

IOWA STATUTES

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CHAPTER 303 DEPARTMENT OF CULTURAL AFFAIRS

303.1 DEPARTMENT OF CULTURAL AFFAIRS.

1. The department of cultural affairs is created. The department is under the control of a director who shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within a range set by the general assembly.

2. The department has primary responsibility for development of the state's interest in the areas of the arts, history, and other cultural matters. In fulfilling this responsibility, the department will be advised and assisted by the state historical society and its board of trustees, and the Iowa arts council.

The department shall:

a. Develop a comprehensive, co-ordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. Stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation in them.

c. Implement tourism-related art and history projects as directed by the general assembly.

d. Design a comprehensive, statewide, long-range plan with the assistance of the Iowa arts council to develop the arts in Iowa. The department is designated as the state agency for carrying out the plan.

e. Encourage the use of volunteers throughout its divisions, especially for purposes of restoring books and manuscripts.

3. The department shall consist of the following:

a. Historical division.

b. Arts division.

c. Other divisions created by rule.

d. Administrative section.

4. The director may create, combine, eliminate, alter or reorganize the organization of the department by rule.

5. The department by rule may establish advisory groups necessary for the receipt of federal funds or grants or the administration of any of the department's programs.

6. The divisions shall be administered by administrators who shall be appointed by the director and serve at the director's pleasure. The administrators shall:

a. Organize the activities of the division.

b. Submit a biennial report to the governor on the activities and

an evaluation of the division and its programs and policies.

- c. Control all property of the division.
- d. Perform other duties imposed by law.

86 Acts, ch 1245, § 1301

C87, §303.1

87 Acts, ch 211, § 3; 90 Acts, ch 1065, § 1; 91 Acts, ch 120, § 1;
91 Acts, ch 157, § 9; 93 Acts, ch 48, § 48; 98 Acts, ch 1215, § 53

Referred to in § 7E.5, 303A.3

Confirmation, see §2.32

303.1A DIRECTOR'S DUTIES.

The duties of the director shall include, but are not limited to, the following:

1. Adopt rules that are necessary for the effective administration of the department.
2. Direct and administer the programs and services of the department.
3. Prepare the departmental budget request by September first of each year on the forms furnished, and including the information required by the department of management.
4. Accept, receive, and administer grants or other funds or gifts from public or private agencies including the federal government for the various divisions and the department.
5. Appoint and approve the technical, professional, secretarial, and clerical staff necessary to accomplish the purposes of the department subject to chapter 8A, subchapter IV.
6. Administer the Iowa cultural trust as provided in chapter 303A and do all of the following:
 - a. Develop and adopt by rule criteria for the issuance of trust fund credits by measuring the efforts of qualified organizations, as defined in section 303A.3, to increase their endowment or other resources for the promotion of the arts, history, or the sciences and humanities in Iowa. If the director determines that the organizations have increased the amount of their endowment and other resources, the director shall certify the amount of increase in the form of trust fund credits to the treasurer, who shall deposit in the Iowa cultural trust fund, from moneys received for purposes of the trust fund as provided in section 303A.4, subsection 2, an amount equal to the trust fund credits. If the amount of the trust fund credits issued by the director exceeds the amount of moneys available to be deposited in the trust fund as provided in section 303A.4, subsection 2, the outstanding trust fund credits shall not expire but shall be available to draw down additional moneys which become available to be deposited in the trust fund as provided in section 303A.4, subsection 2.
 - b. Develop and implement, in accordance with chapter 303A, a grant application process for grants issued to qualified organizations as defined in section 303A.3.
 - c. Develop and adopt by rule criteria for the approval of Iowa

cultural trust grants. The criteria shall include, but shall not be limited to, the future stability and sustainability of a qualified organization.

d. Compile, in consultation with the Iowa arts council and the state historical society of Iowa, a list of grant applications recommended for funding in accordance with the amount available for distribution as provided in section 303A.6, subsection 3. The list of recommended grant applications shall be submitted to the Iowa cultural trust board of trustees for approval.

e. Monitor the allocation and use of grant moneys by qualified organizations to determine whether moneys are used in accordance with the provisions of this subsection and chapter 303A. The director shall annually submit the director's findings and recommendations in a report to the Iowa cultural trust board of trustees prior to final board action in approving grants for the next succeeding fiscal year.

The director may appoint a member of the staff to be acting director who shall have the powers delegated by the director in the director's absence. The director may delegate the powers and duties of that office to the administrators.

86 Acts, ch 1245, § 1302; 87 Acts, ch 211, § 4; 93 Acts, ch 48, §49; 2002 Acts, ch 1115, §1; 2003 Acts, ch 145, §235

Referred to in § 303A.4, 303A.6

303.2 DIVISION RESPONSIBILITIES.

1. The administrative services section shall provide administrative, accounting, public relations and clerical services for the department, report to the director and perform other duties assigned to it by the director.

2. The historical division shall:

a. Administer and care for historical sites under the authority of the division, and maintain collections within these buildings.

Except for the state board of regents, a state agency which owns, manages, or administers a historical site must enter into an agreement with the department of cultural affairs under chapter 28E to insure the proper management, maintenance, and development of the site. For the purposes of this section, "historical site" is defined as any district, site, building, or structure listed on the national register of historic sites or identified as eligible for such status by the state historic preservation officer or that is identified according to established criteria by the state historic preservation officer as significant in national, state, and local history, architecture, engineering, archaeology, or culture.

b. Encourage and assist local county and state organizations and museums devoted to historical purposes.

c. Develop standards and criteria for the acquisition of historic properties and for the preservation, restoration, maintenance, operation, and interpretation of properties under the jurisdiction of the division. The administrator of the division shall serve as the

state historic preservation officer, certified by the governor, pursuant to federal requirements.

d. Administer the state archives and records program in accordance with chapter 305.

e. Identify and document historic properties.

f. Prepare and maintain a state register of historic places, including those listed on the national register of historic places.

g. Conduct historic preservation activities pursuant to federal and state requirements.

h. Publish matters of historical value to the public, and pursue historical, architectural, and archaeological research and development which may include but are not limited to continuing surveys, excavation, scientific recording, interpretation, and publication of the historical, architectural, archaeological, and cultural sites, buildings, and structures in the state.

i. Buy or receive by other means historical materials including, but not limited to, artifacts, art, books, manuscripts, and images. Such materials are not personal property under sections 8A.321 and 8A.324 and shall be received and cared for under the rules of the department. The historical division may sell or otherwise dispose of those materials according to the rules of the department and be credited for any revenues credited by the disposal less the costs incurred.

j. Administer the historical resource development program established in section 303.16.

k. Administer, preserve, and interpret the battle flag collection assembled by the state in consultation and coordination with the department of veterans affairs and the department of administrative services. A portion of the battle flag collection shall be on display at the state capitol and the state historical building at all times, unless on loan approved by the department of cultural affairs.

3. The arts division shall:

a. Make surveys as deemed advisable of existing artistic and cultural programs and activities within the state, including but not limited to music, theatre, dance, painting, sculpture, architecture, and allied arts and crafts.

b. Administer the program of agreements for indemnification by the state in the event of loss of or damage to special exhibit items established by sections 304A.21 through 304A.30.

c. Submit a report to the governor and to the general assembly not later than ten calendar days following the commencement of each first session of the general assembly concerning the studies undertaken during the biennium and recommending legislation and other action as necessary for the implementation and enforcement of this subsection and subchapter VI of this chapter.

86 Acts, ch 1238, § 52; 86 Acts, ch 1245, § 1303

C87, § 303.2

87 Acts, ch 211, § 5; 90 Acts, ch 1065, § 2; 90 Acts, ch 1097, § 1; 91 Acts, ch 157, § 10; 92 Acts, ch 1246, § 51; 93 Acts, ch 48, § 50, 51; 98 Acts, ch 1017, § 2; 2001 Acts, ch 86, §1; 2002 Acts, ch 1119, §39; 2003 Acts, ch 92, §3; 2003 Acts, ch 145, §236, 286; 2005 Acts, ch 115, §30, 40

Referred to in § 427.16

303.2A INTRADEPARTMENTAL ADVISORY COUNCIL. Repealed by 93 Acts, ch 48, § 55.

303.3 CULTURAL GRANT PROGRAMS.

1. The department shall establish a grant program for cities and nonprofit, tax-exempt community organizations for the development of community programs that provide local jobs for Iowa residents and also promote Iowa's historic, ethnic, and cultural heritages through the development of festivals, music, drama, cultural programs, or tourist attractions. A city or nonprofit, tax-exempt community organization may submit an application to the department for review. The department shall establish criteria for the review and approval of grant applications. The amount of a grant shall not exceed fifty percent of the cost of the community program. Each application shall include information demonstrating that the city or nonprofit, tax-exempt community organization will provide matching funds of fifty percent of the cost of the program. The matching funds requirement may be met by substituting in-kind services, based on the value of the services, for actual dollars.

2. The department shall establish a grant program which provides general operating budget support to major, multidisciplined cultural organizations which demonstrate cultural and managerial excellence on a continuing basis to the citizens of Iowa. Applicant organizations must be incorporated under chapter 504, be exempt from federal taxation, and not be attached or affiliated with an educational institution. Eligible organizations shall be operated on a year-round basis and employ at least one full-time, paid professional staff member. The department shall establish criteria for review and approval of grant applications. Criteria established shall include, but are not limited to, a matching funds requirement. The matching funds requirement shall permit an applicant to meet the matching requirement by demonstrating that the applicant's budget contains funds, other than state and federal funds, in excess of the grant award.

3. Notwithstanding section 8.33, moneys committed to grantees under this section that remain unencumbered or unobligated on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of subsection 2.

90 Acts, ch 1272, § 77; 91 Acts, ch 120, § 2; 97 Acts, ch 212, §32; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, §393

Referred to in § 303.3B

303.3A ARTS AND CULTURAL CONFERENCES AND CAUCUSES.

1. For the purposes of this section, the following definitions apply:

a. "Arts" means music, dance, theater, opera and music theater, visual arts, literature, design arts, media arts, and folk and traditional arts.

b. "Culture" or "cultural" means programs and activities which explore past and present human experience.

c. "Department" means the department of cultural affairs.

d. "Enhancement" means programs that allow arts and cultural organizations to improve or enhance the quality of programs currently offered, and increase and support professional and student artists and arts educators.

e. "Outreach" means programs that increase rural access to cultural resources, social awareness, cultural diversity, and which serve special populations.

2. The department shall administer regional conferences and a statewide caucus on arts and cultural enhancement. The purpose of the conferences and caucus is to encourage the development of the arts and culture in the state by identifying opportunities for programs involving education, outreach, and enhancement; by reviewing possible changes in enhancement program policies, programs, and funding; and by making recommendations to the department regarding funding allocations and priorities for arts and cultural enhancement.

3. Every four years beginning in June 2001, the department shall convene a statewide caucus on arts and cultural enhancement.

a. Prior to the statewide caucus, the department shall make arrangements to hold a conference in each of several regions of the state as determined by the Iowa arts council. The department shall promote attendance of interested persons at each conference. A designee of the department shall serve as temporary chairperson until persons attending the conference elect a chairperson. The department shall provide persons attending the conference with current information regarding cultural programs and expenditures. Persons attending the conference shall identify opportunities for programs in the areas of education, outreach, and enhancement, and make recommendations in the form of a resolution. The persons attending the conference shall elect six persons from among the attendees to serve as regional, voting delegates to the statewide caucus. The conference attendees shall elect a chairperson from among the six representatives. Other interested persons are encouraged to attend the statewide caucus as nonvoting attendees.

b. The department shall charge a reasonable fee for attendance at the statewide caucus on arts and cultural enhancement.

c. A designee of the department shall call the statewide caucus to order and serve as temporary chairperson until persons attending the caucus elect a chairperson. Persons attending the caucus shall discuss the recommendations of the regional conferences and decide

upon recommendations to be made to the department and the general assembly. Elected chairpersons of the regional conferences shall meet with representatives of the department and present the recommendations of the caucus.

98 Acts, ch 1215, §54

303.3B CULTURAL AND ENTERTAINMENT DISTRICTS.

1. The department of cultural affairs shall establish and administer a cultural and entertainment district certification program. The program shall encourage the growth of communities through the development of areas within a city or county for public and private uses related to cultural and entertainment purposes.

2. A city or county may create and designate a cultural and entertainment district subject to certification by the department of cultural affairs, in consultation with the department of economic development. A cultural and entertainment district is encouraged to include a unique form of transportation within the district and for transportation between the district and recreational trails. A cultural and entertainment district certification shall remain in effect for ten years following the date of certification. Two or more cities or counties may apply jointly for certification of a district that extends across a common boundary. Through the adoption of administrative rules, the department of cultural affairs shall develop a certification application for use in the certification process. The provisions of this subsection relating to the adoption of administrative rules shall be construed narrowly.

3. The department of cultural affairs shall encourage development projects and activities located in certified cultural and entertainment districts through incentives under cultural grant programs pursuant to section 303.3, chapter 303A, and any other grant programs.

2005 Acts, ch 150, §19

Referred to in § 15.274

303.3C IOWA GREAT PLACES PROGRAM.

1. a. The department of cultural affairs shall establish and administer an Iowa great places program for purposes of combining resources of state government in an effort to showcase the unique and authentic qualities of communities, regions, neighborhoods, and districts that make such places exceptional places to work and live. The department of cultural affairs shall provide administrative assistance to the Iowa great places board. The department of cultural affairs shall coordinate the efforts of the Iowa great places board with the efforts of state agencies participating in the program which shall include, but not be limited to, the department of economic development, the Iowa finance authority, the department of human rights, the department of natural resources, the state department of transportation, and the department of workforce development.

b. The program shall combine resources from state government to

capitalize on all of the following aspects of the chosen Iowa great places:

- (1) Arts and culture.
- (2) Historic fabric.
- (3) Architecture.
- (4) Natural environment.
- (5) Housing options.
- (6) Amenities.
- (7) Entrepreneurial incentive for business development.
- (8) Diversity.

c. Initially, three Iowa great places projects shall be identified by the Iowa great places board. The board may identify up to six additional Iowa great places for participation under the program.

d. The department of cultural affairs shall work in cooperation with the vision Iowa and community attraction and tourism programs for purposes of maximizing and leveraging moneys appropriated to identified Iowa great places.

e. As a condition of receiving state funds, an identified Iowa great place shall present information to the board concerning the proposed activities and total financial needs of the project.

f. The department of cultural affairs shall account for any funds appropriated from the endowment for Iowa's health restricted capitals fund for an identified Iowa great place.

2. a. The Iowa great places board is established consisting of twelve members. The board shall be located for administrative purposes within the department of cultural affairs and the director shall provide office space, staff assistance, and necessary supplies and equipment for the board. The director shall budget moneys to pay the compensation and expenses of the board. In performing its functions, the board is performing a public function on behalf of the state and is a public instrumentality of the state.

b. The members of the board shall be appointed by the governor, subject to confirmation by the senate. At least one member shall be less than thirty years old on the date the member is appointed by the governor. The board shall include representatives of cities and counties, local government officials, cultural leaders, housing developers, business owners, and parks officials.

c. The chairperson and vice chairperson shall be elected by the board members from the membership of the board. In the case of the absence or disability of the chairperson and vice chairperson, the members of the board shall elect a temporary chairperson by a majority vote of those members who are present and voting, provided a quorum is present.

d. Members of the board shall be appointed to three-year staggered terms and the terms shall commence and end as provided in section 69.19. If a vacancy occurs, a successor shall be appointed in the same manner and subject to the same qualifications as the

original appointment to serve the unexpired term.

e. A majority of the members of the board constitutes a quorum.

f. A member of the board shall abstain from voting on the provision of financial assistance to a project which is located in the county in which the member of the board resides.

g. The members of the board are entitled to receive reimbursement for actual expenses incurred while engaged in the performance of official duties. A board member may also be eligible to receive compensation as provided in section 7E.6.

3. The board shall do all of the following:

a. Organize.

b. Identify Iowa great places for purposes of receiving a package of resources under the program.

c. Identify a combination of state resources which can be provided to Iowa great places.

2005 Acts, ch 150, §87; 2006 Acts, ch 1179, §51--53

Referred to in § 303.3D

Confirmation, see § 2.32

Endowment for Iowa's health account, §12E.12

Community attraction and tourism program, §15F.202

Vision Iowa program, §15F.302

303.3D IOWA GREAT PLACES PROGRAM FUND.

1. An Iowa great places program fund is created under the authority of the department of cultural affairs. The fund shall consist of appropriations made to the fund and transfers of interest, earnings, and moneys from other funds as provided by law. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the Iowa great places program fund shall be credited to the Iowa great places program fund.

2. Moneys appropriated for a fiscal year to the fund shall be used by the general assembly to fund capital infrastructure projects for identified Iowa great places through the Iowa great places program established in section 303.3C.

3. In awarding moneys the department of cultural affairs shall give consideration to the particular needs of each identified Iowa great place.

4. Notwithstanding section 8.33, moneys credited to the great places program fund shall not revert to the fund from which appropriated.

2006 Acts, ch 1179, §54

303.4 STATE HISTORICAL SOCIETY OF IOWA -- BOARD OF TRUSTEES.

1. A state historical society board of trustees is established consisting of twelve members selected as follows:

a. Three members shall be elected by the members of the state historical society according to rules established by the board of trustees.

b. The governor shall appoint one member from each of the state's

congressional districts.

c. The governor shall appoint four members from the state at large, at least one of whom shall be on the faculty of a college or university in the state engaged in a discipline related to the activities of the historical society.

2. The term of office of members of the board of trustees is three years beginning on July 1 and ending June 30. The terms of office of the governor's appointees are staggered terms of three years each, so that three members are appointed each year.

[C73, § 1885, 1901; C97, § 2858, 2883; S13, § 2881-a; C24, 27, 31, 35, § 4512--4514, 4543; C39, § 4541.01, 4541.02, 4543; C46, 50, 54, 58, 62, 66, 71, 73, § 303.1, 303.2, 304.2; C75, 77, 79, 81, § 303.1; 82 Acts, ch 1238, § 2]

86 Acts, ch 1245, § 1305

C87, § 303.4

89 Acts, ch 78, § 1; 93 Acts, ch 18, § 1; 2005 Acts, ch 80, § 1

Referred to in § 103A.41

303.5 POWERS AND DUTIES OF STATE HISTORICAL SOCIETY ADMINISTRATOR.

The state historical society administrator may:

1. Make and sign any agreements and perform any acts which are necessary, desirable, or proper to carry out the purpose of the division.

2. Request and obtain assistance and data from any department, division, board, bureau, commission, or agency of the state.

3. Accept any federal funds granted, by act of Congress or by executive order, for all or any purposes of this subchapter.

89 Acts, ch 78, §2

303.6 OFFICERS -- MEETINGS.

The state historical society board of trustees shall annually elect a chairperson and vice chairperson from its membership. The board shall meet as often as deemed necessary, upon the call of the chairperson, or at the request of a majority of the members of the board.

Members of the board are entitled to be reimbursed for actual expenses while engaged in their official duties. Members may also be eligible for compensation as provided in section 7E.6.

[C75, 77, 79, 81, § 303.2; 82 Acts, ch 1238, § 3]

86 Acts, ch 1245, § 1306

C87, § 303.6

Referred to in § 303A.5

Compensation; see § 303.2, Code 1985, and § 7E.6(1)

303.7 MEMBERSHIP IN STATE HISTORICAL SOCIETY.

1. The state historical society board of trustees shall recommend to the director rules for membership of the general public in the state historical society, including rules relating to membership fees. Members shall be persons who indicate an interest in the history, progress, and development of the state and who pay the

prescribed fee. The members of the state historical society may meet at least one time per year to further the understanding of the history of this state. The members of the society shall not determine policy for the department of cultural affairs but may advise the director and perform functions to stimulate interest in the history of this state among the general public. The society may perform other activities related to history which are not contrary to this chapter.

2. As used in this chapter, "state historical society" means the state historical society of Iowa, an agency of the state which is part of the department of cultural affairs. It does not mean or include any private entity.

3. Unless designated otherwise, a gift, bequest, devise, endowment, or grant to or application for membership in the state historical society shall be presumed to be to or in the state historical society of Iowa.

4. Notwithstanding section 633.63, the board may enter into agreements authorizing nonprofit foundations acting solely for the support of the state historical society to administer its membership program and funds.

[C73, § 1902; C97, § 2884; C24, 27, 31, 35, 39, § 4544; C46, 50, 54, 58, 62, 66, 71, 73, § 304.3; C75, 77, 79, 81, § 303.3, 303.4; 82 Acts, ch 1238, § 5]

C83, § 303.4

86 Acts, ch 1245, § 1307

C87, § 303.7

89 Acts, ch 78, § 3

303.8 POWERS AND DUTIES OF BOARD AND DIVISION.

1. The state historical society board of trustees shall:

a. Recommend to the state historical society a comprehensive, coordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. Make recommendations to the division administrator on historically related matters.

c. Review and recommend to the director or the director's designee policy decisions regarding the division.

d. Recommend to the state historic preservation officer for approval the state preservation plan.

e. Perform other functions prescribed by law to further historically related matters in the state.

2. The department shall:

a. Have authority to acquire by fee simple title historic properties by gift, purchase, devise, or bequest; preserve, restore, transfer, and administer historic properties; and charge reasonable admission to historic properties.

b. Maintain research centers in Des Moines and Iowa City.

[C73, § 1902; C97, § 2858, 2884; S13, § 2881-a; C24, 27, 31, 35, §

4515--4517, 4544; C39, § 4541.03, 4544; C46, 50, 54, 58, 62, 66, 71, 73, § 303.3, 304.3; C75, 77, 79, 81, § 303.4, 303.5; 82 Acts, ch 1238, § 7]

C83, § 303.6

86 Acts, ch 1245, § 1309

C87, § 303.8

89 Acts, ch 78, §4

303.9 FUNDS RECEIVED BY DEPARTMENT.

1. All funds received by the department, including but not limited to gifts, endowments, funds from the sale of memberships in the state historical society, funds from the sale of mementos and other items relating to Iowa history as authorized under subsection 2, interest generated by the life membership trust fund, and fees, shall be credited to the account of the department and are appropriated to the department to be invested or used for programs and purposes under the authority of the department. Interest earned on funds credited to the department, except funds appropriated to the department from the general fund of the state, shall be credited to the department. Section 8.33 does not apply to funds credited to the department under this section.

2. The department may sell mementos and other items relating to Iowa history and historic sites on the premises of property under control of the department and at the state capitol. Notwithstanding sections 8A.321 and 8A.327, the department may directly and independently enter into rental and lease agreements with private vendors for the purpose of selling mementos. All fees and income produced by the sales and rental or lease agreements shall be credited to the account of the department. The mementos and other items sold by the department or vendors under this subsection are exempt from section 8A.311.

3. Notwithstanding section 633.63, the board may authorize nonprofit foundations acting solely for the support of the state historical society of Iowa to accept and administer trusts deemed by the board to be beneficial to the division's operations. The board and the foundation may act as trustees in such instances.

[C75, 77, 79, 81, § 303.9; 81 Acts, ch 10, § 11; 82 Acts, ch 1238, § 8]

86 Acts, ch 1244, § 36; 88 Acts, ch 1284, §8; 89 Acts, ch 78, §5; 2003 Acts, ch 145, §237; 2003 Acts, 1st Ex, ch 2, §160, 205

303.9A IOWA HERITAGE FUND.

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

2. Moneys in the fund shall be used in accordance with the following:

a. Ninety percent shall be retained by the state historical society and used to maintain and expand Iowa's history curriculum, to

provide teacher training in Iowa history, and to support museum exhibits, historic sites, and adult education programs.

b. Five percent shall be retained by the state historical society to be used for start-up costs for the one hundred seventy-fifth and two hundredth anniversaries of Iowa statehood.

c. Five percent shall be retained by the state historical society to be used for the promotion of the sale of the Iowa heritage registration plate issued under section 321.34.

96 Acts, ch 1088, §2; 2001 Acts, ch 144, §1

Referred to in § 321.34

303.10 ACCEPTANCE AND USE OF MONEY GRANTS.

All federal grants to and the federal receipts of the agencies receiving funds under this chapter are appropriated for the purpose set forth in the federal grants or receipts.

[C75, 77, 79, 81, § 303.10]

303.11 GIFTS.

The division may accept gifts and bequests which shall be used in accordance with the desires of the donor if expressed. Funds contained in an endowment fund for either the department of history and archives or the state historical society existing on July 1, 1974, remain an endowment of the division. Gifts shall be accepted only on behalf of the division, and gifts to a part, branch, or section of the division are presumed to be gifts to the division.

If publication of a book is financed by the endowment fund, this chapter does not prevent the return of moneys from sales of the book to the endowment fund.

[C24, 27, 31, 35, § 4526, 4527; C39, § 4541.07, 4541.08; C46, 50, 54, 58, 62, § 303.7, 303.8; C66, 71, 73, § 303.7, 303.8, 304.13; C75, 77, 79, 81, § 303.11; 82 Acts, ch 1238, § 9]

86 Acts, ch 1244, § 37; 89 Acts, ch 78, §6

303.12 THROUGH 303.15 Repealed by 2003 Acts, ch 92, § 21. See chapter 305.

303.16 HISTORICAL RESOURCE DEVELOPMENT PROGRAM.

1. The historical division shall administer a program of grants and loans for historical resource development throughout the state, subject to funds for such grants and loans being made available through the appropriations process or otherwise provided by law.

2. The purpose of the historical resource development program is to preserve, conserve, interpret, and enhance historical resources that will encourage and support the economic and cultural health and development of the state and the communities in which the resources are located. For this purpose, the division may make grants and loans as otherwise provided by law with funds as may be made available by applicable law.

3. The following persons are eligible to receive historical resource grants and loans:

- a. County and city governments.
- b. Nonprofit corporations.

- c. Private corporations and businesses.
- d. Individuals.
- e. State agencies.
- f. Governments and traditional tribal societies of recognized resident American Indian tribes in Iowa.

g. Other units of government.

4. Grants and loans may be made for the following purposes:

- a. Acquisition and development of historical resources.
- b. Preservation and conservation of historical resources.
- c. Interpretation of historical resources.
- d. Professional training and educational programs on the acquisition, development, preservation, conservation, and interpretation of historical resources.

5. Grants and loans shall be awarded in each of the following categories:

- a. Museums.
- b. Documentary collections.
- c. Historic preservation.

Not less than twenty percent and not more than sixty percent of the program's funds appropriated in one fiscal year shall be allocated to any single category.

6. Grants and loans are subject to the following restrictions:

- a. Not more than twenty percent of the total grant moneys combined shall be given to or received by state agencies and institutions, or their representatives or agents.
- b. A portion of the applicant's operating expenses may be used as a cash match or in-kind match as specified by the division's rules.
- c. Grant or loan funds shall not be used to support public relations or marketing expenses.
- d. Not more than one hundred thousand dollars or twenty percent of the annual appropriation, whichever is more, shall be granted and loaned to recipients within a single county in any given grant cycle.

e. Not more than one hundred thousand dollars or ten percent of the annual appropriation, whichever is more, shall be granted and loaned to any single recipient or its agent within a single fiscal year.

f. Grants under this program may be given only after review and recommendation by the state historical society board of trustees. The division may contract with lending institutions chartered in this state to act as agents for the administration of loans under the program, in which case, the lending institution may have the right of final approval of loans, subject to the division's administrative rules. If the division does not contract with a lending institution, loans may be made only after review and recommendation by the state historical society board of trustees.

g. The division shall not award grants or loans to be used for goods or services obtained outside the state, unless the proposed

recipient demonstrates that it is neither feasible nor prudent to obtain the goods or services within the state.

h. Grant or loan funds shall not be awarded to a city or county government for a project in the historic preservation category unless the city or county government has been approved as a certified local government by the state historic preservation officer.

7. For each dollar of grant funds the following recipients must provide the following matching cash and in-kind resources:

a. All units of government and nonprofit corporations, fifty cents, of which at least twenty-five cents must be in cash.

b. For other private corporations and businesses, one dollar of which at least seventy-five cents must be in cash.

c. For individuals, seventy-five cents of which at least fifty cents must be in cash.

8. The division may use ten percent of the annual appropriation to the division, but in no event more than seventy-five thousand dollars for administration of the grant and loan program.

9. a. The division may establish a historical resource grant and loan fund composed of any money appropriated by the general assembly for that purpose, funds allocated pursuant to section 455A.19, and of any other moneys available to and obtained or accepted by the division from the federal government or private sources for placement in that fund. Each loan made under this section shall be for a period not to exceed ten years, shall bear interest at a rate determined by the state historical board, and shall be repayable to the revolving loan fund in equal yearly installments due March 1 of each year the loan is in effect. The interest rate upon loans for which payment is delinquent shall accelerate immediately to the current legal usury limit. Applicants are eligible for not more than one hundred thousand dollars in loans outstanding at any time under this program. A single lending institution contracting with the division pursuant to this section shall not hold more than five hundred thousand dollars worth of outstanding loans under the program.

Any applicant, who is otherwise eligible, who receives a direct or indirect appropriation from the general assembly for a project or portion of a project is ineligible for a historical resources development grant for that same project during the fiscal year for which the appropriation is made. For purposes of this paragraph, "project" includes any related activities, including, but not limited to, construction, restoration, supplies, equipment, consulting, or other services.

b. The division may:

(1) Contract and adopt administrative rules necessary to carry out the provisions of this section, but the division shall not in any manner directly or indirectly pledge the credit of the state of Iowa.

(2) Authorize payment from the historical resource grant and loan

fund, from fees and from any income received by investments of money in the fund for costs, commissions, attorney fees and other reasonable expenses related to and necessary for making and protecting direct loans under this section, and for the recovery of moneys loaned or the management of property acquired in connection with such loans.

10. a. The general assembly finds that the country school that served Iowa's educational needs for much of its history offered a unique opportunity to students and communities, providing for multigenerational attendance, high educational performance, a safe environment, a focus for community support, and a caring, attentive environment.

b. A country schools historical resource preservation grant program is therefore established to be administered by the historical division for the preservation of one-room and two-room buildings once used as country schools. In developing grant approval criteria, the division shall place a priority on the educational uses planned for the country school building, which may include, but are not limited to, historical interpretation and use as a teaching museum or as an operational classroom accessible to a school district or accredited nonpublic school for provisional instructional purposes.

c. Notwithstanding any other provision of this section, the amount of a grant shall not exceed twenty-five thousand dollars and applicants shall match grant funding on a dollar-for-dollar basis, of which at least one-half of the local match must be in cash.

86 Acts, ch 1238, § 54; 86 Acts, ch 1245, § 1314; 87 Acts, ch 17, §8; 89 Acts, ch 78, § 11, 12; 89 Acts, ch 236, § 12--14; 89 Acts, ch 319, § 79; 90 Acts, ch 1097, § 2--8; 91 Acts, ch 73, §1--7; 99 Acts, ch 205, §44

Referred to in § 303.2, 455A.19

303.17 IOWA STUDIES -- FINDINGS -- CURRICULUM -- COMMITTEE.

1. The general assembly finds that Iowa students should have an appreciation for Iowa through the study of Iowa's history and government, and Iowa citizens' long and distinguished record of civic responsibility. A fundamental need exists to provide Iowa's students with learning opportunities that assist the students in succeeding in society and confer upon them the ability to make their own valuable contributions to Iowa's history.

2. The department of cultural affairs shall develop an Iowa studies professional development plan that includes professional development materials and training measures to provide Iowa's teachers with effective ways to infuse Iowa studies into their classrooms. The materials developed shall include an active and innovative Iowa studies learning curriculum that may be integrated into the social studies requirements for Iowa's secondary school students at the discretion of each board of directors of a school district or the authorities in charge of each accredited nonpublic school. The curriculum shall include lesson plans covering Iowa

history, civics, government, and heritage studies. The curriculum developed shall contain enough content for the creation of a course of at least one-half unit of credit.

3. a. The director of the department of cultural affairs shall establish an Iowa studies committee to do the following:

(1) Work to inform Iowa's school districts, accredited nonpublic schools, and area education agencies of the Iowa studies professional development plan, including how to effectively utilize the curriculum developed pursuant to subsection 2.

(2) Develop partnerships with organizations such as nonprofit history or humanities organizations, civic organizations, libraries, and the business community to support and promote Iowa studies statewide.

(3) Establish evaluation criteria for the Iowa studies professional development plan, including but not limited to teacher and student evaluation and curriculum and plan effectiveness, which may include a survey of student participation in civic activities and involvement in the election process.

(4) Develop a strategy and plan to allow for the implementation of the Iowa studies professional development plan and curriculum in a limited number of schools and area education agencies across the state. Participation by a school or area education agency shall be voluntary. However, a school or area education agency selected to participate in the plan shall agree to participate in the evaluation component conducted by the Iowa studies committee pursuant to subsection 4.

b. The Iowa studies committee membership shall be comprised of the following:

(1) The director of the department of cultural affairs or the director's designee.

(2) The director of the department of education or the director's designee.

(3) The secretary of state or the secretary's designee.

(4) The state librarian or the state librarian's designee.

(5) Additional persons knowledgeable in Iowa studies, who shall be appointed by the director of the department of cultural affairs and who shall include but not be limited to the following:

(a) An employee of an area education agency.

(b) An individual employed as an Iowa social studies teacher at a public school.

(c) A faculty member of an institution of higher education governed by the state board of regents.

(d) An individual employed by a community college.

(e) A faculty member of an accredited private institution as defined in section 261.9.

(f) A member of the Iowa council of social studies.

(g) A curriculum specialist for a kindergarten through grade twelve public school district.

(h) An employee of the public broadcasting division of the department of education.

4. The Iowa studies committee shall do all of the following:

a. Conduct an evaluation of the Iowa studies professional development plan using the evaluation criteria established by the committee.

b. Submit, for school years ending on or before June 30, 2009, an annual status report on the utilization of the Iowa studies professional development plan in Iowa's school districts and accredited nonpublic schools to the chairpersons and ranking members of the senate and house committees on education by January 15. The annual report shall include the number of schools utilizing the plan.

c. Submit its findings and recommendations in a final report based upon the evaluation data compiled in accordance with subsection 3 to the chairpersons and ranking members of the senate and house committees on education by January 15, 2010.

5. This section is repealed effective July 1, 2010.

2006 Acts, ch 1047, §1

303.18 LOAN FOR EXHIBITS. Repealed by 96 Acts, ch 1034, § 70 and 96 Acts, ch 1215, § 56.

303.19 Reserved.

303.20 DEFINITIONS.

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

1. "Area of historical significance" means contiguous pieces of property of no greater area than one hundred sixty acres under diverse ownership which:

a. Are significant in American history, architecture, archaeology and culture, and

b. Possess integrity of location, design, setting, materials, skill, feeling and association, and

c. Are associated with events that have been a significant contribution to the broad patterns of our history, or

d. Are associated with the lives of persons significant in our past, or

e. Embody the distinctive characteristics of a type; period; method of construction; represent the work of a master; possess high artistic values; represent a significant and distinguishable entity whose components may lack individual distinction.

f. Have yielded, or may be likely to yield, information important in prehistory or history.

2. "Commission" is the five-person body, elected by the registered voters in the historical preservation district from persons living in the district for the purpose of administering this subchapter of this chapter.

3. "District" means a historical preservation district established under this subchapter of this chapter.

4. "Department" means the department of cultural affairs.

5. "Exterior features" means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.

6. "Property owner" means an individual or corporation who is the owner of real estate for taxation purposes.

[C77, 79, 81, § 303.20; 82 Acts, ch 1238, § 14]

86 Acts, ch 1245, § 1315; 95 Acts, ch 67, §53

Referred to in § 303.33, 303.34, 427.16

303.21 PETITION.

Not less than ten percent of the eligible voters in an area of asserted historical significance may petition the department for a referendum for the establishment of a district.

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

[C77, 79, 81, § 303.21; 82 Acts, ch 1238, § 15]

2001 Acts, ch 24, §45

Referred to in § 303.33, 303.34

303.22 ACTION BY DEPARTMENT.

The department shall hold a hearing not less than thirty days or more than sixty days after the petition is received. The department shall publish notice of the hearing, at a reasonable time before the hearing is to take place, and shall post notice of the hearing in a reasonable number of places within the suggested district. The cost of notification shall be paid by the persons who petition for the establishment of a district.

At the hearing the department shall hear interested persons, accept written presentations, and shall determine whether the suggested district is an area of historical significance which may properly be established as a historical preservation district pursuant to the provisions of this subchapter of this chapter. The department may determine the boundaries which shall be established for the district. The department shall not include property which is not included in the suggested district unless the owner of the property is given an opportunity to be heard.

The department, if it determines that the suggested district meets the criteria for establishment as a historical preservation district, shall indicate the owners of the property and residents included and shall forward a list of owners and residents to the county commissioner of elections.

If the department determines that the suggested district does not meet the criteria for establishment as a historical preservation district, it shall so notify the petitioners.

[C77, 79, 81, § 303.22; 82 Acts, ch 1238, § 16]

Referred to in § 303.33, 303.34

303.23 REFERENDUM.

Within thirty days after the receipt of the list of owners of property and residents within the suggested historical preservation district, the department shall fix a date not more than forty-five days from the receipt of the petition seeking a referendum on the question of establishment of a historical preservation district. The department, after consultation with the county commissioner of elections, shall specify the polling place within the suggested district that will best serve the convenience of the voters and shall appoint from residents of the proposed district three judges and two clerks of election.

[C77, 79, 81, § 303.23; 82 Acts, ch 1238, § 17]

Referred to in § 303.33, 303.34

303.24 NOTICE.

The department, after consultation with the county commissioner of elections, shall post notice of the referendum in a reasonable number of places within the suggested district a reasonable time before it is to take place. The notice shall state the purpose of the referendum, a description of the district, the date of the referendum, the location of the polling place, and the hours when the polls will open and close.

[C77, 79, 81, § 303.24; 82 Acts, ch 1238, § 18]

Referred to in § 303.33, 303.34

303.25 VOTING.

A person shall be qualified to vote at the referendum if such person is a registered voter of the area embraced by the proposed historic district.

An historic preservation district is established if a majority of the persons voting at the referendum votes in favor of its establishment.

[C77, 79, 81, § 303.25]

94 Acts, ch 1169, §64

Referred to in § 303.33, 303.34

303.26 COMMISSION.

At the same time the referendum is held, an election shall be held for the commission. Each voter at the referendum may write upon the ballot the names of not more than five persons who are eligible voters within the district to be members of the commission.

The five persons receiving the highest number of votes shall constitute the commission. In the event one of the five receiving the highest number of votes elects not to serve on the commission, the person receiving the next highest number of votes shall serve.

Of the initial commission the person receiving the highest number of votes shall receive a five-year term of office, the next highest a four-year term, the next highest a three-year term, the next highest a two-year term, and the fifth highest a one-year term. Thereafter,

an election shall be held annually in the district to elect a member to a five-year term as each term expires.

Vacancies in the commission occurring between elections shall be filled by the remaining members of the commission by majority vote. Should a majority of those voting vote not to establish the district, the election shall be void.

[C77, 79, 81, § 303.26]

Referred to in § 303.33, 303.34

303.27 CONTROLS.

After the establishment of a district, an exterior portion of any building, exterior fixture, or other exterior structure, or any aboveground utility structure or any type of outdoor advertising sign shall not be erected, altered, restored, moved or demolished within such district until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the commission.

[C77, 79, 81, § 303.27]

Referred to in § 303.33, 303.34, 404A.3

303.28 INTERIOR.

The commission shall not consider or attempt to control the interior arrangement of any building in the district.

[C77, 79, 81, § 303.28]

Referred to in § 303.33, 303.34, 404A.3

303.29 USE OF STRUCTURES.

No change in the use of any structure or property within a designated historical district shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the commission. For purposes of this section "use" means the legal enjoyment of property that consists in its employment, exercise, or practice.

[C77, 79, 81, § 303.29]

Referred to in § 303.33, 303.34, 404A.3

303.30 PROCEDURES.

Prior to issuance or denial of a certificate of appropriateness the commission shall take such action as may reasonably be required to inform persons likely to be materially affected by the application, and shall give the applicant and such persons an opportunity to be heard. In cases where the commission deems it necessary, it may hold a public hearing concerning the application. The commission shall vote upon any application for a certificate of appropriateness within sixty days after its submission to the commission.

If the commission determines that the proposed construction, reconstruction, alteration, restoration, moving, demolition, or the change in use is appropriate, it shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness.

If the commission determines that the proposed construction,

reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features, or the proposed change in use would be incongruous with the historical, architectural, archaeological or cultural aspects of the district, a certificate of appropriateness shall not be issued, and the commission shall place upon its records the reasons for such determination and shall notify the applicant of such determination, furnishing the applicant an attested copy of its reasons and its recommendations, if any, as appearing in the records of the commission.

The commission may approve the application in any case where a person would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness was issued. Any applicant aggrieved by a determination of the commission may appeal to the district court for the county in which the land concerned is located within sixty days of the commission's action.

[C77, 79, 81, § 303.30]

Referred to in § 303.33, 303.34, 404A.3

303.31 ACTION BY COMMISSION.

The commission shall take action to enjoin any attempts to construct, reconstruct, alter, restore, move, or demolish any exterior feature, or to change the use of the property within the district without a certificate of appropriateness.

[C77, 79, 81, § 303.31]

Referred to in § 303.33, 303.34, 404A.3

303.32 ORDINARY MAINTENANCE AND REPAIR.

Nothing in this subchapter of this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a district which does not involve a change in design, material or outer appearance, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which is required by public safety because of an unsafe or dangerous condition.

[C77, 79, 81, § 303.32]

Referred to in § 303.33, 303.34, 404A.3

303.33 TERMINATION OF DISTRICT.

Two years after the establishment of a district, a referendum for the termination of the district shall be held if ten percent of the eligible voters in the district so request. If the registered voters, by a majority of those voting, favor termination, sections 303.20 through 303.32 will no longer have any effect on the property formerly included in the district.

If an election is held to terminate a district under this section and such attempt fails, another referendum for termination of the district in question shall not take place for a period of two years.

[C77, 79, 81, § 303.33]

95 Acts, ch 67, §53; 96 Acts, ch 1034, §18

Referred to in § 303.34

303.34 AREAS OF HISTORICAL SIGNIFICANCE.

The provisions of sections 303.20 to 303.33 do not apply within the limits of a city. However, in order for a city to designate an area which is deemed to merit preservation as an area of historical significance, the following shall apply:

1. An area of historical significance shall be proposed by the governing body of the city on its own motion or upon the receipt by the governing body of a petition signed by residents of the city. The city shall submit a description of the proposed area of historical significance or the petition describing the proposed area, if the proposed area is a result of the receipt of a petition, to the historical division which shall determine if the proposed area meets the criteria in subsection 2 and may make recommendations concerning the proposed area. Any recommendations made by the division shall be made available by the city to the public for viewing during normal working hours at a city government place of public access.

2. A city shall not designate an area as an area of historical significance unless it contains contiguous pieces of property under diverse ownership which meets the criteria specified in section 303.20, subsection 1, paragraphs "a" to "f".

3. A city may provide by ordinance for the establishment of a commission to deal with matters involving areas of historical significance but shall provide by ordinance for such commission upon the enactment of the ordinance designating an area as an area of historical significance as required in subsection 4. Upon the establishment of the commission the city shall provide by ordinance for the method of appointment, the number, and terms, of members of the commission and for the duties and powers of the commission. The commission shall contain not less than three members. The members of the commission shall be appointed with due regard to proper representation of residents and property owners of the city and their relevant fields of knowledge including but not limited to history, urban planning, architecture, archaeology, law, and sociology. At least one resident of each designated area of historical significance shall be appointed to the commission. Cities with a population of more than fifty thousand shall not appoint more than one-third of the members to the commission of an area of historical significance that are members of a city zoning commission appointed pursuant to chapter 414. The commission shall have the power to approve or deny applications for proposed alterations to exterior features within an area designated as an area of historical significance. An aggrieved party may appeal the commission's action to the governing body of the city. If not satisfied by the decision of the governing body, the party may appeal within sixty days of the governing body's decision to the district court for the county in which the designated area is located. On appeal the governing body or the district court as the case may be shall consider whether the commission has exercised its

powers and followed the guidelines established by the law and ordinance, and whether the commission's action was patently arbitrary or capricious.

4. An area shall be designated an area of historical significance upon enactment of an ordinance of the city. Before the ordinance or an amendment to it is enacted, the governing body of the city shall submit the ordinance or amendment to the historical division for its review and recommendations.

[C81, § 303.34; 82 Acts, ch 1238, § 19]

89 Acts, ch 145, § 1; 92 Acts, ch 1204, § 7

Referred to in § 414.2, 427.16

303.35 TO 303.40 Reserved.

303.41 ELIGIBILITY AND PURPOSE.

A land use district shall not be created under this subchapter unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

83 Acts, ch 108, § 1

Referred to in § 303.48, 303.64

303.42 PETITION.

Eligible electors residing within the limits of a proposed land use district equal in number to at least ten percent or more of the registered voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the registered voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this subchapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

1. An intelligible description of the boundaries of the territory to be embraced in the district.
2. The name of the proposed district.
3. That the territory to be embraced in the district has a distinctive historical and cultural character which might be preserved by the establishment of the district.
4. That the public welfare will be promoted by the establishment of the district.
5. The signatures of the petitioners.

83 Acts, ch 108, § 2; 2001 Acts, ch 56, §16

Referred to in § 303.48, 303.64

303.43 JURISDICTION -- DECISIONS -- RECORDS.

The board of supervisors of the county in which the proposed land use district, or its major portion, is located has jurisdiction of the proceedings on the petition as provided in this subchapter and the decision of a majority of the members of that board is necessary for adoption. All orders of the board made under this subchapter shall be spread at length upon the records of the proceedings of the board of supervisors, but need not be published.

83 Acts, ch 108, § 3

Referred to in § 303.48, 303.64

303.44 DATE AND NOTICE OF HEARING.

The board of supervisors to whom the petition is addressed, at its next regular, special, or adjourned meeting, shall set the time and place when it will meet for a hearing upon the petition, and direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it may concern, without naming them, of the pendency and prayer of the petition, by publication of a notice once each week for two consecutive weeks in some newspaper of general circulation published in the proposed district. The last publication shall not be less than twenty days prior to the date set for the hearing of the petition. If no such newspaper is published in the proposed district, then notice shall be by posting at least five copies of the notice in the proposed district at least twenty days before the hearing. Proof of giving notice shall be made by affidavit of the publisher or affidavit of the person who posted the notices, and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state the following:

1. That a petition has been filed with the county auditor of that county for establishment of a proposed land use district and the name of the proposed district.
2. An intelligible description of the boundaries of the territory to be embraced in the district.
3. The date, hour, and place where the petition will come on for hearing before the board of supervisors of the named county.
4. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition, and at the hearing all interested persons shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding it.

83 Acts, ch 108, § 4

Referred to in § 303.45, 303.46, 303.48, 303.64

303.45 HEARING OF PETITION AND ORDER.

The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 303.44 and shall continue the hearing in session, with adjournments from day to day,

if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as eligible electors shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the registered voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

83 Acts, ch 108, § 5; 2001 Acts, ch 56, §17

Referred to in § 303.48, 303.64

303.46 NOTICE OF ELECTION.

In its order for the election the board of supervisors shall direct the county auditor to cause notice of the election to be given by posting at least five copies of the notice in public places in the proposed district at least twenty days before the date of election and by publication of the notice once each week for three consecutive weeks in some newspaper of general circulation published in the proposed district, or, if no such newspaper is published within the proposed district, then in such a newspaper published in the county in which the major part of the proposed district is located. The last publication is to be at least twenty days prior to the date of election. The notice shall state the time and place of holding the election and the hours when the polls will be open and closed, the purpose of the election, with the name of the proposed district and a description of its boundaries, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of posting and publication shall be made in the manner provided in section 303.44 and filed with the county auditor.

83 Acts, ch 108, § 6

Referred to in § 303.48, 303.64

303.47 ELECTION.

Each registered voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form:

For Land Use District

Against Land Use District

The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this subchapter. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this subchapter.

83 Acts, ch 108, § 7; 2001 Acts, ch 56, § 18

Referred to in § 303.48, 303.64

303.48 EXPENSES AND COSTS OF ELECTION.

All expenses incurred in carrying out sections 303.41 through 303.47, including the costs of the election, as determined by the board of supervisors, shall be paid by the county whose board is vested with jurisdiction of the proceedings.

83 Acts, ch 108, § 8

Referred to in § 303.64

303.49 ELECTION OF TRUSTEES -- TERMS -- VACANCIES.

1. If the proposition to establish a land use district carries, a special election shall be called by the board of supervisors of the county which conducted the election to form the district. This special election shall be held within the newly created district at a single polling place designated by the county auditor not more than ninety days after the organization of the land use district. The election shall be held for the purpose of electing the initial seven members of the board of trustees of the land use district. The county auditor shall cause notice of the election to be posted and published, and shall perform all other acts with reference to the election, and conduct it in like manner, as nearly as may be, as provided in this subchapter for the election on the question of establishing the district. Each trustee must be a United States citizen not less than eighteen years of age and a resident of the district. Each registered voter at the election may write in upon the ballot the names of not more than seven persons whom the voter desires for trustees and may cast not more than one vote for each of

the seven persons. The seven persons receiving the highest number of votes cast shall constitute the first board of trustees of the district.

2. Following the initial special election, an annual election shall be held at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. The board of trustees, in consultation with the county auditor, shall select the election date. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in chapters 45 and 49. Each registered voter at the election may vote for one person whom the voter desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district may be filled by the remaining members of the board of trustees for the period extending to the next annual election at which time the registered voters of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

83 Acts, ch 108, § 9; 85 Acts, ch 161, § 1; 94 Acts, ch 1169, § 64; 97 Acts, ch 83, § 1

Referred to in § 303.64

303.50 TRUSTEE'S BOND.

Each trustee shall, before entering upon the duties of office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in a form and amount as that board of supervisors may determine, and file the bond with the county auditor of that county.

83 Acts, ch 108, § 10

Referred to in § 303.64

303.51 LAND USE DISTRICT TO BE A BODY CORPORATE.

A land use district organized under this subchapter is a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue and be sued, contract

and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter it, and exercise all the powers conferred in this chapter.

The courts of this state shall take judicial notice of the existence of a land use district organized under this subchapter.

83 Acts, ch 108, § 11

Referred to in § 303.64

303.52 BOARD OF TRUSTEES -- POWERS AND DUTIES.

1. The trustees elected under this subchapter constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, vice president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district except to structures of an advertising or commercial nature located on the land.

3. The board of trustees shall provide for the manner in which the land use plan shall be established and enforced and amended, supplemented, or changed. However, a plan shall not become effective until after a public hearing on it, at which parties in interest and citizens of the district shall have an opportunity to be heard. At least fifteen days notice of the time and place of the hearing shall be published in a newspaper of general circulation within the district giving the time, date, and location of the public hearing.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer the compensation it deems fit from the funds of the district.

83 Acts, ch 108, § 12; 85 Acts, ch 161, §2

Referred to in § 303.64

303.52A INCLUSION OR EXCLUSION OF LAND.

If at least sixty percent of the registered voters of a land area petition the board of supervisors for inclusion in or exclusion from a land use district, the board shall review the petition and determine if the petition contains a sufficient number of registered voters residing in the affected land area and, if the petition is sufficient, submit it to the board of trustees of the land use district. The land area to be included in or excluded from the land use district must be contiguous to the land use district. If two thirds of the membership of the board of trustees vote in favor of the petition, the petition shall be granted and the land area included in or excluded from the district.

85 Acts, ch 161, §3; 2001 Acts, ch 56, §19

Referred to in § 303.64

303.53 CHANGES AND AMENDMENTS.

The land use plan, once established, may be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against a change signed by the owners of twenty percent or more either of the area included in the proposed change, or of the immediately adjacent area and within five hundred feet of the boundaries, the amendment shall not become effective except by the favorable vote of at least eighty percent of all of the members of the board of trustees.

83 Acts, ch 108, § 13

Referred to in § 303.64

303.54 BOARD OF ADJUSTMENT.

The board of trustees of the district shall provide for the appointment of a board of adjustment, shall provide that the board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the land use plan which are in harmony with its general purpose and intent and in accordance with the general or specific rules of the plan, and provide that a property owner aggrieved by the action of the board of trustees in the adoption of the land use plan may petition the board of adjustment directly to modify regulations and restrictions as applied to those property owners.

83 Acts, ch 108, § 14

Referred to in § 303.64

303.55 MEMBERSHIP -- TERM -- COMPENSATION.

The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members are removable for cause by the appointing authority

upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant. The compensation for the members of the board of adjustment is the same as for the members of the board of trustees.

83 Acts, ch 108, § 15; 85 Acts, ch 161, §4

Referred to in § 303.64

303.56 RULES.

The board of adjustment shall adopt rules in accordance with any regulation or ordinance adopted by the board of trustees pursuant to this subchapter. Meetings of the board of adjustment shall be held at the call of the chairperson and at other times as the board determines. The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

83 Acts, ch 108, § 16

Referred to in § 303.64

303.57 APPEALS TO BOARD OF ADJUSTMENT.

Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan or by a decision of the administrative officer. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the administrative officer and the board of adjustment a notice of appeal specifying the grounds of the appeal.

83 Acts, ch 108, § 17; 85 Acts, ch 161, §5

Referred to in § 303.64

303.58 POWERS OF BOARD.

The board of adjustment may:

1. Hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this subchapter or of any ordinance adopted pursuant to it.

2. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under the ordinance.

3. Authorize upon appeal, in specific cases, a variance from the terms of the land use plan which are not contrary to the public interest, where owing to special conditions a literal enforcement of the plan would result in unnecessary hardship, and so that the spirit of the plan shall be observed and substantial justice done.

83 Acts, ch 108, § 18

Referred to in § 303.64

303.59 POWERS ON APPEAL.

In exercising its powers the board may, in conformity with this

subchapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make the order, requirement, decision, or determination as should be made, and to that end have all the powers of the administrative officer of the board.

83 Acts, ch 108, § 19; 85 Acts, ch 161, §6

Referred to in § 303.64

303.60 VOTE REQUIRED.

The concurring vote of three members of the board is necessary to reverse an order, requirement, decision, or determination, or to decide in favor of the applicant on a matter upon which it is required to pass under an ordinance or to effect a variation in the land use plan.

83 Acts, ch 108, § 20

Referred to in § 303.64

303.61 PETITION TO COURT.

Any persons, jointly or severally, aggrieved by a decision of the board of adjustment under this subchapter, or any taxpayer, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

83 Acts, ch 108, § 21

Referred to in § 303.64

303.62 REVIEW BY COURT.

Upon the presentation of a petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment prescribing the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

83 Acts, ch 108, § 22

Referred to in § 303.64

303.63 TRIAL TO COURT.

If upon the hearing, which shall be tried de novo, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as it directs and report the evidence to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

83 Acts, ch 108, § 23

Referred to in § 303.64

303.64 PRECEDENCE.

All issues in any proceedings under sections 303.41 through 303.63 have preference over all other civil actions and proceedings.

83 Acts, ch 108, § 24

303.65 RESTRAINING ORDER.

If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this subchapter or of an ordinance or other regulation made under this subchapter, the board of trustees, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in, or about the premises.

83 Acts, ch 108, § 25

303.66 TAXES -- POWER TO LEVY -- TAX SALES.

The board of trustees of a land use district organized under this subchapter may by ordinance levy annually for the purpose of paying the administrative costs of the district, a tax upon real property within the territorial limits of the land use district not exceeding twenty-seven cents per thousand dollars of the adjusted taxable valuation of the property for the preceding fiscal year. The tax shall not be levied on any tillable farmland, pastureland, timber pasture or forestland located within the district.

Taxes levied by the board shall be certified on or before the first day of March to the county auditor of each county where any of the property included within the territorial limits of the land use district is located, and shall be placed upon the tax list for the current year, and the county treasurer shall collect the taxes in the same manner as other taxes, and when delinquent they shall draw the same interest and penalties. All taxes so levied and collected shall be paid over to the treasurer of the district.

Sales for delinquent taxes owing to a land use district shall be made at the same time and in the same manner as sales are made for other taxes, and all provisions of the law of this state relating to the sale of property for delinquent taxes are applicable, so far as may be, to such sales.

83 Acts, ch 108, § 26

303.67 RECORDS AND DISBURSEMENTS.

The clerk of each land use district shall keep a record of all the proceedings and actions of the trustees. The treasurer shall receive, collect, and disburse all moneys belonging to the district, and no claim shall be paid or disbursement made until it has been duly audited by the board of trustees.

83 Acts, ch 108, § 27

303.68 CONFLICT WITH OTHER REGULATIONS.

If the regulations made under this subchapter impose higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this subchapter govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the regulations made under authority of this subchapter, that statute or ordinance or regulation governs. If a regulation proposed or made under this subchapter relates to a structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of a river or stream, prior approval of the department of natural resources is required to establish, amend, supplement, change, or modify the regulation or to grant a variation or exception from it.

83 Acts, ch 108, § 28

303.69 THROUGH 303.74 Reserved.

303.75 THROUGH 303.85 Repealed by 93 Acts, ch 48, § 55. See § 256.80 et seq.

303.86 ARTS COUNCIL.

The Iowa arts council is created as an advisory council, consisting of fifteen members, appointed by the governor from among citizens of Iowa who are recognized for their interest or experience in connection with the performing and fine arts. In making appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups concerned with or engaged in the production or presentation of the performing and fine arts.

The term of office of each member of the Iowa arts council is three years. The governor shall designate a chairperson and a vice chairperson from the members of the council to serve at the pleasure of the governor. All vacancies shall be filled for the balance of any unexpired term in the same manner as original appointments. The members of the council shall not receive compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as members of the council. Members may also be eligible for compensation as provided in section 7E.6.

86 Acts, ch 1245, § 1325; 2002 Acts, ch 1119, § 151

Referred to in § 303A.5

303.87 DUTIES OF COUNCIL.

The arts council shall:

1. Advise the director with respect to policies, programs, and procedures for carrying out the administrator's functions, duties, or responsibilities.
2. Review programs to be supported and make recommendations on the programs to the director.

86 Acts, ch 1245, § 1326; 90 Acts, ch 1065, § 3; 91 Acts, ch 157, § 11

303.88 ADMINISTRATOR'S POWERS AND AUTHORITY.

The arts division administrator may:

1. Make and sign any agreements and perform any acts which are necessary, desirable, or proper to carry out the purpose of the division.

2. Request and obtain assistance and data from any department, division, board, bureau, commission, or agency of the state.

3. Accept any federal funds granted, by Act of Congress or by executive order, for all or any purposes of this subchapter, and receive and disburse as the official agent of the state any funds made available by the national endowment for the arts.

4. Accept gifts, contributions, endowments, bequests, or other moneys available for all or any of the purposes of the division. Interest earned on the gifts, contributions, endowments, bequests, or other moneys accepted under this subsection shall be credited to the fund or funds to which the gifts, contributions, endowments, bequests, or other moneys have been deposited, and is available for all or any of the purposes of the division.

86 Acts, ch 1245, § 1327; 88 Acts, ch 1158, §60

303.89 STATE POET LAUREATE DESIGNATED -- NOMINATING COMMITTEE.

1. A state poet laureate nominating committee is created. At the request of the governor, the executive director of humanities Iowa and the executive director of the Iowa arts council shall each appoint three persons who reside in this state to a poet laureate nominating committee. At its initial meeting held at the call of the executive directors of humanities Iowa and the Iowa arts council, the state poet laureate nominating committee shall elect a chairperson and vice chairperson from among its members and adopt rules of procedure. The members of the state poet laureate nominating committee shall be invited to serve without compensation for their services. The nominating committee is charged with considering the diversity of the people and poetry of Iowa.

2. If more than one meeting is required, the state poet laureate nominating committee shall meet at the call of the chairperson or as determined by the nominating committee and select a list of three nominees, along with biographical and professional information and supporting representative material, who are residents of Iowa and who, based on their poetic accomplishments, deserve recognition as the state poet laureate. The list of nominees shall be transmitted to the governor. The governor may select the state poet laureate from the list of nominees for a two-year term of office. The state poet laureate is an honorary state office and the incumbent is entitled to no compensation as a result of the appointment.

99 Acts, ch 161, §1

303.90 FUND CREATED AND TRANSFER OF MONEYS. Repealed by 91 Acts, ch 157, § 13.

303.91 THROUGH 303.94 Repealed by 93 Acts, ch 48, § 55. See § 256.50 et seq.

CHAPTER 303A IOWA CULTURAL TRUST

303A.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Cultural Trust Act".

2002 Acts, ch 1115, §2

303A.2 LEGISLATIVE FINDINGS.

The general assembly finds and declares that cultural organizations generate millions of dollars in economic activity in Iowa; attract people to live and work in Iowa's communities; contribute to a revitalization of those communities; are a magnet for tourists; train minds for the creative economy jobs of the future; and build social capital. However, these organizations are often undercapitalized. Therefore, to bring financial stability to these organizations through fluctuating economic conditions, it is the intent of the general assembly that a public trust be established the income from which may be made available to supplement the operating budgets of nonprofit cultural organizations that meet certain criteria, including a commitment to strategies to attain long-term financial stability and sustainability. It is further the intent of the general assembly that income from the public trust may be used initially for a statewide educational program to assist cultural organizations in endowment development.

2002 Acts, ch 1115, §3

303A.3 DEFINITIONS.

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

1. "Board" means the board of trustees of the Iowa cultural trust created in section 303A.5.
2. "Department" means the department of cultural affairs created in section 303.1.
3. "Director" means the director of the department of cultural affairs.
4. "Grant account" means the Iowa cultural trust grant account created in section 303A.7.
5. "Qualified organization" means a tax-exempt, nonprofit organization whose primary mission is to promote the arts, history, or the sciences and humanities in Iowa.
6. "Trust fund" means the Iowa cultural trust fund created in section 303A.4.

2002 Acts, ch 1115, §4

Referred to in § 303.1A

303A.4 IOWA CULTURAL TRUST AND TRUST FUND.

1. The Iowa cultural trust is created as a public body corporate organized for the purposes, with the powers, and subject to the

restrictions, set forth in this chapter.

2. An Iowa cultural trust fund is created in the office of the treasurer of state for the purpose of receiving moneys appropriated by the general assembly and any other moneys available to the trust fund due to the issuance of trust fund credits by the director as provided in section 303.1A, subsection 6.

3. The trust fund may also receive any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation. Any assets received by the trust fund from federal or private sources shall at all times be preserved, invested, and expended solely for the purposes of the trust fund and shall be held in trust as provided for in this section. No property rights in the assets received by the trust fund from federal or private sources shall exist in favor of the state.

4. The treasurer of state shall act as custodian of the fund, shall invest moneys in the trust fund, and shall transfer the interest attributable to the investment of trust fund moneys to the grant account created in section 303A.7. The trust fund's principal shall not be used or accessed by the department or the board for any purpose.

5. Notwithstanding section 8.33, moneys remaining in the trust fund at the end of the fiscal year shall be retained in the trust fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the trust fund shall be credited to the trust fund.

2002 Acts, ch 1115, §5

Referred to in § 15G.111, 303.1A, 303A.3, 303A.7

303A.5 BOARD OF TRUSTEES.

1. A board of trustees of the Iowa cultural trust is created. The general responsibility for the proper operation of the trust is vested in the board of trustees, which shall consist of thirteen members as follows:

a. Nine public members, five of whom shall be appointed by the governor, subject to confirmation by the senate. The majority leader of the senate, the minority leader of the senate, the speaker of the house, and the minority leader of the house of representatives shall each appoint one public member. A public member of the board appointed in accordance with this section shall not also serve concurrently as a member of the state historical society board of trustees or the Iowa state arts council.

b. Four ex officio, nonvoting members, consisting of the treasurer of state or the treasurer's designee, the director of the department of cultural affairs or the director's designee, the chairperson of the state historical society board of trustees elected pursuant to section 303.6, and the chairperson of the Iowa arts council designated pursuant to section 303.86.

2. Members appointed by the general assembly shall be appointed to two-year terms. The public members appointed by the governor

shall serve five-year staggered terms beginning and ending as provided in section 69.19. Vacancies on the board shall be filled for the unexpired portion of the term in the same manner as the original appointments.

3. Members appointed by the governor are subject to the requirements of sections 69.16, 69.16A, and 69.19.

4. Public members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses they incur through service on the board.

5. The board shall elect a chairperson and vice chairperson from among its membership. The board shall meet at the call of its chairperson or upon written request of a majority of its voting members. Five voting members constitute a quorum. The concurrence of a majority of the voting members of a board is required to take any action relating to its duties.

6. The board shall be located for administrative purposes within the department. The department, subject to approval by the board, shall adopt administrative rules pursuant to chapter 17A necessary to administer the income derived from the Iowa cultural trust fund and to perform specific powers and duties as provided in section 303A.6. The director shall budget funds to pay the expenses of the board and administer this chapter.

2002 Acts, ch 1115, §6

Referred to in § 303A.3

Confirmation, see § 2.32

303A.6 BOARD OF TRUSTEES -- POWERS AND DUTIES.

The board shall do any or all of the following:

1. Enter into agreements with any qualified organization, the state, or any federal or other state agency, or other entity as required to administer this chapter.

2. Approve or disapprove the grants recommended for approval by the director, in consultation with the Iowa arts council and the state historical society of Iowa, in accordance with section 303.1A, subsection 6, paragraph "c". The board may delete any recommendation, but shall not add to or otherwise amend the list of recommended grants.

3. Upon approving a grant, the board shall certify to the treasurer of state the amount of financial assistance payable from the grant account to the qualified organization whose grant application is approved.

4. Determine, in consultation with the treasurer of state, the amount of investment income attributable to the trust fund that will be available for distribution as grants to qualified organizations.

5. Accept any devise, gift, bequest, donation, or federal or other grant from any person, firm, partnership, or corporation, which the treasurer of state shall deposit into the trust fund.

2002 Acts, ch 1115, §7; 2003 Acts, ch 108, §51

Referred to in § 303.1A, 303A.5

303A.7 IOWA CULTURAL TRUST GRANT ACCOUNT.

1. An Iowa cultural trust grant account is created in the office of the treasurer of state under the control of the board to receive interest attributable to the investment of trust fund moneys as required by section 303A.4, subsection 4. The moneys in the grant account are appropriated to the board for purposes of the Iowa cultural trust created in section 303A.4. Moneys in the grant account shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the Iowa cultural trust. The treasurer of state shall act as custodian of the grant account and disburse moneys contained in the grant account as directed by the board. The board shall make expenditures from the grant account consistent with the purposes of the Iowa cultural trust.

2. Moneys in the grant account are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the grant account shall be credited to the grant account.

3. For the fiscal period beginning July 1, 2003, and ending June 30, 2005, the board may use moneys in the grant account for a statewide educational program to promote participation in, expanded support of, and local endowment building for, Iowa nonprofit arts, history, and sciences and humanities organizations.

2002 Acts, ch 1115, §8; 2002 Acts, ch 1175, §82

Referred to in § 303A.3, 303A.4

CHAPTER 304A FINE ARTS PROJECTS AND INDEMNIFICATION FOR SPECIAL EXHIBITS

304A.1 THROUGH 304A.7 Repealed by 86 Acts, ch 1245, § 1340. See § 303.86 et seq.

304A.8 DEFINITIONS.

When used in this division:

1. "State building" means any permanent structure, wholly or partially enclosed, which is intended to provide offices, laboratories, workshops, courtrooms, hearing and meeting rooms, storage space and other facilities for carrying on the functions of a state agency, including the board of regents; or auditoriums, meeting rooms, classrooms and other educational facilities; eating or sleeping facilities, medical or dental facilities, libraries and museums which are intended for the use or accommodation of the general public or state employees; together with all grounds and appurtenant structures and facilities; provided, however, it shall not mean maintenance sheds, separate garages, cellhouses or other secure sleeping facilities for prisoners, or buildings used solely as storage or warehouse facilities.

2. "Fine arts" means sculpture, fountains, bas-reliefs, mosaics, frescoes, wall hangings, crafts, photography, pictures or other

enhancements to be integrated into the total environment of the building or complex of buildings. "Fine arts" does not include the incidental ornamental detail of functional structural elements, or hardware and other accessories.

3. "Principal user" means the designated person or entity having principal administrative responsibility for the actual utilization of a proposed state building.

[C79, 81, § 304A.8]

86 Acts, ch 1245, § 1333

304A.9 CONSULTATION.

Whenever a state building is to be constructed, the contracting officer or principal user shall, at the time of engaging or directing an architect to prepare plans and specifications for the building, contact the arts division of the department of cultural affairs, which shall have authority to ensure that the fine arts elements will be integrated within, on, or about the total environment of such construction. Notwithstanding this section and sections 304A.11 and 304A.12, if the state building is under the control of the state board of regents the work on the fine arts element shall be administered by the state board of regents in consultation with the arts division.

[C79, 81, § 304A.9]

86 Acts, ch 1245, § 1334

304A.10 COST OF FINE ARTS -- PERCENTAGE.

The total estimated cost of the fine arts elements included in a plan and specifications for a state building or group of state buildings in accordance with the purposes of this division shall in no case be less than one-half of one percent of the total estimated cost of such building or group of buildings. This percentage allocation shall not be diminished by professional fees. By September 1 annually, the contracting officer or principal user shall submit to the department of cultural affairs the total amount of state financial assistance expended in accordance with this section during the previous fiscal year. If deemed in the best interests of the citizens, funds allocated for the acquisition of fine arts may be accumulated over more than one appropriation or fiscal period or combined to complete significant projects, however, this sentence does not authorize interproject transfers. The total estimated cost of the fine arts elements included in a plan and specifications for a state building or group of state buildings in accordance with this section shall be included by the department of cultural affairs in calculating the amount of state financial assistance for the arts for purposes of national ranking surveys. By January 1 annually, the department of cultural affairs shall submit a summary of the total amount of state financial assistance expended in accordance with this section and for which state buildings the assistance was expended.

[C79, 81, § 304A.10]

86 Acts, ch 1245, § 1335; 98 Acts, ch 1215, § 55

Referred to in § 304A.11, 304A.12

304A.11 COOPERATING PARTIES.

The arts division shall administer, in consultation with the contracting officer, the principal user and the building architect, all matters relating to the selection of the fine arts elements to be included or purchased for a state building as authorized by section 304A.10.

[C79, 81, § 304A.11]

86 Acts, ch 1245, § 1336

Referred to in § 304A.9

304A.12 SEPARATE CONTRACT.

Contracts for the fine arts elements shall be executed within the limits of the actual costs as determined by section 304A.10. Funds shall be transferred to the arts division for administration of the program. All expenses related to the acquisition of the fine arts elements shall be contracted for separately by the arts division with the funds allocated for these purposes.

[C79, 81, § 304A.12]

86 Acts, ch 1245, § 1337

Referred to in § 304A.9

304A.13 COMPETITION OF ARTISTS.

Selection of fine arts works may be made by public competition of artists. Preference shall be given to the selection of works produced, created or otherwise made by living or deceased Iowa artists. Competitive bidding shall be used where applicable.

[C79, 81, § 304A.13]

304A.14 TITLE IN STATE.

Title to all works of art acquired rests with the principal user or contracting agency in the name of the state. The principal user or contracting agency and the arts division upon agreement may loan works of art between state-owned buildings whenever in their judgment the loan will be to the benefit of the citizens of this state. However, all such works shall be returned to the principal user or the contracting agency at its request.

[C79, 81, § 304A.14]

86 Acts, ch 1245, § 1338

304A.15 TO 304A.20 Reserved.

304A.21 DEFINITIONS.

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

1. "Administrator" means the administrator of the arts division of the department of cultural affairs.
2. "Council" means the Iowa state arts council.
3. "Department" means the department of administrative services.
4. "Indemnity agreement" means an agreement authorized by section 304A.22.
5. "Nonprofit organization" means a corporation organized under

chapter 504, Code 1989, or current chapter 504 or which holds a permit or certificate under chapter 504, Code 1989, or current chapter 504 to do business or conduct affairs in this state.

84 Acts, ch 1073, § 2; 89 Acts, ch 76, §6; 2003 Acts, ch 108, §52; 2003 Acts, ch 145, §286; 2004 Acts, ch 1049, §191; 2004 Acts, ch 1175, § 394

Referred to in § 303.2

304A.22 AGREEMENTS TO INDEMNIFY AGAINST LOSS OF OR DAMAGE TO SPECIAL EXHIBIT ITEMS.

1. The administrator, after receiving the advice and recommendations of the council, may make agreements on behalf of the state to indemnify against loss of or damage to eligible special exhibit items of public educational, cultural, artistic, historical or scientific significance borrowed by nonprofit organizations or governmental entities as provided in this division.

2. The administrator, after consultation with the council, shall adopt rules for the administration of this division.

84 Acts, ch 1073, § 3; 87 Acts, ch 204, §1

Referred to in § 303.2, 304A.21

304A.23 ITEMS ELIGIBLE FOR INDEMNITY AGREEMENTS.

1. Except as provided in subsection 2, the following items are eligible for inclusion in an indemnity agreement if they are of public educational, cultural, artistic, historical or scientific significance and constitute a portion of a special exhibition having an estimated aggregate fair market value of at least two hundred fifty thousand dollars:

a. Works of art, including tapestries, paintings, sculpture, folk art, graphics and craft arts.

b. Manuscripts, rare documents, books and other printed or published material.

c. Photographs, motion pictures, video tapes and audio tapes.

d. Other artifacts.

2. Items which are eligible for a federal indemnity agreement under the Arts and Artifacts Indemnity Act, 20 U.S.C. § 971--977, and regulations under that Act, are not eligible for inclusion in a state indemnity agreement.

84 Acts, ch 1073, § 4

Referred to in § 303.2, 304A.24

304A.24 APPLICATIONS.

A nonprofit organization or governmental entity desiring to obtain an indemnification agreement for special exhibit items it proposes to borrow may submit an application to the administrator. The application shall:

1. Describe each item to be covered by the indemnity agreement, including the estimated value of the item.

2. Show evidence that the items are eligible under section 304A.23.

3. Set forth policies, procedures, techniques and methods with

respect to preparations for and the conduct of the exhibition, including arrangements for transportation of the items.

84 Acts, ch 1073, § 5; 87 Acts, ch 204, §2

Referred to in § 303.2

304A.25 REVIEW AND DETERMINATION AS TO QUALIFICATION FOR INDEMNITY COVERAGE.

1. Every application received by the administrator shall be submitted to the department of administrative services which shall review the application and determine whether the applicant qualifies for indemnity coverage under this division. The criteria for qualification shall be prescribed by rule of the department of administrative services and shall include but are not limited to:

a. Physical security of the applicant's exhibition facilities and of the means of transportation of the items.

b. Experience and qualifications of the applicant's director, curator, registrar, or other staff.

c. Eligibility of the applicant's exhibition facilities for commercial insurance coverage of art objects and artifacts exhibited there.

d. Availability of proper equipment to protect art objects and artifacts from damage from extremes of temperature or humidity or exposure to glare, dust, or corrosion.

2. The department may consult with experts as necessary to carry out its duties under this section.

3. If the department of administrative services is not staffed for risk management, the department shall utilize the services of a consultant in carrying out the department's duties under this chapter.

84 Acts, ch 1073, § 6; 89 Acts, ch 76, §7; 2003 Acts, ch 145, §286

Referred to in § 303.2

304A.26 REVIEW AND DETERMINATION AS TO ELIGIBILITY AND ESTIMATED VALUE OF ITEMS.

1. If the department of administrative services determines that the applicant qualifies for indemnity coverage, the administrator shall review and determine the validity of other portions of the application, including the eligibility of items for which coverage by an indemnity agreement is sought and the estimated value of those items.

2. The administrator may order an appraisal of the items by an independent appraiser at the expense of the applicant.

3. The council shall designate a committee of experts to advise the administrator in determining the eligibility and estimated value of the items. The administrator shall not approve an estimated value without the approval of the committee.

84 Acts, ch 1073, § 7; 2003 Acts, ch 145, §286

Referred to in § 303.2

304A.27 APPROVAL -- TERMS.

If the administrator determines that the application meets all requirements for approval, the administrator shall approve the application and on behalf of the state enter into an indemnity agreement with the lender and the applicant whereby the state becomes liable to indemnify against loss of or damage to the items specified in the agreement. The agreement shall cover the specified items from the time they leave the premises of the lender, or other place designated in writing by the lender, until the time the items are returned to the premises of the lender or other designated place.

84 Acts, ch 1073, § 8

Referred to in § 303.2

304A.28 LIMITATIONS.

1. Coverage under this division shall extend only to loss or damage in excess of the first two thousand dollars in connection with a single exhibition.

2. Indemnity agreements entered into by the administrator for a single exhibition or for any single location shall not exceed a total coverage for loss or damage of five million dollars, and all indemnity agreements entered into by the administrator shall not exceed an aggregate coverage for loss or damage of ten million dollars at any one time. The agreements, together with the claims paid to date, shall not exceed ten million dollars at any one time.

84 Acts, ch 1073, § 9; 87 Acts, ch 204, §3; 90 Acts, ch 1072, § 1

Referred to in § 303.2

304A.29 CLAIMS.

1. Claims for losses covered by indemnity agreements under this division shall be submitted to the department of administrative services which shall review the claims. If the department determines that the loss is covered by the agreement, the department shall certify the validity of the claim, authorize payment of the amount of loss, less any deductible portion, to the lender, and issue a warrant for payment of the claim from the state general fund out of any funds not otherwise appropriated.

2. The department shall prescribe rules providing for prompt adjustment of valid claims. The rules shall include provisions for the employment of consultants and for the arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of covered items.

84 Acts, ch 1073, § 10; 89 Acts, ch 76, §8; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §34

Referred to in § 303.2

304A.30 ANNUAL REPORT.

The administrator shall report annually to the legislature concerning:

1. Claims, if any, actually paid pursuant to this division, during the preceding fiscal year.
2. Claims pending as of the close of the preceding fiscal year.
3. The aggregate face value of indemnity agreements entered into

which are outstanding at the close of the preceding fiscal year.
84 Acts, ch 1073, § 11
Referred to in § 303.2

CHAPTER 305 STATE RECORDS AND ARCHIVES

305.1 CITATION.

This chapter shall be known and may be cited as the "State Archives and Records Act".

2003 Acts, ch 92, §4

305.2 DEFINITIONS.

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

1. "Agency" means any executive or legislative branch department, office, commission, board, or other unit of state government except as otherwise provided by law.
2. "Archives" means records that have been appraised by the state records commission as having sufficient historical, research, evidential, or informational value to warrant permanent preservation and that have been transferred to the custody of the state archives.
3. "Commission" means the state records commission created in section 305.3.
4. "Custody" means guardianship or control of records, including both physical possession, referred to as physical custody, and legal responsibility, referred to as legal custody, unless one or the other is specified.
5. "Designee" means an appointee of a commission member listed in section 305.3, who is a year-round, full-time state employee, appointed to regularly represent the commission member in the activities of the commission for a period of at least two years.
6. "Government records program" means a systematic state government program for the creation, organization, administrative use, maintenance, security, public availability, and final disposition of records.
7. "Guideline" means a suggested method of operation for specific activities.
8. "Policy" means a basic statement describing the boundaries within which activities are to take place.
9. "Record" means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government. "Record" does not include library and museum material made or acquired and preserved solely for reference or exhibition purposes or stocks of publications and unprocessed forms.

10. "Records series retention and disposition schedule" means a timetable established by the state records commission that describes the length of time a records series of an agency or multiple agencies must be retained in active and inactive status and provides authorization for a final disposition of the records series by destruction or permanent retention.

11. "Records inventory" means a detailed listing of the volume, scope, and complexity of an agency's records that is compiled for the purpose of creating records series retention and disposition schedules.

12. "Records officer" means a year-round, full-time agency official who possesses a broad understanding of programs and records of an agency and who is designated by the agency head to coordinate the records program or programs within the agency.

13. "Standard" means a specific rule or principle established to measure quality or value.

14. "Vital operating record" means a record containing information essential to continue or to reestablish an agency in the event of a natural or other disaster, allowing the re-creation of the state's legal and financial status, and the determination of the rights and obligations of the state and its citizens.

2003 Acts, ch 92, §5; 2004 Acts, ch 1120, §1

305.3 COMMISSION CREATED -- DUTIES.

A state records commission is created. The commission shall consist of the following officials or their designees:

1. The secretary of state.
2. The director of the department of cultural affairs.
3. The treasurer of state.
4. The director of revenue.
5. The director of the department of management.
6. The state librarian.
7. The auditor of state.
8. The director of the department of administrative services.

2003 Acts, ch 92, §6; 2003 Acts, ch 179, § 70, 84

Referred to in § 305.2

305.4 COMMISSION PURPOSE.

The commission shall adopt government information policies, standards, and guidelines to do all of the following:

1. Provide for economy and efficiency in the creation, organization, maintenance, administrative use, security, public availability, and final disposition of government records.
2. Ensure creation of proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of state government agencies to protect the legal and financial rights of the state and of persons directly affected by the government's activities.
3. Identify and preserve state government records that document the history and development of the state.

2003 Acts, ch 92, §7

305.5 EXPENSES.

Members of the commission shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

2003 Acts, ch 92, §8

305.6 MEETINGS.

The commission shall have its offices at the seat of government but may hold meetings in other locations. The commission shall meet quarterly and at the call of the chairperson.

2003 Acts, ch 92, §9

305.7 ADMINISTRATION.

The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the commission.

2003 Acts, ch 92, §10

305.8 COMMISSION RESPONSIBILITIES.

1. The commission shall do all of the following:

a. Develop and adopt government information policies, standards, and guidelines for the creation, storage, retention, and disposition of records.

b. In consultation with the homeland security and emergency management division of the department of public defense, establish policies, standards, and guidelines for the identification, protection, and preservation of records essential for the continuity or reestablishment of governmental functions in the event of an emergency arising from a natural or other disaster.

c. Provide planning, policy development, and review for the government records program.

d. Adopt rules pursuant to chapter 17A that provide government information policies and standards.

e. Adopt and maintain an interagency records manual containing the rules governing records management, as well as records series retention and disposition schedules, guidelines, and other information relating to implementation of this chapter.

f. Make recommendations, in consultation with the department of administrative services, to the governor and the general assembly for the continued reduction of printed reports throughout state government in a manner that protects the public's right to access such reports.

g. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.

h. Report to the governor and the general assembly on the status of the government records program.

i. Perform any act necessary and proper to carry out its duties.

2. The commission may do all of the following:

- a. Examine records in the possession, constructive possession, or control of state agencies to carry out the purposes of this chapter.
- b. Enter into agreements and contracts.
- c. Secure appropriations, grants, or other outside funding.
- d. Appoint advisory committees of citizens, public officials, or professional consultants to secure advice on records issues.
- e. Make, or cause to be made, preservation duplicates of records, which may include existing copies of original state records. Any preservation duplicate record shall be durable, accurate, complete, and clear, and shall be made by means designated by the commission.
- f. Develop appropriate charges for services provided for the convenience of state agencies, the judicial and legislative branches, political subdivisions, or the public.
- g. Provide advice and counsel to political subdivisions on the care and management of local government records.
- h. Establish a centralized records storage facility.
2003 Acts, ch 92, §11; 2003 Acts, ch 145, §286; 2003 Acts, ch 179, § 157; 2005 Acts, ch 3, §60; 2005 Acts, ch 35, § 30; 2005 Acts, ch 80, § 2

305.9 DEPARTMENT OF CULTURAL AFFAIRS RESPONSIBILITIES.

1. The department of cultural affairs shall do all of the following:
 - a. Provide administrative support to the state records commission through the state archives and records program.
 - b. Appoint a state archivist to head the state archives and records program.
 - c. Maintain all official records of the state records commission.
 - d. Provide training, advice, and counsel to agencies on government information policies, standards, and guidelines.
 - e. Recommend records series retention and disposition schedules to the commission for consideration.
 - f. Recommend plans, policies, standards, and guidelines on records issues to the commission for consideration.
 - g. Compile, update, and distribute the state records manual as adopted by the commission.
 - h. Manage any centralized records storage facility established by the commission for the temporary storage of agency records prior to their final disposition by destruction or permanent preservation in accordance with the records series retention and disposition schedules.
 - i. Develop and distribute operating procedures for agencies to use to implement the plans, policies, standards, and guidelines adopted by the commission.
 - j. Provide advice, counsel, and services to the legislative, judicial, and executive branch agencies subject to this chapter on the care and management of state government records.

k. Manage the state archives and develop operating procedures for the transfer, accession, arrangement, description, preservation, protection, and public access of those records the commission identifies as having permanent value.

1. Maintain physical custody and legal custody of archives that have been transferred and delivered to the state archives.

(1) Upon receipt by the state archivist, the archives shall not be removed without the state archivist's consent except in response to a subpoena of a court of record or in accordance with approved records series retention and disposition schedules or after review and approval of the commission.

(2) Upon request, the state archivist shall make a certified copy of any record in the legal custody or in the physical custody of the state archivist, or a certified transcript of any record if reproduction is inappropriate because of legal or physical considerations. If a copy or transcript is properly authenticated, it has the same legal effect as though certified by the officer from whose office it was transferred or by the secretary of state. The department of cultural affairs shall establish reasonable fees for certified copies or certified transcripts of records in the legal custody or physical custody of the state archivist.

2. The department of cultural affairs may:

a. Upon written consent of the state archivist, accept records of political subdivisions that are voluntarily transferred to the state archives.

b. Provide advice and counsel to political subdivisions on the care and management of local government records.

2003 Acts, ch 92, §12; 2004 Acts, ch 1086, §60

305.10 AGENCY HEAD RESPONSIBILITIES.

1. Each agency head shall do all of the following:

a. Make and maintain records containing adequate and proper documentation of the agency organization, functions, policies, decisions, procedures, and essential transactions designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by the agency's activities.

b. Designate one or more agency officials with broad understanding of agency programs and records to be an agency records officer to coordinate records programs within the agency and to be the point of contact with the state archives and records program.

c. Cooperate with the state records commission and the state archives and records program in the development and implementation of government information policies, standards, and guidelines, and in the development and implementation of records series retention and disposition schedules.

d. Comply with requests from the state records commission or the state archives and records program to examine records in the possession, constructive possession, or control of the agency in order to carry out the purposes of this chapter.

e. Inventory agency records in accordance with state records commission policies to draft records series retention and disposition schedules.

f. Identify vital operating records in accordance with the policies, standards, and guidelines of the state records commission.

g. Provide for the identification, protection, and preservation of vital operating records in the custody of the agency.

h. Prepare all mandated reports, newsletters, and publications for electronic distribution in accordance with government information policies, standards, and guidelines. A reference copy of all mandated reports, newsletters, and publications shall be located at an electronic repository for public access to be developed and maintained by the department of administrative services in consultation with the state librarian and the state archivist.

i. Provide for maximum economy and efficiency in the day-to-day recordkeeping activities of the agency.

j. Provide for compliance with this chapter and the rules adopted by the state records commission.

2. Agency heads may petition the state records commission to create or modify government information policies, standards, and guidelines, and to create or modify records series retention and disposition schedules.

2003 Acts, ch 92, §13; 2003 Acts, ch 145, §286

Referred to in § 8A.202

305.11 TERMINATION OF STATE AGENCY -- RECORDS TRANSFER.

Upon the termination of a state agency whose functions have not been transferred to another agency, custody of the records of the agency shall transfer to the commission.

2003 Acts, ch 92, §14

305.12 DUPLICATES.

A preservation duplicate record shall have the same force and effect for all purposes as the original record whether or not the original record is in existence. A certified transcript, exemplification, or copy of a preservation duplicate record shall be deemed for all purposes to be a certified transcript, exemplification, or copy of the original record.

2003 Acts, ch 92, §15

305.13 RECORDS STATE PROPERTY.

All records made or received by or under the authority of or coming into the custody, control, or possession of public officials of this state in the course of their public duties are the property of the state and shall not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law or by rule.

2003 Acts, ch 92, §16

305.14 LIABILITY PRECLUDED.

No member of the commission or head of an agency shall be held

liable for damages or loss, or civil or criminal liability, because of the destruction of public records pursuant to the provisions of this chapter or any other law authorizing their destruction.

2003 Acts, ch 92, §17

305.15 EXEMPTIONS -- DUTIES OF STATE DEPARTMENT OF TRANSPORTATION AND STATE BOARD OF REGENTS.

The state department of transportation and the agencies and institutions under the control of the state board of regents are exempt from the state records manual and the provisions of this chapter. However, the state department of transportation and the state board of regents shall adopt rules pursuant to chapter 17A for their employees, agencies, and institutions that are consistent with the objectives of this chapter. The rules shall be approved by the state records commission.

2003 Acts, ch 92, §18

305.16 IOWA HISTORICAL RECORDS ADVISORY BOARD ESTABLISHED.

An Iowa historical records advisory board is established in accordance with 36 C.F.R. § 1206.36--38.

1. Membership. The board shall consist of nine members appointed by the governor for three-year staggered terms. Members shall be eligible for reappointment. The members shall have experience in a field of research or an activity that administers or makes extensive use of historical records. The majority of the members shall have professional qualifications and experience in the administration of government records, historical records, or archives. The administrator of the historical division of the department of cultural affairs shall serve as an ex officio member of the board.

2. Coordinator. The state archivist shall serve as chair of the board and as state historical records coordinator.

3. Administration. The department of cultural affairs, through the state archives and records program, is the primary agency responsible for providing administrative personnel and services for the board.

4. Meetings. The board shall meet at least three times annually and at the call of the chair. At least one meeting annually shall be held outside the state capital or in conjunction with a meeting of a relevant statewide professional organization.

5. Expenses. Members of the board shall serve without compensation but may receive their actual expenses incurred in the performance of their duties.

6. Responsibilities.

a. The board shall do all of the following:

(1) Serve as the central advisory body for historical records planning in the state and as a coordinating body to facilitate cooperation among historical records repositories and other information agencies within the state.

(2) Serve as a state level review body for grant proposals submitted to the national historical publications and records

commission.

b. The board may do all of the following:

(1) Serve in an advisory capacity to the state records commission, the state archives and records program, and other statewide archival or records agencies.

(2) Seek funds from the national historical publications and records commission or other grant-funding bodies for sponsoring and publishing surveys of the conditions and needs of historical records in the state; for developing, revising, and distributing funding priorities for historical records projects in Iowa; for implementing projects to be carried out in the state for the preservation of historical records and publications; or for reviewing through reports and otherwise, the operation and progress of records projects in the state.

2003 Acts, ch 92, §19

CHAPTER 305B MUSEUM PROPERTY

Retroactive applicability; see § 305B.13

305B.1 SHORT TITLE.

This chapter may be cited as the "Museum Property Act".

88 Acts, ch 1117, §1

Referred to in § 305B.13

305B.2 DEFINITIONS.

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

1. "Claimant" means a person who files a notice of intent to preserve an interest in property on loan to a museum as provided in section 305B.8.

2. "Claimant's address" means the most recent address as shown on a notice of intent to preserve an interest in property on loan to a museum, or notice of change of address, which notice is on file with the museum.

3. "Lender" means a person whose name appears on the records of the museum as the person legally entitled to property held or owing by the museum.

4. "Lender's address" means the most recent address as shown on the museum's records pertaining to the property on loan from the lender.

5. "Loan" means a deposit of property not accompanied by a transfer of title to the property.

6. "Museum" means an institution located in Iowa operated by a nonprofit corporation or a public agency, primarily for educational, scientific, historic preservation, or aesthetic purposes, which owns, borrows, cares for, exhibits, studies, archives, or catalogs property. "Museum" includes, but is not limited to, historical societies, historic sites or landmarks, parks, monuments, and

libraries.

7. "Property" means a tangible object, animate or inanimate, under a museum's care which has intrinsic historic, artistic, scientific, or cultural value.

8. "Undocumented property" means property in the possession of a museum for which the museum cannot determine by reference to the museum's records the property's owner.

88 Acts, ch 1117, §2

Referred to in § 305B.13

305B.3 BASIC NOTICE REQUIREMENT.

1. Contents. In addition to any other information prescribed for a particular notice, all notices given pursuant to this chapter shall contain the following information:

- a. Lender's name, or claimant's name, as appropriate.
- b. Lender's last known address, or claimant's last known address, as appropriate.
- c. Brief description of the property on loan.
- d. Date of the loan, if known.
- e. Name of the museum.
- f. Name, address, and telephone number of the appropriate person or office to be contacted regarding the property.

2. Mailed notice. All notices given by a museum pursuant to this chapter shall be mailed to the lender's, and any claimant's, last known address by restricted certified mail, as defined in section 618.15. Notice is deemed given if the museum receives proof of receipt within thirty days of mailing the notice.

3. Published notice. If the museum does not know the identity of the lender, or does not have an address for the lender, or if proof of receipt is not received by the museum within thirty days of mailing a notice under subsection 2, notice is deemed given if the museum publishes notice at least once a week for three consecutive weeks in a newspaper of general circulation in both of the following:

- a. The county in which the museum is located.
- b. The county of the lender's or claimant's address, if any.

88 Acts, ch 1117, §3

Referred to in § 305B.13

305B.4 CONSERVATION OR DISPOSAL OF LOANED PROPERTY.

1. Unless there is a written loan agreement to the contrary, a museum may apply conservation measures to or dispose of property on loan to the museum without the lender's or claimant's permission, or formal notice, if immediate action is required to protect the property on loan or other property in the custody of the museum or if the property on loan is a hazard to the health and safety of the public or the museum staff and if any of the following apply:

- a. The museum is unable to reach the lender or claimant at the lender's or claimant's last known address or phone number if action is to be taken within more than three days but less than one week

from the time the museum determined action was necessary.

b. The museum is unable to reach the lender or claimant at the lender's or claimant's last known phone number prior to taking action if the action is to be taken within three days or less from the time the museum determined action was necessary.

c. The lender or claimant does not respond or will not agree to the protective measures the museum recommends, yet is unwilling or unable to terminate the loan and retrieve the property.

2. If a museum applies conservation measures to or disposes of property under this section, or with the agreement of the lender and claimants unless the agreement provides otherwise, the museum:

a. Has a lien on the property and on the proceeds of any disposition of the property for the costs incurred by the museum.

b. Is not liable for injury to or loss of the property if the museum:

(1) Had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the museum or that the property on loan was a hazard to the health and safety of the public or the museum staff.

(2) Exercised reasonable care in the choice and application of conservation measures.

88 Acts, ch 1117, §4

Referred to in § 305B.13

305B.5 NOTICE OF INJURY OR LOSS.

A museum shall give a lender or claimant prompt notice of any known injury to or loss of property on loan. The department of cultural affairs shall adopt by rule a form for notice of injury or loss, no later than January 1, 1989, and shall distribute the rule and form to all identified museums in Iowa within sixty days after adoption of the rule. The notice shall be mailed to the lender's or claimant's last known address in event of injury or loss of property on loan to the museum. Published notice of injury or loss of undocumented property shall not be required.

88 Acts, ch 1117, §5

Referred to in § 305B.13

305B.6 NOTICE OF INTENT TO TERMINATE LOAN -- ACQUIRING TITLE TO LOANED PROPERTY.

1. A museum may acquire title to loaned property pursuant to this section. A museum may give notice of termination of a loan of property at any time if either of the following apply:

a. The property was loaned to the museum for an indefinite term.

b. The property was loaned to the museum for a specified term, and that term has expired.

2. If the lender or claimant does not respond to the notice of termination provided under subsection 1 within one year by filing a notice of intent to preserve an interest in property on loan, the

museum acquires title to the property.

3. A notice of intent to terminate a loan must include a statement containing substantially the following information:

"The records of (name of museum) indicate that you have property on loan to it. The institution wishes to terminate the loan. You must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have donated the property to the institution."

88 Acts, ch 1117, §6

Referred to in § 305B.9, 305B.10, 305B.13

305B.7 ACQUIRING TITLE TO UNDOCUMENTED PROPERTY.

1. A museum may acquire title to undocumented property held by a museum for seven years or longer with no valid claim or written contact by any person, all verifiable through the museum's written records, by giving notice of acquisition of title to undocumented property.

2. If a lender or claimant does not respond to the notice provided in subsection 1 within three years by filing a notice of intent to retain an interest in property on loan, the museum's title to the property becomes uncontestable under section 305B.9.

3. A notice of acquisition of title must include a statement containing substantially the following information:

"The records of (name of museum) fail to indicate the owner of record of certain property in its possession. The museum intends to acquire title to the below described property: (general description of the property). If you claim ownership or other legal interest in this property you must contact the institution, establish your ownership of the property pursuant to section 305B.8, and make arrangements to collect the property. If you fail to do so promptly, you will be considered to have waived any claim you may have had to the property."

88 Acts, ch 1117, §7

Referred to in § 305B.13

305B.8 NOTICE OF INTENT TO PRESERVE AN INTEREST IN PROPERTY -- REQUIREMENTS -- FORM -- DISCLOSURE.

1. A notice of intent to preserve an interest in property on loan to a museum filed pursuant to this chapter shall be in writing and contain all of the following information:

a. A description of the property adequate to enable the museum to identify the property.

b. Documentation sufficient to establish the claimant as owner of the property.

c. A statement attesting to the truth, to the best of the signer's knowledge, of all information included in or with the notice.

d. The signature, under penalty of perjury, of the claimant or a person authorized to act on behalf of the claimant.

2. The museum need not retain a notice which does not meet the requirements set forth in subsection 1. If, however, the museum does not intend to retain a notice for this reason, the museum shall promptly notify the claimant at the address given on the notice that the museum believes the notice is ineffective to preserve an interest, and the reasons for the insufficiency. The fact that a museum retains a notice under section 305B.12 does not mean that the museum accepts the sufficiency or accuracy of the notice or that the notice is effective to preserve an interest in property on loan to the museum.

3. The department of cultural affairs shall adopt by rule a form for notice of intent to preserve an interest in property on loan to a museum. The form shall satisfy the requirements of subsection 1 and shall notify the claimant of the rights and procedures to preserve an interest in museum property. The form shall also facilitate recordkeeping and record retrieval by a museum. At a minimum the form shall provide a place for recording evidence of receipt of a notice by a museum, including the date of receipt, signature of the person receiving the notice, and the date on which a copy of the receipt is returned to the claimant.

88 Acts, ch 1117, §8

Referred to in § 305B.2, 305B.6, 305B.7, 305B.9, 305B.10, 305B.12, 305B.13

305B.9 LIMITATIONS ON ACTIONS AGAINST MUSEUMS.

1. An action shall not be brought against a museum for damages because of injury to or loss of property loaned to the museum more than three years from the date the museum gives the lender or claimant notice of the injury or loss or ten years from the date of the injury or loss, whichever occurs earlier.

2. An action shall not be brought against a museum to recover property on loan more than one year from the date the museum gives the lender or claimant notice of its intent to terminate the loan or notice of acquisition of title to undocumented property.

3. An action shall not be brought against a museum to recover property on loan more than seven years from the date of the last written contact between the lender or claimant and the museum as evidenced by the museum's records.

4. A lender or claimant is considered to have donated loaned property to the museum if the lender fails to file an action to recover the property on loan to the museum within the periods specified in subsections 1 through 3.

5. A person who purchases property from a museum acquires good title to the property if the museum represents that it has acquired title to the property pursuant to subsection 4.

6. Notwithstanding subsections 3 and 4, a lender or claimant who was not given notice as provided in this chapter that the museum intended to terminate a loan, as provided in section 305B.6, and who proves that the museum received an adequate notice of intent to

preserve an interest in loaned property, which satisfies all of the requirements of section 305B.8, within the seven years immediately preceding the filing of an action to recover the property, may recover the property or, if the property has been disposed of, the reasonable value of the property at the time it was disposed of plus interest at the legal rate.

7. A museum is not liable at any time, in the absence of a court order, for returning property to the original lender, even if a claimant other than the lender has filed a notice of intent to preserve an interest in property. If persons claim competing interests in property in the possession of a museum, the burden is upon the claimants to prove their interest in an action in equity initiated by a claimant. A museum is not liable at any time for returning property to an uncontested claimant who produced reasonable proof of ownership pursuant to section 305B.8.

88 Acts, ch 1117, §9

Referred to in § 305B.7, 305B.13

305B.10 MUSEUM OBLIGATIONS.

In order to take title pursuant to this chapter a museum has the following obligations to a lender or claimant:

1. The museum shall retain all written records regarding the property for at least three years from the date of taking title pursuant to this chapter.
2. The museum shall keep written records on all loaned property acquired pursuant to section 305B.6. Records shall contain the following information:
 - a. Lender's name, address, and phone number.
 - b. Claimant's name, address, and phone number.
 - c. The nature and terms of the loan.
 - d. The beginning date of the loan period, if known.
3. A museum accepting a loan of property on or after January 1, 1989, shall inform the lender in writing at the time of the loan of the provisions of this chapter. A copy of the form notice prescribed in section 305B.8, or a citation to this chapter, is adequate for this purpose.
4. The museum is responsible for notifying a lender or claimant of the museum's change of address or dissolution.

88 Acts, ch 1117, §10

305B.11 REQUIRED MUSEUM RECORDKEEPING.

On or after January 1, 1989, a museum shall at minimum maintain and retain the following records, either originals or accurate copies, for a period of not less than twenty-five years:

1. A notice of intent to preserve an interest in property.
2. The loan agreement, if any, and a receipt or ledger for property on loan.
3. A receipt or ledger for property delivered to an owner or claimant.
4. Records containing the following information, as available,

for property in the museum's possession:

- a. Lender's name, address, and phone number.
- b. Claimant's name, address, and phone number.
- c. Donor's name, address, and phone number.
- d. Seller's name, address, and phone number.
- e. The nature and terms of the transaction (loan for specified term, loan for unspecified term, donation, purchase, etc.).
- f. The beginning date of the loan period or transaction date.

The department of cultural affairs may by rule determine the minimum form and substance of recordkeeping by museums with regard to museum property to implement this chapter.

88 Acts, ch 1117, §11

305B.12 LENDER OBLIGATIONS TO MUSEUM.

1. The lender or claimant of property on loan to a museum shall notify the museum of a change of address or change in ownership of the property. Failure to notify the museum of these changes may result in the lender's or claimant's loss of rights in the property.

2. The lender or claimant of property on loan to a museum may file with the museum a notice of intent to preserve an interest in the property as provided for in section 305B.8. The filing of a notice of intent to preserve an interest in property on loan to a museum does not validate or make enforceable any claim which would be extinguished under the terms of a written agreement, or which would otherwise be invalid or unenforceable.

88 Acts, ch 1117, §12

Referred to in § 305B.8

305B.13 RETROACTIVE APPLICABILITY.

1. Sections 305B.1 through 305B.8 are retroactively applicable to all property in the possession of a museum within the state on or after January 1, 1988.

2. Section 305B.9 is effective July 1, 1989, and when effective is retroactively applicable to all property in the possession of the museum before July 1, 1989, and is prospectively applicable to all property in the possession of the museum on or after July 1, 1989, for which a claim is filed on or after July 1, 1989.

88 Acts, ch 1117, §13