows:
28 SEC. 129. ADOPTION SUBSIDY.
29 1. There is appropriated from the general fund of the
30 state to the department of human services for the fiscal year
31 beginning July 1, 2012, and ending June 30, 2013, the following
32 amount, or so much thereof as is necessary, to be used for the
33 purpose designated:
34 For adoption subsidy payments and services:
35 ..... $ ~~16,633,295~~

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1 31,526,402
2 2. The department may transfer funds appropriated in
3 this section to the appropriation made in this division of
4 this Act for general administration for costs paid from the
5 appropriation relating to adoption subsidy.
6 3. Federal funds received by the state during the
7 fiscal year beginning July 1, 2012, as the result of the
8 expenditure of state funds during a previous state fiscal
9 year for a service or activity funded under this section are
10 appropriated to the department to be used as additional funding
11 for the services and activities funded under this section.
12 Notwithstanding section 8.33, moneys received in accordance
13 with this subsection that remain unencumbered or unobligated
14 at the close of the fiscal year shall not revert to any fund
15 but shall remain available for expenditure for the purposes
16 designated until the close of the succeeding fiscal year.
17 Sec. 30. 2011 Iowa Acts, chapter 129, section 130, is
18 amended to read as follows:
19 SEC. 130. JUVENILE DETENTION HOME FUND. Moneys deposited
20 in the juvenile detention home fund created in section 232.142
21 during the fiscal year beginning July 1, 2012, and ending June
22 30, 2013, are appropriated to the department of human services
23 for the fiscal year beginning July 1, 2012, and ending June 30,
24 2013, for distribution of an amount equal to a percentage of
25 the costs of the establishment, improvement, operation, and
26 maintenance of county or multicounty juvenile detention homes
27 in the fiscal year beginning July 1, 2011. Moneys appropriated
28 for distribution in accordance with this section shall be
29 allocated among eligible detention homes, prorated on the basis
30 of an eligible detention home's proportion of the costs of all
31 eligible detention homes in the fiscal year beginning July
32 1, 2011. The percentage figure shall be determined by the
33 department based on the amount available for distribution for
34 the fund. Notwithstanding section 232.142, subsection 3, Code
35 Supplement 2011, the financial aid payable by the state under

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1 that provision for the fiscal year beginning July 1, 2012,
2 shall be limited to the amount appropriated for the purposes of
3 this section.
4 Sec. 31. 2011 Iowa Acts, chapter 129, section 131, is
5 amended to read as follows:
6 SEC. 131. FAMILY SUPPORT SUBSIDY PROGRAM.
7 1. There is appropriated from the general fund of the
8 state to the department of human services for the fiscal year
9 beginning July 1, 2012, and ending June 30, 2013, the following
10 amount, or so much thereof as is necessary, to be used for the
11 purpose designated:
12 For the family support subsidy program subject to the
13 enrollment restrictions in section 225C.37, subsection 3:
14 ..... $ ~~583,999~~
15 1,096,784
16 2. The department shall use at least ~~$192,750~~ $385,500
17 of the moneys appropriated in this section for the family
18 support center component of the comprehensive family support
19 program under section 225C.47. Not more than ~~$12,500~~ $25,000
20 of the amount allocated in this subsection shall be used for
21 administrative costs.
22 3. If at any time during the fiscal year, the amount of
23 funding available for the family support subsidy program
24 is reduced from the amount initially used to establish the
25 figure for the number of family members for whom a subsidy
26 is to be provided at any one time during the fiscal year,
27 notwithstanding section 225C.38, subsection 2, the department
28 shall revise the figure as necessary to conform to the amount
29 of funding available.
30 Sec. 32. 2011 Iowa Acts, chapter 129, section 132, is
31 amended to read as follows:
32 SEC. 132. CONNER DECREE. There is appropriated from the
33 general fund of the state to the department of human services
34 for the fiscal year beginning July 1, 2012, and ending June 30,
35 2013, the following amount, or so much thereof as is necessary,

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1 to be used for the purpose designated:
2 For building community capacity through the coordination
3 and provision of training opportunities in accordance with the
4 consent decree of Conner v. Branstad, No. 4-86-CV-30871(S.D.
5 Iowa, July 14, 1994):
6 ..... $ ~~16,811~~
7 33,622
8 Sec. 33. 2011 Iowa Acts, chapter 129, section 133, is
9 amended to read as follows:
10 SEC. 133. MENTAL HEALTH INSTITUTES. There is appropriated
11 from the general fund of the state to the department of human
12 services for the fiscal year beginning July 1, 2012, and ending
13 June 30, 2013, the following amounts, or so much thereof as is
14 necessary, to be used for the purposes designated:
15 1. For the state mental health institute at Cherokee for
16 salaries, support, maintenance, and miscellaneous purposes, and
17 for not more than the following full-time equivalent positions:
18 ..... $ ~~2,938,654~~
19 5,641,037
20 ..... FTEs 168.50
21 2. For the state mental health institute at Clarinda for
22 salaries, support, maintenance, and miscellaneous purposes, and
23 for not more than the following full-time equivalent positions:
24 ..... $ ~~3,205,867~~
25 6,463,337
26 ..... FTEs 86.10
27 3. For the state mental health institute at Independence for
28 salaries, support, maintenance, and miscellaneous purposes, and
29 for not more than the following full-time equivalent positions:
30 ..... $ ~~5,137,842~~
31 9,804,212
32 ..... FTEs 233.00
33 4. For the state mental health institute at Mount Pleasant
34 for salaries, support, maintenance, and miscellaneous purposes,
35 and for not more than the following full-time equivalent

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1 positions:
2 ..... $ ~~472,161~~
3 944,323
4 ..... FTEs 97.72
5 Sec. 34. 2011 Iowa Acts, chapter 129, section 134, is
6 amended to read as follows:
7 SEC. 134. STATE RESOURCE CENTERS.
8 1. There is appropriated from the general fund of the
9 state to the department of human services for the fiscal year
10 beginning July 1, 2012, and ending June 30, 2013, the following
11 amounts, or so much thereof as is necessary, to be used for the
12 purposes designated:
13 a. For the state resource center at Glenwood for salaries,
14 support, maintenance, and miscellaneous purposes:
15 ..... $ ~~9,253,900~~
16 19,092,576
17 b. For the state resource center at Woodward for salaries,
18 support, maintenance, and miscellaneous purposes:
19 ..... $ ~~6,392,829~~
20 13,176,093
21 2. The department may continue to bill for state resource
22 center services utilizing a scope of services approach used for
23 private providers of ICFMR services, in a manner which does not
24 shift costs between the medical assistance program, counties,
25 or other sources of funding for the state resource centers.
26 3. The state resource centers may expand the time-limited
27 assessment and respite services during the fiscal year.
28 4. If the department's administration and the department
29 of management concur with a finding by a state resource
30 center's superintendent that projected revenues can reasonably
31 be expected to pay the salary and support costs for a new
32 employee position, or that such costs for adding a particular
33 number of new positions for the fiscal year would be less
34 than the overtime costs if new positions would not be added,
35 the superintendent may add the new position or positions. If

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1 the vacant positions available to a resource center do not
2 include the position classification desired to be filled, the
3 state resource center's superintendent may reclassify any
4 vacant position as necessary to fill the desired position. The
5 superintendents of the state resource centers may, by mutual
6 agreement, pool vacant positions and position classifications
7 during the course of the fiscal year in order to assist one
8 another in filling necessary positions.
9 5. If existing capacity limitations are reached in
10 operating units, a waiting list is in effect for a service or
11 a special need for which a payment source or other funding
12 is available for the service or to address the special need,
13 and facilities for the service or to address the special need
14 can be provided within the available payment source or other
15 funding, the superintendent of a state resource center may
16 authorize opening not more than two units or other facilities
17 and begin implementing the service or addressing the special
18 need during fiscal year 2012-2013.
19 Sec. 35. 2011 Iowa Acts, chapter 129, section 137, is
20 amended to read as follows:
21 SEC. 137. SEXUALLY VIOLENT PREDATORS.
22 1. There is appropriated from the general fund of the
23 state to the department of human services for the fiscal year
24 beginning July 1, 2012, and ending June 30, 2013, the following
25 amount, or so much thereof as is necessary, to be used for the
26 purpose designated:
27 For costs associated with the commitment and treatment of
28 sexually violent predators in the unit located at the state
29 mental health institute at Cherokee, including costs of legal
30 services and other associated costs, including salaries,
31 support, maintenance, and miscellaneous purposes, and for not
32 more than the following full-time equivalent positions:
33 ..... $ ~~3,775,363~~
34 8,413,668
35 ..... FTEs ~~89.50~~

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1 95.90
2 2. Unless specifically prohibited by law, if the amount
3 charged provides for recoupment of at least the entire amount
4 of direct and indirect costs, the department of human services
5 may contract with other states to provide care and treatment
6 of persons placed by the other states at the unit for sexually
7 violent predators at Cherokee. The moneys received under
8 such a contract shall be considered to be repayment receipts
9 and used for the purposes of the appropriation made in this
10 section.
11 FIELD OPERATIONS
12 Sec. 36. 2011 Iowa Acts, chapter 129, section 138,
13 unnumbered paragraphs 1 through 3, are amended to read as
14 follows:
15 There is appropriated from the general fund of the state to
16 the department of human services for the fiscal year beginning
17 July 1, 2012, and ending June 30, 2013, the following amount,
18 or so much thereof as is necessary, to be used for the purposes
19 designated:
20 For field operations, including salaries, support,
21 maintenance, and miscellaneous purposes, and for not more than
22 the following full-time equivalent positions:
23 ..... $ ~~27,394,960~~
24 62,315,440
25 ..... FTEs 1,781.00
26 Priority in filling full-time equivalent positions shall be
27 given to those positions related to child protection services
28 and eligibility determination for low-income families.
29 GENERAL ADMINISTRATION APPROPRIATION
30 Sec. 37. 2011 Iowa Acts, chapter 129, section 139,
31 unnumbered paragraphs 1 and 2, are amended to read as follows:
32 There is appropriated from the general fund of the state to
33 the department of human services for the fiscal year beginning
34 July 1, 2012, and ending June 30, 2013, the following amount,
35 or so much thereof as is necessary, to be used for the purpose

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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~~
15,621,842
..... FTEs ~~285.00~~
295.00

GENERAL ADMINISTRATION REQUIREMENTS

Sec. 38. 2011 Iowa Acts, chapter 129, section 139, subsections 1 through 5, are amended to read as follows:

1. Of the funds appropriated in this section, ~~$19,271~~ $38,542 is allocated for the prevention of disabilities policy council established in section 225B.3.

2. The department shall report at least monthly to the legislative services agency concerning the department's operational and program expenditures.

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 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~~ $500,000 shall be used for continuation of child protection system improvements addressed in 2011 Iowa Acts, ~~House File 562, as enacted~~ chapter 28.

Sec. 39. 2011 Iowa Acts, chapter 129, section 140, is amended to read as follows:

SEC. 140. VOLUNTEERS. There is appropriated from the

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1 general fund of the state to the department of human services
2 for the fiscal year beginning July 1, 2012, and ending June 30,
3 2013, the following amount, or so much thereof as is necessary,
4 to be used for the purpose designated:
5 For development and coordination of volunteer services:
6 ..... $ ~~42,330~~
7 84,660
8 Sec. 40. 2011 Iowa Acts, chapter 129, section 141, is
9 amended to read as follows:
10 SEC. 141. MEDICAL ASSISTANCE, STATE SUPPLEMENTARY
11 ASSISTANCE, AND SOCIAL SERVICE PROVIDERS REIMBURSED UNDER THE
12 DEPARTMENT OF HUMAN SERVICES.
13 1. a. (1) For the fiscal year beginning July 1, 2012,
14 the total state funding amount for the nursing facility budget
15 shall not exceed ~~$225,457,724~~ $237,226,901.
16 (2) The department, in cooperation with nursing facility
17 representatives, shall review projections for state funding
18 expenditures for reimbursement of nursing facilities on a
19 quarterly basis and the department shall determine if an
20 adjustment to the medical assistance reimbursement rate is
21 necessary in order to provide reimbursement within the state
22 funding amount for the fiscal year. Notwithstanding 2001
23 Iowa Acts, chapter 192, section 4, subsection 2, paragraph
24 "c", and subsection 3, paragraph "a", subparagraph (2),
25 if the state funding expenditures for the nursing facility
26 budget for the fiscal year is projected to exceed the amount
27 specified in subparagraph (1), the department shall adjust
28 the reimbursement for nursing facilities reimbursed under the
29 case-mix reimbursement system to maintain expenditures of the
30 nursing facility budget within the specified amount for the
31 fiscal year.
32 (3) For the fiscal year beginning July 1, 2012, special
33 population nursing facilities shall be reimbursed in accordance
34 with the methodology in effect on June 30, 2012.
35 b. (1) For the fiscal year beginning July 1, 2012, the

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1 department shall reimburse pharmacy dispensing fees using a
2 single rate of ~~$4.34~~ $10.00 per prescription or the pharmacy's
3 usual and customary fee, whichever is lower. ~~However,~~
4 ~~the department shall adjust the dispensing fee specified~~
5 ~~in this paragraph to distribute an additional $2,981,980~~
6 ~~in reimbursements for pharmacy dispensing fees under this~~
7 ~~paragraph for the fiscal year.~~
8 (2) The department shall implement an average acquisition
9 cost reimbursement methodology for all drugs covered under the
10 medical assistance program. The methodology shall utilize a
11 survey of pharmacy invoices in determining the reimbursement.
12 Pharmacies and providers that are enrolled in the medical
13 assistance program shall make available drug acquisition cost
14 information, product availability information, and other
15 information deemed necessary by the department to assist the
16 department in monitoring and revising reimbursement rates and
17 for efficient operation of the pharmacy benefit.
18 (a) A pharmacy or provider shall produce and submit the
19 requested information in the manner and format requested by the
20 department or its designee at no cost to the department or its
21 designee.
22 (b) A pharmacy or provider shall submit information to the
23 department or its designee within the time frame indicated
24 following receipt of a request for information unless the
25 department or its designee grants an extension upon written
26 request of the pharmacy or provider.
27 c. (1) For the fiscal year beginning July 1, 2012,
28 reimbursement rates for outpatient hospital services shall
29 remain at the rates in effect on June 30, 2012.
30 (2) For the fiscal year beginning July 1, 2012,
31 reimbursement rates for inpatient hospital services shall
32 remain at the rates in effect on June 30, 2012.
33 (3) For the fiscal year beginning July 1, 2012, the graduate
34 medical education and disproportionate share hospital fund
35 shall remain at the amount in effect on June 30, 2012, except

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1 that the portion of the fund attributable to graduate medical
2 education shall be reduced in an amount that reflects the
3 elimination of graduate medical education payments made to
4 out-of-state hospitals.
5 (4) In order to ensure the efficient use of limited state
6 funds in procuring health care services for low-income Iowans,
7 funds appropriated in this Act for hospital services shall
8 not be used for activities which would be excluded from a
9 determination of reasonable costs under the federal Medicare
10 program pursuant to 42 U.S.C. § 1395X(v)(1)(N).
11 d. For the fiscal year beginning July 1, 2012, reimbursement
12 rates for rural health clinics, hospices, and acute mental
13 hospitals shall be increased in accordance with increases under
14 the federal Medicare program or as supported by their Medicare
15 audited costs.
16 e. For the fiscal year beginning July 1, 2012, independent
17 laboratories and rehabilitation agencies shall be reimbursed
18 using the same methodology in effect on June 30, 2012.
19 f. For the fiscal year beginning July 1, 2012, reimbursement
20 rates for home health agencies shall remain at the rates in
21 effect on June 30, 2012, not to exceed a home health agency's
22 actual allowable cost.
23 g. For the fiscal year beginning July 1, 2012, federally
24 qualified health centers shall receive cost-based reimbursement
25 for 100 percent of the reasonable costs for the provision of
26 services to recipients of medical assistance.
27 h. For the fiscal year beginning July 1, 2012, the
28 reimbursement rates for dental services shall remain at the
29 rates in effect on June 30, 2012.
30 i. (1) For the fiscal year beginning July 1, 2012,
31 state-owned psychiatric medical institutions for children shall
32 receive cost-based reimbursement for 100 percent of the actual
33 and allowable costs for the provision of services to recipients
34 of medical assistance.
35 (2) For the nonstate-owned psychiatric medical institutions

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1 for children, reimbursement rates shall be based on the
2 reimbursement methodology developed by the department as
3 required for federal compliance.
4 (3) As a condition of participation in the medical
5 assistance program, enrolled providers shall accept the medical
6 assistance reimbursement rate for any covered goods or services
7 provided to recipients of medical assistance who are children
8 under the custody of a psychiatric medical institution for
9 children.
10 j. For the fiscal year beginning July 1, 2012, unless
11 otherwise specified in this Act, all noninstitutional medical
12 assistance provider reimbursement rates shall remain at the
13 rates in effect on June 30, 2012, except for area education
14 agencies, local education agencies, infant and toddler services
15 providers, and those providers whose rates are required to be
16 determined pursuant to section 249A.20.
17 k. Notwithstanding any provision to the contrary, for the
18 fiscal year beginning July 1, 2012, the reimbursement rate for
19 anesthesiologists shall remain at the rate in effect on June
20 30, 2012.
21 l. Notwithstanding section 249A.20, for the fiscal year
22 beginning July 1, 2012, the average reimbursement rate for
23 health care providers eligible for use of the federal Medicare
24 resource-based relative value scale reimbursement methodology
25 under that section shall remain at the rate in effect on June
26 30, 2012; however, this rate shall not exceed the maximum level
27 authorized by the federal government.
28 m. For the fiscal year beginning July 1, 2012, the
29 reimbursement rate for residential care facilities shall not
30 be less than the minimum payment level as established by the
31 federal government to meet the federally mandated maintenance
32 of effort requirement. The flat reimbursement rate for
33 facilities electing not to file annual cost reports shall not
34 be less than the minimum payment level as established by the
35 federal government to meet the federally mandated maintenance

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1 of effort requirement.
2 n. For the fiscal year beginning July 1, 2012, inpatient
3 mental health services provided at hospitals shall remain at
4 the rates in effect on June 30, 2012, subject to Medicaid
5 program upper payment limit rules; community mental health
6 centers and providers of mental health services to county
7 residents pursuant to a waiver approved under section 225C.7,
8 subsection 3, shall be reimbursed at 100 percent of the
9 reasonable costs for the provision of services to recipients of
10 medical assistance; and psychiatrists shall be reimbursed at
11 the medical assistance program fee for service rate.
12 o. For the fiscal year beginning July 1, 2012, the
13 reimbursement rate for consumer-directed attendant care shall
14 remain at the rates in effect on June 30, 2012.
15 p. For the fiscal year beginning July 1, 2012, the
16 reimbursement rate for providers of family planning services
17 that are eligible to receive a 90 percent federal match shall
18 remain at the rates in effect on June 30, 2012.
19 q. For the fiscal year beginning July 1, 2012, the
20 ~~department shall adjust the rates in effect on June 30, 2012,~~
21 reimbursement rate for providers of home and community-based
22 services waiver services ~~to distribute an additional $1,500,000~~
23 ~~in reimbursements to such providers for the fiscal year~~ shall
24 remain at the rate in effect on June 30, 2012.
25 2. For the fiscal year beginning July 1, 2012, the
26 reimbursement rate for providers reimbursed under the
27 in-home-related care program shall not be less than the minimum
28 payment level as established by the federal government to meet
29 the federally mandated maintenance of effort requirement.
30 3. Unless otherwise directed in this section, when the
31 department's reimbursement methodology for any provider
32 reimbursed in accordance with this section includes an
33 inflation factor, this factor shall not exceed the amount
34 by which the consumer price index for all urban consumers
35 increased during the calendar year ending December 31, 2002.

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1 4. For the fiscal year beginning July 1, 2012,
2 notwithstanding section 234.38, the foster family basic daily
3 maintenance rate and the maximum adoption subsidy rate for
4 children ages 0 through 5 years shall be $15.74, the rate for
5 children ages 6 through 11 years shall be $16.37, the rate for
6 children ages 12 through 15 years shall be $17.92, and the
7 rate for children and young adults ages 16 and older shall be
8 $18.16. The maximum supervised apartment living foster care
9 reimbursement rate shall be $25.00 per day. For youth ages
10 18 to 21 who have exited foster care, the maximum preparation
11 for adult living program maintenance rate shall be $574.00 per
12 month. The maximum payment for adoption subsidy nonrecurring
13 expenses shall be limited to $500 and the disallowance of
14 additional amounts for court costs and other related legal
15 expenses implemented pursuant to 2010 Iowa Acts, chapter 1031,
16 section 408 shall be continued.
17 5. For the fiscal year beginning July 1, 2012, the maximum
18 reimbursement rates under the supervised apartment living
19 program and for social services providers under contract
20 shall remain at the rates in effect on June 30, 2012, or the
21 provider's actual and allowable cost plus inflation for each
22 service, whichever is less. However, if a new service or
23 service provider is added after June 30, 2012, the initial
24 reimbursement rate for the service or provider shall be
25 based upon actual and allowable costs. Providers may also
26 be eligible for an additional amount as specified under the
27 department's request for proposal, bid number ACFS-11-115.
28 6. For the fiscal year beginning July 1, 2012, the
29 reimbursement rates for family-centered service providers,
30 family foster care service providers, group foster care service
31 providers, and the resource family recruitment and retention
32 contractor shall remain at the rates in effect on June 30,
33 2012.
34 7. The group foster care reimbursement rates paid for
35 placement of children out of state shall be calculated

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1 according to the same rate-setting principles as those used for
2 in-state providers, unless the director of human services or
3 the director's designee determines that appropriate care cannot
4 be provided within the state. The payment of the daily rate
5 shall be based on the number of days in the calendar month in
6 which service is provided.
7 8. a. For the fiscal year beginning July 1, 2012, the
8 reimbursement rate paid for shelter care and the child welfare
9 emergency services implemented to provide or prevent the need
10 for shelter care shall be established in a contract based on
11 the requirements of the department's request for proposal, bid
12 number ACFS-11-114.
13 b. For the fiscal year beginning July 1, 2012, the combined
14 service and maintenance components of the reimbursement rate
15 paid for shelter care services shall be based on the financial
16 and statistical report submitted to the department. The
17 maximum reimbursement rate shall be $92.36 per day. The
18 department shall reimburse a shelter care provider at the
19 provider's actual and allowable unit cost, plus inflation, not
20 to exceed the maximum reimbursement rate.
21 c. Notwithstanding section 232.141, subsection 8, for the
22 fiscal year beginning July 1, 2012, the amount of the statewide
23 average of the actual and allowable rates for reimbursement of
24 juvenile shelter care homes that is utilized for the limitation
25 on recovery of unpaid costs shall remain at the amount in
26 effect for this purpose in the fiscal year beginning July 1,
27 2011.
28 9. For the fiscal year beginning July 1, 2012, the
29 department shall calculate reimbursement rates for intermediate
30 care facilities for persons with mental retardation at the
31 80th percentile. Beginning July 1, 2012, the rate calculation
32 methodology shall utilize the consumer price index inflation
33 factor applicable to the fiscal year beginning July 1, 2012.
34 10. For the fiscal year beginning July 1, 2012, for child
35 care providers reimbursed under the state child care assistance

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1 program, the department shall set provider reimbursement
2 rates based on the rate reimbursement survey completed in
3 December 2004. Effective July 1, 2012, the child care provider
4 reimbursement rates shall remain at the rates in effect on June
5 30, 2012. The department shall set rates in a manner so as
6 to provide incentives for a nonregistered provider to become
7 registered by applying the increase only to registered and
8 licensed providers.
9 11. The department may adopt emergency rules to implement
10 this section.
11 Sec. 41. 2011 Iowa Acts, chapter 129, section 142, is
12 amended to read as follows:
13 SEC. 142. EMERGENCY RULES.
14 1. If specifically authorized by a provision of this
15 division of this Act, the department of human services or
16 the mental health, and disability services commission may
17 adopt administrative rules under section 17A.4, subsection
18 3, and section 17A.5, subsection 2, paragraph "b", to
19 implement the provisions and the rules shall become effective
20 immediately upon filing or on a later effective date specified
21 in the rules, unless the effective date is delayed by the
22 administrative rules review committee. Any rules adopted in
23 accordance with this section shall not take effect before
24 the rules are reviewed by the administrative rules review
25 committee. The delay authority provided to the administrative
26 rules review committee under section 17A.4, subsection 7, and
27 section 17A.8, subsection 9, shall be applicable to a delay
28 imposed under this section, notwithstanding a provision in
29 those sections making them inapplicable to section 17A.5,
30 subsection 2, paragraph "b". Any rules adopted in accordance
31 with the provisions of this section shall also be published as
32 notice of intended action as provided in section 17A.4.
33 2. If during the fiscal year beginning July 1, 2012, the
34 department of human services is adopting rules in accordance
35 with this section or as otherwise directed or authorized by

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1 state law, and the rules will result in an expenditure increase
2 beyond the amount anticipated in the budget process or if the
3 expenditure was not addressed in the budget process for the
4 fiscal year, the department shall notify the persons designated
5 by this division of this Act for submission of reports,
6 the chairpersons and ranking members of the committees on
7 appropriations, and the department of management concerning the
8 rules and the expenditure increase. The notification shall be
9 provided at least 30 calendar days prior to the date notice of
10 the rules is submitted to the administrative rules coordinator
11 and the administrative code editor.
12 Sec. 42. 2011 Iowa Acts, chapter 129, section 143, is
13 amended to read as follows:
14 SEC. 143. REPORTS. Any reports or other information
15 required to be compiled and submitted under this Act shall be
16 submitted to the chairpersons and ranking members of the joint
17 appropriations subcommittee on health and human services, the
18 legislative services agency, and the legislative caucus staffs
19 on or before the dates specified for submission of the reports
20 or information.
21 DIVISION V
22 PHARMACEUTICAL SETTLEMENT ACCOUNT,
23 IOWACARE ACCOUNT, NONPARTICIPATING PROVIDER
24 REIMBURSEMENT FUND, HEALTH CARE TRANSFORMATION ACCOUNT,
25 MEDICAID FRAUD FUND, QUALITY ASSURANCE TRUST FUND,
26 AND HOSPITAL HEALTH CARE ACCESS TRUST FUND —— FY 2012-2013
27 Sec. 43. 2011 Iowa Acts, chapter 129, section 145, is
28 amended to read as follows:
29 SEC. 145. PHARMACEUTICAL SETTLEMENT ACCOUNT. There is
30 appropriated from the pharmaceutical settlement account created
31 in section 249A.33 to the department of human services for the
32 fiscal year beginning July 1, 2012, and ending June 30, 2013,
33 the following amount, or so much thereof as is necessary, to be
34 used for the purpose designated:
35 Notwithstanding any provision of law to the contrary, to

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1 supplement the appropriations made in this Act for medical
2 contracts under the medical assistance program for the fiscal
3 year beginning July 1, 2012, and ending June 30, 2013:
4 ..... $ 2,716,807
5 Sec. 44. 2011 Iowa Acts, chapter 129, section 146, is
6 amended to read as follows:
7 SEC. 146. APPROPRIATIONS FROM IOWACARE ACCOUNT.
8 1. There is appropriated from the IowaCare account
9 created in section 249J.24 to the state board of regents for
10 distribution to the university of Iowa hospitals and clinics
11 for the fiscal year beginning July 1, 2012, and ending June 30,
12 2013, the following amount, or so much thereof as is necessary,
13 to be used for the purposes designated:
14 For salaries, support, maintenance, equipment, and
15 miscellaneous purposes, for the provision of medical and
16 surgical treatment of indigent patients, for provision of
17 services to members of the expansion population pursuant to
18 chapter 249J, and for medical education:
19 ..... $ 27,284,584
20 a. (1) Funds appropriated in this subsection used for
21 abortions shall be used in a manner consistent with options
22 under federal Medicaid law and regulation.
23 (2) Iowans support reducing the number of abortions
24 performed in our state. For an abortion covered under this
25 subsection, except in the case of a medical emergency, as
26 defined in section 135L.1, for any woman, the physician shall
27 certify both of the following:
28 (a) That the woman has been given the opportunity to view an
29 ultrasound image of the fetus as part of the standard of care
30 before an abortion is performed.
31 (b) That the woman has been provided information regarding
32 the options relative to a pregnancy, including continuing the
33 pregnancy to term and retaining parental rights following the
34 child's birth, continuing the pregnancy to term and placing the
35 child for adoption, and terminating the pregnancy.

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1 b. Notwithstanding any provision of law to the contrary,
2 the amount appropriated in this subsection shall be distributed
3 based on claims submitted, adjudicated, and paid by the Iowa
4 Medicaid enterprise.
5 c. The university of Iowa hospitals and clinics shall
6 certify public expenditures in an amount equal to provide
7 the nonfederal share on total expenditures not to exceed
8 $20,000,000.
9 2. There is appropriated from the IowaCare account
10 created in section 249J.24 to the state board of regents for
11 distribution to the university of Iowa hospitals and clinics
12 for the fiscal year beginning July 1, 2012, and ending June 30,
13 2013, the following amount, or so much thereof as is necessary,
14 to be used for the purposes designated:
15 For salaries, support, maintenance, equipment, and
16 miscellaneous purposes, for the provision of medical and
17 surgical treatment of indigent patients, for provision of
18 services to members of the expansion population pursuant to
19 chapter 249J, and for medical education:
20 ..... $ ~~44,226,279~~
21 45,654,133
22 Notwithstanding any provision of law to the contrary, the
23 amount appropriated in this subsection shall be distributed
24 based on claims submitted, adjudicated, and paid by the Iowa
25 Medicaid enterprise.
26 3. There is appropriated from the IowaCare account
27 created in section 249J.24, to the state board of regents for
28 distribution to university of Iowa physicians for the fiscal
29 year beginning July 1, 2012, and ending June 30, 2013, the
30 following amount, or so much thereof as is necessary to be used
31 for the purposes designated:
32 For salaries, support, maintenance, equipment, and
33 miscellaneous purposes for the provision of medical and
34 surgical treatment of indigent patients, for provision of
35 services to members of the expansion population pursuant to

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1 chapter 249J, and for medical education:
2 ..... $ 16,277,753
3 Notwithstanding any provision of law to the contrary, the
4 amount appropriated in this subsection shall be distributed
5 based on claims submitted, adjudicated, and paid by the Iowa
6 Medicaid enterprise. Once the entire amount appropriated in
7 this subsection has been distributed, claims shall continue to
8 be submitted and adjudicated by the Iowa Medicaid enterprise;
9 however, no payment shall be made based upon such claims.
10 4. There is appropriated from the IowaCare account created
11 in section 249J.24 to the department of human services for the
12 fiscal year beginning July 1, 2012, and ending June 30, 2013,
13 the following amount, or so much thereof as is necessary, to be
14 used for the purposes designated:
15 For distribution to a publicly owned acute care teaching
16 hospital located in a county with a population over 350,000 for
17 the provision of medical and surgical treatment of indigent
18 patients, for provision of services to members of the expansion
19 population pursuant to chapter 249J, and for medical education:
20 ..... $ ~~65,000,000~~
21 69,000,000
22 a. Notwithstanding any provision of law to the contrary,
23 the amount appropriated in this subsection shall be distributed
24 based on claims submitted, adjudicated, and paid by the Iowa
25 Medicaid enterprise plus a monthly disproportionate share
26 hospital payment. Any amount appropriated in this subsection
27 in excess of $60,000,000 shall be distributed only if the sum
28 of the expansion population claims adjudicated and paid by the
29 Iowa Medicaid enterprise plus the estimated disproportionate
30 share hospital payments exceeds $60,000,000. The amount paid
31 in excess of $60,000,000 shall not adjust the original monthly
32 payment amount but shall be distributed monthly based on actual
33 claims adjudicated and paid by the Iowa Medicaid enterprise
34 plus the estimated disproportionate share hospital amount. Any
35 amount appropriated in this subsection in excess of $60,000,000

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1 shall be allocated only if federal funds are available to match
2 the amount allocated. Pursuant to paragraph "b", of the amount
3 appropriated in this subsection, not more than $4,000,000 shall
4 be distributed for prescription drugs, ~~and~~ podiatry services
5 and optometric services.
6 b. Notwithstanding any provision of law to the contrary, the
7 hospital identified in this subsection, shall be reimbursed for
8 outpatient prescription drugs and podiatry services provided to
9 members of the expansion population pursuant to all applicable
10 medical assistance program rules, in an amount not to exceed
11 $4,000,000.
12 c. Notwithstanding the total amount of proceeds distributed
13 pursuant to section 249J.24, subsection 4, paragraph "a",
14 unnumbered paragraph 1, for the fiscal year beginning July
15 1, 2012, and ending June 30, 2013, the county treasurer of a
16 county with a population of over 350,000 in which a publicly
17 owned acute care teaching hospital is located shall distribute
18 the proceeds collected pursuant to section 347.7 in a total
19 amount of $38,000,000, which would otherwise be distributed to
20 the county hospital, to the treasurer of state for deposit in
21 the IowaCare account.
22 d. (1) Notwithstanding the amount collected and
23 distributed for deposit in the IowaCare account pursuant to
24 section 249J.24, subsection 4, paragraph "a", subparagraph
25 (1), the first $19,000,000 in proceeds collected pursuant to
26 section 347.7 between July 1, 2012, and December 31, 2012,
27 shall be distributed to the treasurer of state for deposit in
28 the IowaCare account and collections during this time period
29 in excess of $19,000,000 shall be distributed to the acute
30 care teaching hospital identified in this subsection. Of the
31 collections in excess of the $19,000,000 received by the acute
32 care teaching hospital under this subparagraph (1), $2,000,000
33 shall be distributed by the acute care teaching hospital to the
34 treasurer of state for deposit in the IowaCare account in the
35 month of January 2013, following the July 1 through December

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1 31, 2012, period.
2 (2) Notwithstanding the amount collected and distributed
3 for deposit in the IowaCare account pursuant to section
4 249J.24, subsection 4, paragraph "a", subparagraph (2),
5 the first $19,000,000 in collections pursuant to section
6 347.7 between January 1, 2013, and June 30, 2013, shall be
7 distributed to the treasurer of state for deposit in the
8 IowaCare account and collections during this time period in
9 excess of $19,000,000 shall be distributed to the acute care
10 teaching hospital identified in this subsection. Of the
11 collections in excess of the $19,000,000 received by the acute
12 care teaching hospital under this subparagraph (2), $2,000,000
13 shall be distributed by the acute care teaching hospital to the
14 treasurer of state for deposit in the IowaCare account in the
15 month of July 2013, following the January 1 through June 30,
16 2013, period.
17 5. There is appropriated from the IowaCare account created
18 in section 249J.24 to the department of human services for the
19 fiscal year beginning July 1, 2012, and ending June 30, 2013,
20 the following amount, or so much thereof as is necessary to be
21 used for the purpose designated:
22 For payment to the regional provider network specified
23 by the department pursuant to section 249J.7 for provision
24 of covered services to members of the expansion population
25 pursuant to chapter 249J:
26 ..... $ ~~3,472,176~~
27 4,986,366
28 Notwithstanding any provision of law to the contrary, the
29 amount appropriated in this subsection shall be distributed
30 based on claims submitted, adjudicated, and paid by the Iowa
31 Medicaid enterprise. Once the entire amount appropriated in
32 this subsection has been distributed, claims shall continue to
33 be submitted and adjudicated by the Iowa Medicaid enterprise;
34 however, no payment shall be made based upon such claims.
35 6. There is appropriated from the IowaCare account created

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1 in section 249J.24 to the department of human services for the
2 fiscal year beginning July 1, 2012, and ending June 30, 2013,
3 the following amount, or so much thereof as is necessary to be
4 used for the purposes designated:
5 For a care coordination pool to pay the expansion population
6 providers consisting of the university of Iowa hospitals and
7 clinics, the publicly owned acute care teaching hospital as
8 specified in section 249J.7, and current medical assistance
9 program providers that are not expansion population network
10 providers pursuant to section 249J.7, for services covered by
11 the full benefit medical assistance program but not under the
12 IowaCare program pursuant to section 249J.6, that are provided
13 to expansion population members:
14 ..... $ 1,500,000
15 a. Notwithstanding sections 249J.6 and 249J.7, the amount
16 appropriated in this subsection is intended to provide
17 payment for medically necessary services provided to expansion
18 population members for continuation of care provided by the
19 university of Iowa hospitals and clinics or the publicly owned
20 acute care teaching hospital as specified in section 249J.7.
21 Payment may only be made for services that are not otherwise
22 covered under section 249J.6, and which are follow-up services
23 to covered services provided by the hospitals specified in this
24 paragraph "a".
25 b. The funds appropriated in this subsection are intended
26 to provide limited payment for continuity of care services for
27 an expansion population member, and are intended to cover the
28 costs of services to expansion population members, regardless
29 of the member's county of residence or medical home assignment,
30 if the care is related to specialty or hospital services
31 provided by the hospitals specified in paragraph "a".
32 c. The funds appropriated in this subsection are
33 not intended to provide for expanded coverage under the
34 IowaCare program, and shall not be used to cover emergency
35 transportation services.

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1 d. The department shall adopt administrative rules pursuant
2 to chapter 17A to establish a prior authorization process and
3 to identify covered services for reimbursement under this
4 subsection.
5 7. There is appropriated from the IowaCare account created
6 in section 249J.24 to the department of human services for the
7 fiscal year beginning July 1, 2012, and ending June 30, 2013,
8 the following amount or so much thereof as is necessary to be
9 used for the purposes designated:
10 For a laboratory test and radiology pool for services
11 authorized by a federally qualified health center designated
12 by the department as part of the IowaCare regional provider
13 network that does not have the capability to provide these
14 services on site:
15 ..... $ 500,000
16 Notwithstanding sections 249J.6 and 249J.7, the amount
17 appropriated in this subsection is intended to provide
18 reimbursement for services provided to expansion population
19 members that have previously been paid for through expenditure
20 by designated regional provider network providers of their
21 own funds, not to expand coverage under the IowaCare program
22 or to expand the expansion population provider network. The
23 department shall designate the laboratory and radiology
24 provider associated with each designated regional provider
25 network provider that may receive reimbursement. The
26 department shall adopt administrative rules pursuant to chapter
27 17A to establish a prior authorization process and to identify
28 covered services for reimbursement under this subsection.
29 All other medical assistance program payment policies and
30 rules for laboratory and radiology services shall apply to
31 services provided under this subsection. If the entire amount
32 appropriated under this subsection is expended, laboratory
33 tests and radiology services ordered by a designated regional
34 provider network provider shall be the financial responsibility
35 of the regional provider network provider.

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1 Sec. 45. 2011 Iowa Acts, chapter 129, section 147, is
2 amended to read as follows:
3 SEC. 147. APPROPRIATIONS FROM NONPARTICIPATING PROVIDER
4 REIMBURSEMENT FUND —— DEPARTMENT OF HUMAN SERVICES.
5 Notwithstanding any provision to the contrary, and subject
6 to the availability of funds, there is appropriated from the
7 nonparticipating provider reimbursement fund created in section
8 249J.24A to the department of human services for the fiscal
9 year beginning July 1, 2012, and ending June 30, 2013, the
10 following amount or so much thereof as is necessary for the
11 purposes designated:
12 To reimburse nonparticipating providers in accordance with
13 section 249J.24A:
14 ..... $ 2,000,000
15 ACCOUNT FOR HEALTH CARE TRANSFORMATION
16 Sec. 46. 2011 Iowa Acts, chapter 129, section 148,
17 subsections 1 through 13, 15, and 16, are amended to read as
18 follows:
19 1. For the provision of an IowaCare nurse helpline for the
20 expansion population as provided in section 249J.6:
21 ..... $ ~~50,000~~
22 100,000
23 2. For other health promotion partnership activities
24 pursuant to section 249J.14:
25 ..... $ ~~300,000~~
26 600,000
27 3. For the costs related to audits, performance
28 evaluations, and studies required pursuant to chapter 249J:
29 ..... $ ~~62,500~~
30 125,000
31 4. For administrative costs associated with chapter 249J:
32 ..... $ ~~566,206~~
33 1,132,412
34 5. For planning and development, in cooperation with the
35 department of public health, of a phased-in program to provide

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a dental home for children in accordance with section 249J.14:
..... $ ~~500,000~~
1,000,000

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~~
50,000

7. For medical contracts:
..... $ ~~1,000,000~~
2,400,000

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~~
290,000

Disbursements under this subsection shall be made monthly. The hospital shall submit a report following the close of the fiscal year regarding use of the funds appropriated in this subsection to the persons specified in this Act to receive reports.

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~~
233,357

10. For continued implementation of a uniform cost report:
..... $ ~~75,000~~
150,000

11. For continued implementation of an electronic medical records system:
..... $ ~~50,000~~
100,000

Notwithstanding section 8.33, funds allocated in this

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1 subsection that remain unencumbered or unobligated at the close
2 of the fiscal year shall not revert but shall remain available
3 in succeeding fiscal years to be used for the purposes
4 designated.
5 12. For transfer to the department of public health to
6 support the department's activities relating to health and
7 long-term care access as specified pursuant to chapter 135,
8 division XXIV:
9 ..... $ ~~67,107~~
10 134,214
11 13. For continuation of an accountable care organization
12 pilot project:
13 ..... $ ~~50,000~~
14 100,000
15 15. For transfer to the department of public health to
16 be used as state matching funds for the health information
17 technology system developed by the department of public health:
18 ..... $ ~~181,993~~
19 363,987
20 16. To supplement the appropriation for medical assistance:
21 ..... $ 1,956,245
22 Sec. 47. 2011 Iowa Acts, chapter 129, section 150, is
23 amended to read as follows:
24 SEC. 150. MEDICAID FRAUD ~~ACCOUNT~~ FUND — DEPARTMENT OF
25 HUMAN SERVICES. There is appropriated from the Medicaid fraud
26 ~~account~~ fund created in section 249A.7 to the department of
27 human services for the fiscal year beginning July 1, 2012, and
28 ending June 30, 2013, the following amount, or so much thereof
29 as is necessary, to be used for the purposes designated:
30 To supplement the appropriation made in this Act from the
31 general fund of the state to the department of human services
32 for medical assistance for the fiscal year beginning July 1,
33 2012, and ending June 30, 2013:
34 ..... $ 2,000,000
35 Sec. 48. 2011 Iowa Acts, chapter 129, section 151, is

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1 amended to read as follows:
2 SEC. 151. QUALITY ASSURANCE TRUST FUND — DEPARTMENT OF
3 HUMAN SERVICES. Notwithstanding any provision to the contrary
4 and subject to the availability of funds, there is appropriated
5 from the quality assurance trust fund created in section
6 249L.4 to the department of human services for the fiscal year
7 beginning July 1, 2012, and ending June 30, 2013, the following
8 amounts, or so much thereof as is necessary for the purposes
9 designated:
10 To supplement the appropriation made in this Act from the
11 general fund of the state to the department of human services
12 for medical assistance:
13 ..... $ ~~29,000,000~~
14 26,500,000
15 Sec. 49. 2011 Iowa Acts, chapter 129, section 152, is
16 amended to read as follows:
17 SEC. 152. HOSPITAL HEALTH CARE ACCESS TRUST FUND —
18 DEPARTMENT OF HUMAN SERVICES. Notwithstanding any provision to
19 the contrary and subject to the availability of funds, there is
20 appropriated from the hospital health care access trust fund
21 created in section 249M.4 to the department of human services
22 for the fiscal year beginning July 1, 2012, and ending June
23 30, 2013, the following amounts, or so much thereof as is
24 necessary, for the purposes designated:
25 1. To supplement the appropriation made in this Act from the
26 general fund of the state to the department of human services
27 for medical assistance:
28 ..... $ ~~39,223,800~~
29 33,898,400
30 2. For deposit in the nonparticipating provider
31 reimbursement fund created in section 249J.24A to be used for
32 the purposes of the fund:
33 ..... $ ~~776,200~~
34 801,600
35 Sec. 50. REPEAL. 2011 Iowa Acts, chapter 129, sections 149

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1 and 153, are repealed.
2 DIVISION VI
3 CHILDREN'S HEALTH INSURANCE PROGRAM — CHILD ENROLLMENT
4 CONTINGENCY FUND
5 Sec. 51. CHILDREN'S HEALTH INSURANCE PROGRAM — CHILD
6 ENROLLMENT CONTINGENCY FUND — DIRECTIVES FOR USE OF FUNDS —
7 FY 2011-2012.
8 1. Moneys received from the federal government through
9 the child enrollment contingency fund established pursuant
10 to section 103 of the federal Children's Health Insurance
11 Program Reauthorization Act of 2009, Pub. L. No. 111-3, are
12 appropriated to the department of human services for the fiscal
13 year beginning July 1, 2011, and ending June 30, 2012, to be
14 used in addition to any other amounts appropriated for the same
15 purposes for the fiscal year as follows:
16 a. For adoption subsidy payments and services:
17 ..... $ 2,034,521
18 b. For child care programs:
19 ..... $ 1,956,964
20 2. Notwithstanding section 8.39, and to the extent
21 that funds appropriated in this section are unexpended or
22 unobligated for the purposes specified in subsection 1, the
23 department of human services may transfer funds within or
24 between any of the appropriations made in this section for the
25 following purposes:
26 a. For adoption subsidy payments and services.
27 b. For child care assistance.
28 Sec. 52. AUDIT SETTLEMENTS. Moneys received from the
29 federal government through the child enrollment contingency
30 fund established pursuant to section 103 of the federal
31 Children's Health Insurance Program Reauthorization Act of
32 2009, Pub. L. No. 111-3, are appropriated to the department of
33 human services for the fiscal year beginning July 1, 2011, and
34 ending June 30, 2012, to be used for audit settlements:
35 ..... $ 2,654,238

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1 Notwithstanding section 8.33, moneys appropriated in this
2 section that remain unencumbered or unobligated at the close
3 of the fiscal year shall not revert to any other fund but shall
4 remain available for expenditure for the purposes designated
5 until the close of the succeeding fiscal year.
6 Sec. 53. CHILDREN'S HEALTH INSURANCE PROGRAM — CHILD
7 ENROLLMENT CONTINGENCY FUND — DIRECTIVES FOR USE OF FUNDS —
8 FY 2012-2013.
9 1. Moneys received from the federal government through
10 the child enrollment contingency fund established pursuant
11 to section 103 of the federal Children's Health Insurance
12 Program Reauthorization Act of 2009, Pub. L. No. 111-3, are
13 appropriated to the department of human services for the fiscal
14 year beginning July 1, 2012, and ending June 30, 2013, to be
15 used in addition to any other amounts appropriated for the same
16 purposes for the fiscal year as follows:
17 a. For adoption subsidy payments and services:
18 ..... $ 5,290,441
19 b. For child care programs:
20 ..... $ 7,969,021
21 c. For mental health and disability services redesign
22 technical assistance services:
23 ..... $ 500,000
24 d. For the field operations integrity claims unit:
25 ..... $ 961,100
26 e. For medical assistance program reimbursement and
27 associated costs:
28 ..... $ 4,950,428
29 2. Notwithstanding section 8.39, and to the extent
30 that funds appropriated in this section are unexpended or
31 unobligated for the purposes specified in subsection 1,
32 paragraphs "a" and "b", for the fiscal year beginning July
33 1, 2012, the department of human services may transfer funds
34 within or between any of the appropriations made in this
35 section for the following purposes:

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a. For adoption subsidy payments and services.

b. For child care assistance.

Sec. 54. 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, take effect upon enactment.

Sec. 55. RETROACTIVE APPLICABILITY. The sections 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, apply retroactively to July 1, 2011.

DIVISION VII

PRIOR APPROPRIATIONS AND RELATED CHANGES

INJURED VETERANS GRANT PROGRAM

Sec. 56. 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.

IOWA VETERANS HOME

Sec. 57. 2011 Iowa Acts, chapter 129, section 3, subsection 2, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. 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 $975,919 shall be used for the costs of replacing a boiler at the Iowa veterans home. The next $500,000 shall

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1 remain available to be used for the purposes of the Iowa
2 veterans home. Any remaining balance shall revert to the
3 general fund of the state.
4 MEDICAL ASSISTANCE
5 Sec. 58. 2011 Iowa Acts, chapter 129, section 10, subsection
6 20, paragraph d, is amended to read as follows:
7 d. If the savings to the medical assistance program exceed
8 the cost, the department may transfer any savings generated
9 for the fiscal year due to medical assistance program cost
10 containment efforts initiated pursuant to 2010 Iowa Acts,
11 chapter 1031, Executive Order No. 20, issued December 16,
12 2009, or cost containment strategies initiated pursuant
13 to this subsection, to the ~~appropriation~~ appropriations
14 made in this division of this Act for medical contracts or
15 general administration to defray the increased contract costs
16 associated with implementing such efforts.
17 Sec. 59. EFFECTIVE DATE PROVISIONS. This division of this
18 Act, being deemed of immediate importance, takes effect upon
19 enactment.
20 Sec. 60. RETROACTIVE APPLICABILITY. The section of
21 this division of this Act relating to the transfer of funds
22 from costs savings under the medical assistance program to
23 appropriations for medical contracts or general administration
24 for the fiscal year beginning July 1, 2011, and ending June 30,
25 2012, applies retroactively to July 1, 2011.
26 DIVISION VIII
27 MISCELLANEOUS
28 Sec. 61. Section 97B.39, Code 2011, is amended to read as
29 follows:
30 **97B.39 Rights not transferable or subject to legal process**
31 **— exceptions.**
32 The right of any person to any future payment under this
33 chapter is not transferable or assignable, at law or in
34 equity, and the moneys paid or payable or rights existing
35 under this chapter are not subject to execution, levy,

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1 attachment, garnishment, or other legal process, or to the
2 operation of any bankruptcy or insolvency law except for the
3 purposes of enforcing child, spousal, or medical support
4 obligations or marital property orders, or for recovery of
5 medical assistance payments pursuant to section 249A.5. For
6 the purposes of enforcing child, spousal, or medical support
7 obligations, the garnishment or attachment of or the execution
8 against compensation due a person under this chapter shall
9 not exceed the amount specified in 15 U.S.C. § 1673(b).
10 The system shall comply with the provisions of a marital
11 property order requiring the selection of a particular benefit
12 option, designated beneficiary, or contingent annuitant if
13 the selection is otherwise authorized by this chapter and
14 the member has not received payment of the member's first
15 retirement allowance. However, a marital property order shall
16 not require the payment of benefits to an alternative payee
17 prior to the member's retirement, prior to the date the member
18 elects to receive a lump sum distribution of accumulated
19 contributions pursuant to section 97B.53, or in an amount that
20 exceeds the benefits the member would otherwise be eligible to
21 receive pursuant to this chapter.
22 Sec. 62. Section 135H.10, subsection 3, Code 2011, is
23 amended by striking the subsection.
24 Sec. 63. Section 232.52, Code 2011, is amended by adding the
25 following new subsection:
26 NEW SUBSECTION. 2A. Notwithstanding subsection 2 and
27 section 907.3A, subsection 1, the court shall not order
28 placement of a child in the state training school or the Iowa
29 juvenile home if that placement is not in accordance with the
30 applicable population limitations established pursuant to
31 section 233A.1, subsection 3, and section 233B.1, subsection 3.
32 DIVISION IX
33 MH/ID/DD SERVICES-RELATED APPROPRIATIONS FOR FISCAL YEAR
34 2012-2013
35 Sec. 64. NEW SECTION. **225C.7A Mental health and disability**

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1 **services redesign fund.**
2 The mental health and disability services redesign fund is
3 created in the state treasury. Moneys credited to the fund
4 shall be appropriated to the department of human services to be
5 used as provided for redesign of mental health and disability
6 services.
7 Sec. 65. RISK POOL FUNDING — FY 2011-2012.
8 1. All moneys in the property tax relief fund from the
9 appropriation made pursuant to 2011 Iowa Acts, chapter
10 123, section 21, subsection 1, that remain following the
11 distributions made pursuant to 2011 Iowa Acts, chapter 129,
12 section 43, shall be transferred to the appropriation made
13 from the general fund of the state for the medical assistance
14 program for the fiscal year beginning July 1, 2012, in 2011
15 Iowa Acts, chapter 129, section 122. The moneys shall be
16 transferred on the effective date of this section.
17 2. The moneys transferred pursuant to this section shall
18 be used for medical assistance program reimbursement and
19 associated costs as specifically provided in the reimbursement
20 methodologies in effect on July 1, 2011, except as otherwise
21 expressly authorized by law, and consistent with options under
22 federal law and regulations.
23 Sec. 66. REPLACEMENT GENERATION TAX — LEVY RATES. If the
24 repeal of chapter 426B in this division of this Act is enacted
25 after the department of management has revised county certified
26 budgets and rates of taxation pursuant to section 426B.2,
27 subsection 3, paragraph "b", during the period beginning May
28 1, 2012, and ending June 30, 2012, the revisions shall be
29 rescinded and the department of management shall expeditiously
30 report that fact to the county auditors.
31 Sec. 67. MH/DS REDESIGN FUND — GENERAL FUND
32 APPROPRIATION. There is appropriated from the general
33 fund of the state to the department of human services for the
34 fiscal year beginning July 1, 2012, and ending June 30, 2013,
35 the following amount, or so much thereof as is necessary, to be

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1 used for the purposes designated:
2 To be credited to the mental health and disability services
3 redesign fund created in section 225C.7A:
4 ..... $ 17,750,000
5 Sec. 68. MENTAL HEALTH AND DISABILITY SERVICES REDESIGN
6 FUND — FY 2012-2013.
7 1. Moneys available in the mental health and disability
8 services redesign fund created in section 225C.7A, are
9 appropriated to the department of human services for the fiscal
10 year beginning July 1, 2012, and ending June 30, 2013, to be
11 used as provided in this section.
12 2. a. Notwithstanding sections 249A.12 and 249A.26,
13 moneys appropriated in this section shall be used to pay the
14 nonfederal share of medical assistance program services costs
15 that would otherwise be billed to counties for the following
16 services provided in the fiscal year beginning July 1, 2012:
17 habilitation, targeted case management, and home-based and
18 community-based services waiver services for persons with
19 intellectual disabilities and brain injury.
20 b. Notwithstanding section 249A.12, for the fiscal year
21 beginning July 1, 2012, the state shall pay 88 percent of the
22 nonfederal share of medical assistance program costs provided
23 by community-based intermediate care facilities for persons
24 with mental retardation (ICF/MR). The remaining portion of the
25 nonfederal share of such medical assistance program costs in
26 the fiscal year for community-based ICF/MRs shall be billed to
27 counties as specified in section 249A.12.
28 c. The nonfederal share of the medical assistance services
29 costs for the services specified in this subsection provided
30 for the fiscal year beginning July 1, 2012, shall be paid from
31 the mental health and disability services redesign fund and
32 shall not be billed to counties.
33 3. In accordance with section 249A.12, for the fiscal year
34 beginning July 1, 2012, counties shall remain responsible for
35 the nonfederal share of medical assistance program costs and

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1 related costs to the extent specified by law for the services
2 provided at the state resource centers.
3 4. Of the funds appropriated in this section, for the
4 fiscal year beginning July 1, 2012, $500,000 shall be used to
5 implement the children's mental health home project proposed
6 by the department of human services and reported to the
7 general assembly's mental health and disability services study
8 committee in December 2011. Of this amount up to $50,000 may
9 be transferred by the department to the appropriation made to
10 the department for the fiscal year for general administration
11 to be used for associated administrative expenses and for
12 not more than one full-time equivalent position, in addition
13 to those authorized for the fiscal year, to be assigned to
14 implementing the project.
15 5. Of the funds appropriated in this section, up to $400,000
16 may be transferred by the department to the appropriation
17 made to the department for the fiscal year for general
18 administration to support redesign and balancing incentive
19 planning and implementation activities. The funds may be used
20 for contracts or for personnel in addition to the amounts
21 appropriated for and the positions authorized for general
22 administration for the fiscal year.
23 6. Of the funds appropriated in this section, up to
24 $3,000,000 may be transferred by the department to the
25 appropriations made to the department for the fiscal year for
26 general administration or medical contracts to be used to
27 support the development and implementation of standardized
28 assessment tools for persons with mental illness, intellectual
29 disability, developmental disability, or brain injury.
30 7. Moneys remaining in the mental health and disability
31 services redesign fund at the close of the fiscal year shall
32 revert to the general fund of the state.
33 Sec. 69. Section 135.180, subsection 3, Code Supplement
34 2011, is amended to read as follows:
35 3. The program shall provide stipends to support

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1 psychiatrist positions with an emphasis on securing and
2 retaining medical directors at community mental health centers,
3 providers of mental health services to county residents
4 pursuant to a waiver approved under section 225C.7, subsection
5 3, Code 2011, and hospital psychiatric units that are located
6 in mental health professional shortage areas.
7 Sec. 70. Section 222.73, subsection 2, paragraph b, Code
8 2011, is amended to read as follows:
9 *b.* The per diem costs billed to each county shall not exceed
10 the per diem costs billed to the county in the fiscal year
11 beginning July 1, 1996. However, the per diem costs billed to
12 a county may be adjusted in a fiscal year to reflect increased
13 costs to the extent of the percentage increase in the total
14 of county fixed budgets ~~pursuant to the allowed growth factor~~
15 ~~adjustment authorized by the general assembly for that fiscal~~
16 ~~year in accordance with section 331.439~~ for mental health and
17 disability services in the previous fiscal year.
18 Sec. 71. Section 225C.4, subsection 1, paragraph h, Code
19 2011, is amended by striking the paragraph.
20 Sec. 72. Section 230.20, subsection 2, paragraph b, Code
21 2011, is amended to read as follows:
22 *b.* The per diem costs billed to each county shall not exceed
23 the per diem costs billed to the county in the fiscal year
24 beginning July 1, 1996. However, the per diem costs billed
25 to a county may be adjusted annually to reflect increased
26 costs to the extent of the percentage increase in the total
27 of county fixed budgets ~~pursuant to the allowed growth factor~~
28 ~~adjustment authorized by the general assembly for the fiscal~~
29 ~~year in accordance with section 331.439~~ for mental health and
30 disability services in the previous fiscal year.
31 Sec. 73. Section 331.424A, Code Supplement 2011, is amended
32 to read as follows:
33 **331.424A County mental health, mental retardation, and**
34 **developmental disabilities services fund.**
35 1. For the purposes of this chapter, unless the context

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1 otherwise requires, *"services fund"* means the county mental
2 health, mental retardation, and developmental disabilities
3 services fund created in subsection 2. The county finance
4 committee created in section 333A.2 shall consult with the
5 state commission in adopting rules and prescribing forms for
6 administering the services fund.
7 2. For the fiscal year beginning July 1, 1996, and
8 succeeding fiscal years, county revenues from taxes and other
9 sources designated for mental health, mental retardation,
10 and developmental disabilities services shall be credited
11 to the mental health, mental retardation, and developmental
12 disabilities services fund of the county. The board shall make
13 appropriations from the fund for payment of services provided
14 under the county management plan approved pursuant to section
15 331.439. The county may pay for the services in cooperation
16 with other counties by pooling appropriations from the fund
17 with other counties or through county regional entities
18 including but not limited to the county's mental health and
19 developmental disabilities regional planning council created
20 pursuant to section 225C.18.
21 3. For the fiscal year beginning July 1, 1996, and
22 succeeding fiscal years, receipts from the state or federal
23 government for such services shall be credited to the services
24 fund, including moneys allotted to the county from the state
25 payment made pursuant to section 331.439 ~~and moneys allotted to~~
26 ~~the county for property tax relief pursuant to section 426B.1~~.
27 4. For the fiscal year beginning July 1, 1996, and for each
28 subsequent fiscal year, the county shall certify a levy for
29 payment of services. For each fiscal year, county revenues
30 from taxes imposed by the county credited to the services fund
31 shall not exceed an amount equal to the amount of base year
32 expenditures for services as defined in section 331.438, less
33 the amount of property tax relief ~~to be~~ received <u>for the fiscal</u>
34 <u>year beginning July 1, 2011,</u> pursuant to section 426B.2, <u>Code</u>
35 <u>Supplement 2011,</u> in the fiscal year for which the budget is

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1 certified. ~~The county auditor and the board of supervisors~~
2 ~~shall reduce the amount of the levy certified for the services~~
3 ~~fund by the amount of property tax relief to be received.~~ A
4 levy certified under this section is not subject to the appeal
5 provisions of section 331.426 or to any other provision in law
6 authorizing a county to exceed, increase, or appeal a property
7 tax levy limit.
8 5. Appropriations specifically authorized to be made from
9 the mental health, mental retardation, and developmental
10 disabilities services fund shall not be made from any other
11 fund of the county.
12 6. This section is repealed July 1, 2013.
13 Sec. 74. Section 331.438, subsection 1, unnumbered
14 paragraph 1, Code Supplement 2011, is amended to read as
15 follows:
16 For the purposes of section 331.424A, this section, and
17 section 331.439, ~~and chapter 426B,~~ unless the context otherwise
18 requires:
19 Sec. 75. Section 331.438, subsection 2, Code Supplement
20 2011, is amended to read as follows:
21 2. A state payment to a county for a fiscal year shall
22 consist of the ~~sum of the~~ state funding the county is eligible
23 to receive ~~from the property tax relief fund in accordance~~
24 ~~with section 426B.2 plus the county's portion of state~~
25 ~~funds appropriated for the allowed growth factor adjustment~~
26 ~~established by the general assembly under section 331.439,~~
27 ~~subsection 3, and paid from the allowed growth funding pool in~~
28 ~~accordance with section 426B.5~~ for purposes of the county's
29 services fund.
30 Sec. 76. Section 331.439, subsection 1, unnumbered
31 paragraph 1, Code Supplement 2011, is amended to read as
32 follows:
33 The state payment to eligible counties under this section
34 shall be made as provided in ~~sections~~ section 331.438 ~~and~~
35 ~~426B.2~~. A county is eligible for the state payment, as defined

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in section 331.438, for a fiscal year if the director of human services determines for a specific fiscal year that all of the following conditions are met:

Sec. 77. 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 *"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~~,~~ or 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. 78. Section 331.439, subsection 3, Code Supplement 2011, is amended to read as follows:

3. ~~*a.*~~ For the fiscal year beginning July 1, 1996, and succeeding fiscal years, the county's mental health, mental retardation, 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.~~

~~*b.* Based upon information contained in county management plans and budgets and proposals made by representatives of~~

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~~counties, the state commission shall recommend an allowed growth factor adjustment to the governor by November 15 for the fiscal year which commences two years from the beginning date of the fiscal year in progress at the time the recommendation is made. The allowed growth factor adjustment may address various costs including but not limited to the costs associated with new consumers of service, service cost inflation, and investments for economy and efficiency. In developing the service cost inflation recommendation, the state commission shall consider the cost trends indicated by the gross expenditure amount reported in the expenditure reports submitted by counties pursuant to subsection 1, paragraph *"a"*. The governor shall consider the state commission's recommendation in developing the governor's recommendation for an allowed growth factor adjustment for such fiscal year. The governor's recommendation shall be submitted at the time the governor's proposed budget for the succeeding fiscal year is submitted in accordance with chapter 8.~~

~~*c.* The amount of the appropriation required to fund the allowed growth factor adjustment for a fiscal year shall be calculated by applying the adjustment established by statute for that fiscal year to the sum of the following:~~

~~(1) The total amount of base year expenditures for all counties.~~

~~(2) The total amount of the appropriations for allowed growth factor adjustments made to all counties in all of the fiscal years prior to that fiscal year.~~

Sec. 79. Section 426B.6, Code Supplement 2011, is amended to read as follows:

**426B.6 Future repeal.**

This chapter is repealed July 1, ~~2013~~ 2012.

Sec. 80. Section 437A.8, subsection 4, paragraph d, Code 2011, is amended to read as follows:

*d.* (1) Notwithstanding paragraph *"a"*, a taxpayer who owns or leases a new electric power generating plant and who has

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no other operating property in the state of Iowa except for operating property directly serving the new electric power generating plant as described in section 437A.16 shall pay the replacement generation tax associated with the allocation of the local amount to the county treasurer of the county in which the local amount is located and shall remit the remaining replacement generation tax, if any, to the director according to paragraph *"a"* for remittance of the tax to county treasurers. The director shall notify each taxpayer on or before August 31 following a tax year of its remaining replacement generation tax to be remitted to the director. All remaining replacement generation tax revenues received by the director shall be deposited in the ~~property tax relief~~ mental health and disability services redesign fund created in ~~section 426B.1, and shall be distributed as provided in section 426B.2~~ section 225C.7A.

(2) If a taxpayer has paid an amount of replacement tax, penalty, or interest which was deposited into the ~~property tax relief~~ mental health and disability services redesign fund and which was not due, all of the provisions of section 437A.14, subsection 1, paragraph *"b"*, shall apply with regard to any claim for refund or credit filed by the taxpayer. The director shall have sole discretion as to whether the erroneous payment will be refunded to the taxpayer or credited against any replacement tax due, or to become due, from the taxpayer that would be subject to deposit in the ~~property tax relief~~ mental health and disability services redesign fund.

Sec. 81. Section 437A.15, subsection 3, paragraph f, Code Supplement 2011, is amended to read as follows:

*f.* Notwithstanding the provisions of this section, if a taxpayer is a municipal utility or a municipal owner of an electric power facility financed under the provisions of chapter 28F or 476A, the assessed value, other than the local amount, of a new electric power generating plant shall be allocated to each taxing district in which the municipal

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1 utility or municipal owner is serving customers and has
2 electric meters in operation in the ratio that the number of
3 operating electric meters of the municipal utility or municipal
4 owner located in the taxing district bears to the total number
5 of operating electric meters of the municipal utility or
6 municipal owner in the state as of January 1 of the tax year.
7 If the municipal utility or municipal owner of an electric
8 power facility financed under the provisions of chapter 28F
9 or 476A has a new electric power generating plant but the
10 municipal utility or municipal owner has no operating electric
11 meters in this state, the municipal utility or municipal owner
12 shall pay the replacement generation tax associated with the
13 new electric power generating plant allocation of the local
14 amount to the county treasurer of the county in which the local
15 amount is located and shall remit the remaining replacement
16 generation tax, if any, to the director at the times contained
17 in section 437A.8, subsection 4, for remittance of the tax to
18 the county treasurers. All remaining replacement generation
19 tax revenues received by the director shall be deposited
20 in the ~~property tax relief~~ mental health and disability
21 services redesign fund created in ~~section 426B.1, and shall be~~
22 ~~distributed as provided in section 426B.2~~ section 225C.7A.
23 Sec. 82. Section 445.5, subsection 1, paragraph h, Code
24 Supplement 2011, is amended by striking the paragraph.
25 Sec. 83. 2011 Iowa Acts, chapter 129, section 135, is
26 amended to read as follows:
27 SEC. 135. MI/MR/DD STATE CASES.
28 1. There is appropriated from the general fund of the
29 state to the department of human services for the fiscal year
30 beginning July 1, 2012, and ending June 30, 2013, the following
31 amount, or so much thereof as is necessary, to be used for the
32 purpose designated:
33 ~~For distribution to counties for state case services~~
34 ~~for persons with mental illness, mental retardation, and~~
35 ~~developmental disabilities in accordance with section 331.440~~

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To be credited to the mental health and disability services redesign fund created by this division of this 2012 Act: ..... $ ~~6,084,741~~ 12,169,482

~~2. For the fiscal year beginning July 1, 2012, and ending June 30, 2013, $100,000 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. 84. 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:

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1 ..... $ 14,211,100
2 ~~1. Of the funds appropriated in this section, $14,187,556~~
3 ~~shall be allocated to counties for funding of community-based~~
4 ~~mental health and developmental disabilities services. The~~
5 ~~moneys shall be allocated to a county as follows:~~
6 ~~a. Fifty percent based upon the county's proportion of the~~
7 ~~state's population of persons with an annual income which is~~
8 ~~equal to or less than the poverty guideline established by the~~
9 ~~federal office of management and budget.~~
10 ~~b. Fifty percent based upon the county's proportion of the~~
11 ~~state's general population.~~
12 ~~2. a. A county shall utilize the funding the county~~
13 ~~receives pursuant to subsection 1 for services provided to~~
14 ~~persons with a disability, as defined in section 225C.2.~~
15 ~~However, no more than 50 percent of the funding shall be used~~
16 ~~for services provided to any one of the service populations.~~
17 ~~b. A county shall use at least 50 percent of the funding the~~
18 ~~county receives under subsection 1 for contemporary services~~
19 ~~provided to persons with a disability, as described in rules~~
20 ~~adopted by the department.~~
21 ~~3. Of the funds appropriated in this section, $23,544~~
22 ~~shall be used to support the Iowa compass program providing~~
23 ~~computerized information and referral services for Iowans with~~
24 ~~disabilities and their families.~~
25 ~~4. a. Funding appropriated for purposes of the federal~~
26 ~~social services block grant is allocated for distribution~~
27 ~~to counties for local purchase of services for persons with~~
28 ~~mental illness or mental retardation or other developmental~~
29 ~~disability.~~
30 ~~b. The funds allocated in this subsection shall be expended~~
31 ~~by counties in accordance with the county's county management~~
32 ~~plan approved by the board of supervisors. A county without~~
33 ~~an approved county management plan shall not receive allocated~~
34 ~~funds until the county's management plan is approved.~~
35 ~~c. The funds provided by this subsection shall be allocated~~

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~~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. 85. 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, Code Supplement 2011, 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. 86. 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

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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~~

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~~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~~

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~~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.~~

~~c. 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~~

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1 ~~shall be subtracted dollar-for-dollar from the county's ending~~
2 ~~balance amount for the fiscal year beginning July 1, 2010,~~
3 ~~for purposes of calculating the withholding factor and for~~
4 ~~other ending balance purposes for the fiscal year beginning~~
5 ~~July 1, 2012. The rebates received by the department shall be~~
6 ~~credited to the property tax relief fund and distributed as~~
7 ~~additional funding for the fiscal year beginning July 1, 2012,~~
8 ~~in accordance with the formula provisions in this section.~~
9 ~~d. The withholding factor for a county shall be the~~
10 ~~following applicable percent:~~
11 ~~(1) For an ending balance percentage of less than 5~~
12 ~~percent, a withholding factor of 0 percent. In addition,~~
13 ~~a county that is subject to this lettered paragraph shall~~
14 ~~receive an inflation adjustment equal to 3 percent of the gross~~
15 ~~expenditures reported for the county's services fund for the~~
16 ~~fiscal year.~~
17 ~~(2) For an ending balance percentage of 5 percent or more~~
18 ~~but less than 10 percent, a withholding factor of 0 percent.~~
19 ~~In addition, a county that is subject to this lettered~~
20 ~~paragraph shall receive an inflation adjustment equal to 2~~
21 ~~percent of the gross expenditures reported for the county's~~
22 ~~services fund for the fiscal year.~~
23 ~~(3) For an ending balance percentage of 10 percent or more~~
24 ~~but less than 25 percent, a withholding factor of 25 percent.~~
25 ~~However, for counties with an ending balance of 10 percent or~~
26 ~~more but less than 15 percent, the amount withheld shall be~~
27 ~~limited to the amount by which the county's ending balance was~~
28 ~~in excess of the ending balance percentage of 10 percent.~~
29 ~~(4) For an ending balance percentage of 25 percent or more,~~
30 ~~a withholding percentage of 100 percent.~~
31 ~~6. The total withholding amounts applied pursuant to~~
32 ~~subsection 5 shall be equal to a withholding target amount of~~
33 ~~$13,075,453. If the department of human services determines~~
34 ~~that the amount appropriated is insufficient or the amount to~~
35 ~~be withheld in accordance with subsection 5 is not equal to~~

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1 ~~the target withholding amount, the department shall adjust the~~
2 ~~withholding factors listed in subsection 5 as necessary to~~
3 ~~achieve the target withholding amount. However, in making such~~
4 ~~adjustments to the withholding factors, the department shall~~
5 ~~strive to minimize changes to the withholding factors for those~~
6 ~~ending balance percentage ranges that are lower than others and~~
7 ~~shall only adjust the zero withholding factor or the inflation~~
8 ~~adjustment percentages specified in subsection 5, paragraph~~
9 ~~"d", when the amount appropriated is insufficient.~~
10 Sec. 87. REPEAL. Sections 225C.7 and 225C.12, Code 2011,
11 are repealed.
12 Sec. 88. EFFECTIVE UPON ENACTMENT. The sections of
13 this division of this Act relating to risk pool funding
14 remaining after the distributions made pursuant to 2011 Iowa
15 Acts, chapter 129, section 43, and addressing revisions of
16 county certified budgets and levy rates by the department of
17 management during the period beginning May 1, 2012, and ending
18 June 30, 2012, being deemed of immediate importance, take
19 effect upon enactment.
20 EXPLANATION
21 This bill relates to appropriations for health and human
22 services for fiscal year 2012-2013 to the department of
23 veterans affairs, the Iowa veterans home, the department on
24 aging, the department of public health, the Iowa finance
25 authority, the state board of regents, the department of
26 inspections and appeals, and the department of human services.
27 The appropriations were previously enacted in 2011 Iowa Acts,
28 chapter 129 (H.F. 649). The bill is organized into divisions.
29 DEPARTMENT ON AGING. This division amends appropriations
30 made from the general fund of the state for the department on
31 aging.
32 DEPARTMENT OF PUBLIC HEALTH. This division amends
33 appropriations made from the general fund of the state for the
34 department of public health.
35 DEPARTMENT OF VETERANS AFFAIRS. This division amends

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1 appropriations made from the general fund of the state for the
2 department of veterans affairs.
3 DEPARTMENT OF HUMAN SERVICES. This division amends
4 appropriations made from the general fund of the state and the
5 federal temporary assistance for needy families block grant to
6 the department of human services (DHS). The allocation for the
7 family development and self-sufficiency grant program is made
8 directly to the department of human rights.
9 Appropriations are made from the health care trust fund for
10 the medical assistance (Medicaid) program in addition to the
11 general fund appropriations made for this purpose.
12 The reimbursement section addresses reimbursement for
13 providers reimbursed by the department of human services.
14 PHARMACEUTICAL SETTLEMENT ACCOUNT, IOWACARE ACCOUNT,
15 NONPARTICIPATING PROVIDER REIMBURSEMENT FUND, HEALTH CARE
16 TRANSFORMATION ACCOUNT, MEDICAID FRAUD FUND, QUALITY ASSURANCE
17 TRUST FUND, AND HOSPITAL HEALTH CARE ACCESS TRUST FUND. This
18 division amends appropriations made for fiscal year 2012-2013.
19 The appropriation from the pharmaceutical settlement account
20 to the department of human services supplements the Medicaid
21 program medical contracts appropriation.
22 The appropriations from the IowaCare account are made to
23 the state board of regents for distribution to the university
24 of Iowa hospitals and clinics and to the department of human
25 services for distribution to a publicly owned acute care
26 teaching hospital in a county with a population over 350,000
27 related to the IowaCare program and indigent care.
28 The appropriation from the nonparticipating provider
29 reimbursement fund is made to the department of human services
30 to reimburse nonparticipating providers under the IowaCare
31 program.
32 The appropriations to the department of human services from
33 the account for health care transformation are directed to
34 various health care reform initiatives.
35 The appropriations made to supplement the Medicaid program

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1 are from the following funds and account: quality assurance
2 trust fund, hospital health care access trust fund, and
3 Medicaid fraud fund.
4 The bill repeals 2011 Iowa Acts, chapter 129, section 149,
5 which makes appropriations from the Medicaid fraud fund to
6 the department of inspections and appeals for the fiscal year
7 beginning July 1, 2011, for costs relating to assisted living
8 programs and adult day care services.
9 The bill repeals 2011 Iowa Acts, chapter 129, section 153,
10 which provides that if the total amounts appropriated from
11 all sources for the medical assistance program for fiscal
12 year 2012-2013 exceed the amount needed, the excess remains
13 available to be used for the program in the succeeding fiscal
14 year.
15 CHILDREN'S HEALTH INSURANCE PROGRAM — CHILD ENROLLMENT
16 CONTINGENCY FUND. This division makes appropriations provided
17 through the federal child enrollment contingency fund to the
18 department of human services for fiscal years 2011-2012 and
19 2012-2013. The section making appropriations for fiscal year
20 2011-2012 takes effect upon enactment and is retroactively
21 applicable to July 1, 2011.
22 MISCELLANEOUS. This division provides miscellaneous
23 statutory amendments.
24 Code section 97B.39, relating to Iowa public employees'
25 retirement system (IPERS) payments, is amended to include
26 recovery of Medicaid program payments related to estate
27 recovery in the list of exceptions that allow IPERS payments
28 to be subject to execution, levy, attachment, garnishment,
29 or other legal process, or to the operation of bankruptcy or
30 insolvency law.
31 Code section 135H.10, relating to administrative rules
32 addressing psychiatric medical institutions for children
33 (PMICs) is amended to strike a prohibition against the
34 department of human services including services provided by
35 PMICs in any managed care contract.

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1 Code section 232.52, relating to the disposition of a
2 child found to have committed a delinquent act, is amended
3 to prohibit the court from ordering a placement in the state
4 training school at Eldora or the Iowa juvenile home at Toledo
5 if the placement is not in accordance with the population
6 guidelines established for those facilities.
7 MH/MR/DD SERVICES FUNDING FOR FISCAL YEAR 2012-2013. This
8 division revises various standing and other appropriations
9 for mental health, mental retardation, and developmental
10 disabilities (MH/MR/DD) for fiscal years 2011-2012 and
11 2012-2013.
12 Moneys in the property tax relief fund from the
13 appropriation made pursuant to 2011 Iowa Acts, chapter 123
14 (SF 209), section 21, subsection 1, that remain following the
15 distributions to counties made pursuant to 2011 Iowa Acts,
16 chapter 129, section 43, are required to be transferred to the
17 appropriation made from the general fund of the state for the
18 medical assistance program in 2011 Iowa Acts, chapter 129,
19 section 10. The transfer is to be made on the effective date
20 of the provision.
21 A mental health and disability services redesign fund
22 is created in new Code section 225C.7A. The following
23 appropriations made for that fiscal year in 2011 Iowa Acts,
24 chapter 129, are amended to be credited to the fund: MI/MR/DD
25 state cases in section 135, MH/DD community services fund in
26 section 136, MH/MR/DD property tax relief funding pursuant
27 to Code section 426B.1, as amended by section 154, and adult
28 MH/MR/DD allowed growth funding in section 155. Moneys in
29 the fund are appropriated to the department to be used to pay
30 the nonfederal share of medical assistance program services
31 costs that would otherwise be billed to counties for the
32 following services provided in the fiscal year beginning July
33 1, 2012: habilitation, targeted case management, and home
34 and community-based services waiver services for persons with
35 intellectual disabilities and brain injury, and 88 percent

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1 of services provided by community-based intermediate care
2 facilities for persons with mental retardation (ICF/MR).
3 Counties remain responsible for the remaining portion of the
4 nonfederal share of such medical assistance program costs in
5 the fiscal year for community-based ICF/MRs and for all of the
6 nonfederal share for the state resource centers. Provisions
7 in Code sections 249A.12 and 249A.26 that would otherwise
8 require counties to pay the entire nonfederal share are made
9 inapplicable for the fiscal year. Allocations from the fund
10 are specified for other purposes associated with redesign of
11 mental health and disability services.
12 An existing repeal of Code chapter 426B, relating to county
13 property tax relief for MH/MR/DD services, on July 1, 2013, is
14 changed to July 1, 2012. Conforming amendments are made to
15 various Code provisions.
16 Code section 445.5, requiring the county treasurer to notify
17 each land titleholder of the amount of property tax reduction
18 on each parcel as a result of the moneys received from the
19 state property tax relief fund, is amended to eliminate the
20 requirement.
21 Current law provides for certain electrical power
22 replacement generation tax revenues to be credited to the
23 property tax relief fund for distribution to counties to
24 reduce mental health, mental retardation, and developmental
25 disabilities levies. The property tax relief fund and the
26 county levy provisions are repealed effective July 1, 2013,
27 pursuant to 2011 Iowa Acts, chapter 123 (SF 209). The bill
28 provides for the revenues to instead be deposited in the new
29 mental health and disability services redesign fund. The bill
30 amends these Code sections to reflect the change: section
31 437A.8, relating to return and payment requirements for taxes
32 on electricity and natural gas providers; and section 437A.15,
33 relating to allocation of replacement tax revenues.
34 Code section 225C.7, creating the MH/DD community services
35 fund, and Code section 225C.12, providing for partial

S.F. _____ H.F. _____

1 reimbursement to counties for local inpatient mental health
2 care and treatment, are both repealed and conforming amendments
3 are included.
4 Current law provides for the department of management
5 to reduce county-certified budgets and levy rates for the
6 succeeding fiscal year to reflect the replacement tax revenues
7 in the fund as of May 1, 2012. If the repeal of Code chapter
8 426B in the division is enacted after the department has
9 applied the reductions, the reductions are rescinded, and the
10 department is required to expeditiously notify the county
11 auditors.